

April 9, 2002

INDIVIDUAL PRACTICES OF JUDGE WHITMAN KNAPP

Unless otherwise ordered by Judge Knapp, matters before him shall be conducted in accordance with the following practices:

1. Communications with Chambers

A. Letters. Letters to Chambers are permitted. Copies of letters to Chambers shall be simultaneously delivered to all counsel. Letters to Chambers without the docket number may be rejected or their consideration may be substantially delayed.

B. Telephone Calls. In addition to Paragraph 1(D) below, telephone calls to Chambers are permitted. For matters other than docketing, scheduling, or calendaring, call Chambers at (212) 805-6165. When calling, parties must be prepared to give the correct title of the action and the docket number to avoid unnecessary delay.

C. Faxes. Faxes to Chambers are permitted only if copies are also simultaneously faxed or delivered to all counsel. No document longer than ten (10) pages may be faxed. The Chambers' fax number is (212) 805-6171.

D. Docketing, Scheduling, and Calendar Matters. For docketing, scheduling, and calendar matters, call (212) 805-6173 between 10:00 a.m. and 4:30 p.m.

E. Requests for Adjournments or Extensions of Time. All requests for adjournments or extensions of time must state (1) the original date, (2) the number of previous requests for adjournment or extension, (3) whether these previous requests were granted or denied, and (4) whether the adversary consents, and, if not, the reasons given by the adversary for refusing to consent.

If the requested adjournment or extension affects any other scheduled dates, the counsel requesting the adjournment or extension should so inform the Court. If the request is for an adjournment of a court appearance, absent an emergency, it must be made at least 48 hours prior to the scheduled appearance. Failure of a party to appear on a scheduled date may result either in the denial of the motion with prejudice or it being granted by default.

Requests for adjournments BY CONSENT may be made by fax at (212) 805-6171 or by mail.

2. Motions

A. Pre-Motion Conferences in Civil Cases. For discovery motions, follow Local Civil Rule 37.2 of the Local Rules of the United States District Court for the Southern and Eastern Districts of New York. In general, no motions under Federal Rules of Civil Procedure 26 through 37 shall be heard unless counsel for the moving party has first requested an informal conference with the Court and the request has either been denied or the discovery dispute has not been resolved as a consequence of such a conference.

For matters other than discovery motions, a pre-motion conference with the Court is only required before making a motion for summary judgment.

To arrange a pre-motion conference with respect to discovery motions or motions for summary judgment, the moving party shall contact Judge Knapp's Deputy Clerk, Evon Simpson, at (212) 805-6173. The moving party shall also submit a letter not to exceed three pages in length setting forth the basis for the anticipated summary judgment or discovery motion.

Although a pre-motion conference is not required for all other types of motions, parties may still request a pre-motion conference with respect to such other matters with the exception of motions that are required by the Federal Rules of Appellate Procedure to be made by a certain time. To arrange any such pre-motion conference, the moving party shall submit a letter not exceeding three pages in length which requests such a conference and sets forth the basis for the anticipated motion.

B. Courtesy Copies. All legal papers must be filed with the Clerk of the Court and a courtesy copy must be submitted for Chambers as soon as practicable after filing. Courtesy copies of motion papers must be submitted for Chambers at the time the motion papers are served.

Courtesy copies should be marked as such. Originals will not be accepted in Chambers. All documents filed with the Clerk of the Court must have the initial "WK" in parenthesis after the docket number.

C. Memoranda of Law. Unless prior permission has been granted by the Court, memoranda of law in support of and in opposition to motions are limited to twenty-five (25) pages, and reply memoranda are limited to ten (10) pages. Memoranda of ten (10) pages or more shall contain a table of contents and a table of authorities.

Citations to New York cases must include citations to the New York Supplement, and citations to the U.S. Supreme Court must include citations to the United States Reports. Copies of unpublished authorities cited in a memorandum should accompany the submission.

D. Filing of Motion Papers. Motions papers shall be filed promptly after service.

E. Oral Argument on Motions. Parties may request oral argument by letter at the time their moving or opposing or reply papers are filed. The Court will determine whether argument will be heard. If the Court believes that oral argument would be helpful, the Court will advise counsel of the date and time when such oral argument will be heard.

F. Draft Orders. In order to promote rapid disposition of motions, moving parties are encouraged to submit draft orders along with their initial motion papers.

G. Effect of a Motion on Notice of Appeal. Paragraph 2(A) above does not apply to any of the motions described in Federal Rule of Appellate Procedure 4(a)(4)(A). A pre-motion conference is not required before making such motions, which should be filed when served.

H. Special Filing Rules. Unless the parties otherwise agree, opposing papers must be served within fourteen (14) days of service of the motions papers. Reply papers, if any, must be served within five (5) business days of service of the opposition papers. Chambers shall be promptly notified of any agreement varying the motion schedule.

All motions should be made without a return date. Parties bringing a motion by way of an Order to Show Cause or an Application for a Temporary Restraining Order should request a return date at the time such a motion or application is brought to Chambers.

The filing of a motion cancels any previously scheduled status conference unless the parties are notified otherwise by Chambers. A new conference date will be scheduled after such pending motion is decided.

Strict compliance with Local Civil Rule 1.9 (Disclosure of Interested Parties) is required.

3. Orders to Show Cause

A. Generally. All Orders to Show Cause and Temporary Restraining Orders must first be brought for approval to the Orders and Appeals Clerk, 500 Pearl Street, Room 120. Only after such approval may the party requesting relief bring the original Order to Show Cause or Application for a Temporary Restraining Order as well as a courtesy copy to Chambers.

B. Accompanying Papers. As required by Local Civil Rule 6.1(d), a party submitting an Order to Show Cause shall accompany that submission with the appropriate affidavit. The Order to Show Cause or Application for a Temporary Restraining Order should also be accompanied by a supporting memorandum of law and a draft order.

4. Conferences and Oral Arguments.

Unless Chambers otherwise indicates, all conferences and oral arguments will be held in Chambers, Room 1201, 40 Foley Square.

5. Pre-trial and Trial Procedures

A. Initial Pre-Trial Conference. Within sixty (60) days after the appearance of a defendant and in any event within ninety days (90) days after plaintiff has served the complaint, regardless of any extension of defendants' time to appear, move, or answer, plaintiff's counsel must call Judge Knapp's Deputy Clerk, Evon Simpson, at (212) 805-6173, to arrange an initial pre-trial conference. At the conference, the parties should be prepared to report on the status of settlement negotiations.

B. Joint Pretrial Orders in Civil Cases. Unless otherwise ordered by the Court in a particular case, within thirty (30) days from the date of the completion of discovery in a civil case, the parties shall submit to the Court for its approval a joint pretrial order which includes the information required by Federal Rule of Civil Procedure 26(a)(3) as well as the following:

- i. The full caption of the action.
- ii. The names, addresses, and telephone and fax numbers of trial counsel.
- iii. A brief statement by plaintiff as to the basis of subject matter jurisdiction, and a brief statement by each other party as to the presence or absence of subject matter jurisdiction. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount.

iv. A brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matters but including citations to all statutes relied on. Such summaries shall identify all claims and defenses previously asserted which are not to be tried.

v. A statement by each party as to whether the case is to be tried with or without a jury, and the number of trial days needed.

vi. A statement as to whether or not all parties have consented to trial of the case by a magistrate judge (without identifying which parties have or have not so consented).

vii. Any stipulations or agreed statements of fact or law which have been agreed to by all parties.

C. Filings Prior to Trial in Civil Cases. Unless otherwise ordered by the Court, each party shall file, thirty (30) days before the commencement of trial, the following papers and submit courtesy copies thereof to Chambers in Room 1201, 40 Foley Square:

i. For jury trials, proposed jury charges and proposed voir dire questions. When feasible, litigants should submit a second courtesy copy of proposed jury charges on a 3.5" IBM-formatted diskette in WordPerfect version 6.1 or higher format.

ii. For bench trials, a pretrial memorandum setting forth the factual and legal contentions of the party (along with supporting legal authorities), a statement of the elements of each claim or defense involving such party, and a summary of the facts relied upon to establish each element and factual contention.

iii. For bench trials, a brief summary of the salient portions of each deposition to be offered into evidence with appropriate citations to the transcript of the deposition.

iv. For all trials, a joint statement of the facts which can be agreed upon by all the parties.

v. For all trials, motions addressing any evidentiary or other issues which should be resolved *in limine*.

vi. For all trials, a list of witnesses which each side expects to call.

With respect to any motion *in limine* which a party submitted pursuant to Paragraph 5(C)(v) above, unless the parties otherwise agree, opposing papers must be served within fourteen (14) days of service of the motions papers. Reply papers, if any, must be served within five (5) business days of service of opposition papers. Parties may only vary the motion schedule with permission from Judge Knapp.

With respect to any motion *in limine* which a party subsequently submits to strike a proposed witness (or to limit a witnesses' testimony) or to strike a proposed jury charge, such motions *in limine* must be brought no later than seven (7) days after the service of the proposed jury charge or list of witnesses. As with all such other motions, unless the parties otherwise agree, opposing papers must be served within fourteen (14) days of service of the motion papers. Reply papers, if any, must be served within five (5) business days of service of opposition papers. Again, parties may only vary the motion schedule with permission from Judge Knapp.

D. Exhibits Prior to Trial. Prior to trial, all exhibits should be pre-marked using numerals for plaintiff's exhibits and letters for defendant's exhibits. A complete set of the documentary exhibits should be furnished to counsel for each other party no later than ten (10) days prior to the trial date. Parties should stipulate as to the authenticity and admissibility to the extent possible. As to any exhibit subject to an objection, a pretrial memorandum should be filed prior to the trial date stating the ground for the objection with supporting authority.

E. Exhibits at the Beginning of the Trial. At the beginning of the trial, a complete extra set of documentary exhibits should be handed to Judge Knapp's Deputy Clerk, Evon Simpson, for Judge Knapp's use during the trial. A list of all exhibits should also be supplied to Ms. Simpson and Judge Knapp. Each party should keep custody of their own exhibits.