

**INDIVIDUAL PRACTICES OF
UNITED STATES DISTRICT JUDGE VICTOR MARRERO
SOUTHERN DISTRICT OF NEW YORK**

Effective January 22, 2001

Chambers

Suite 414
United States Courthouse
40 Centre Street
New York, New York 10007
(212) 805-6374

Courtroom

Courtroom 905
United States Courthouse
40 Centre Street
New York, New York 10007
(212) 805-6374

I. COMMUNICATIONS WITH CHAMBERS

A. Letters. Except as otherwise provided below, communications with Chambers shall be by letter, with copies simultaneously delivered to all counsel in the same manner that they are delivered to Chambers. Letters must identify the name and docket number of the case, contain the writer's business address and telephone number, be signed by the attorney responsible for the matter and show the method of delivery (e.g., "By Hand" or "By Fax"). Letters addressed to the Court and signed by paralegals or legal assistants will not be considered. Unless the Court has otherwise requested, copies of correspondence between counsel shall not be sent to the Court.

B. Telephone Calls. Except as provided in Paragraph I(D) below, telephone calls to Chambers regarding any pending matter will be accepted only in urgent situations requiring immediate attention. In such situations only, call Chambers at (212) 805-6374. Counsel should not call the Judge's law clerks with procedural questions.

C. Faxes. Faxes to Chambers are permitted only if the letter or document is no longer than five pages and if a copy is simultaneously faxed to all counsel or to plaintiffs proceeding pro se. The fax number is (212) 805-6382. Any faxed letter or document exceeding five pages will not be accepted unless prior authorization has been granted. Documents requiring Judge Marrero's signature may not be faxed to Chambers.

D. Docketing, Scheduling, Default Judgment Procedures and Calendar Matters. For docketing, scheduling, default judgment procedures and calendar matters, call Chambers between 10:00 a.m. and 4:00 p.m. at (212) 805-6374 and ask for the law clerk responsible for the case.

E. Courtesy Copies. Plaintiff(s) shall deliver one copy of the Complaint and Rule 1.9 Statement, marked clearly as such, for Judge Marrero to the Mail Room, 40 Centre Street (Room 15) immediately after the originals are filed with the Clerk's Office. Defendant(s) shall deliver one copy of the

Answer and Rule 1.9 Statement, marked clearly as such, for Judge Marrero to the Mail Room, 40 Centre Street (Room 15) immediately after the originals are filed with the Clerk's Office.

F. Extensions/Adjournments. A request for an extension of time within which to make a submission to the Court or for an adjournment of an appearance with the Court must be made in writing and received in Chambers not less than *two* business days before the scheduled time. Each request must include the number and disposition of any prior request(s) for an extension or adjournment and state whether opposing counsel consents to the extension or adjournment. If counsel does not consent, the reason(s) must be provided. If an initial case management conference has been held, a copy of the Case Management Plan must be attached to any request for an extension or adjournment; if the requested extension or adjournment affects any other scheduled dates, a proposed Revised Case Management Plan must be attached.

The Court will communicate the disposition of a request for an extension or adjournment to the Clerk's Office and to the parties through the most appropriate means. Counsel may also check the docket sheet in the Clerk's Office in person, by use of a service or through use of the Court's electronic access PACER system. When the Court's decision on a request for an extension or adjournment is communicated to the party who filed the request, it may be on condition that such party notify all other parties of the disposition, including any new date or schedule authorized.

II. MOTIONS

A. Pre-Motion Conferences in Civil Cases. A conference must be requested before the filing of any motion, except for an application for a temporary restraining order or other injunctive relief; a motion made by a person in custody; a pro hac vice motion; a motion for reargument; a motion brought by order to show cause based on a legitimate emergency; a motion for remand; a motion for attorney's fees or sanctions; a motion to dismiss in lieu of an answer; a motion to affirm or vacate an arbitration award; and an objection to a Magistrate Judge's ruling. The attorney who will serve as principal trial counsel must appear at all conferences with the Court.

A party wishing to make a motion should send a letter to the Court concisely describing the basis for the proposed motion and requesting a pre-motion conference. Letters seeking such conferences shall not exceed two pages.

B. Courtesy Copies. The moving party shall deliver two full courtesy copy sets of all motion papers, marked clearly as such, for Judge Marrero to the Mail Room, 40 Centre Street (Room 15) immediately after the reply is filed with the Clerk's Office. Courtesy copies of all motions shall include a table of contents listing all memoranda, and affidavits and exhibits.. Affidavits and exhibits should be clearly identified by tabs. Non-conforming courtesy copies will not be accepted.

C. Memoranda of Law. All motions and cross-motions must be accompanied by a

memorandum of law. Memoranda of law in support of and in opposition to motions shall be limited to 25 pages, and reply memoranda shall not exceed 10 pages. Memoranda should be double-spaced and in no smaller type than a 12- point font. Memoranda of 10 pages or more shall contain a table of contents and a table of authorities. Citations to New York and United States Supreme Court cases shall include citations to the official reports. Citations to unreported cases should be accompanied by copies of the cases cited.

Any memorandum that does not comply with these requirements will not be accepted and will be returned, and counsel may not be provided with additional time to submit a complying memorandum if any such additional extension may cause substantial prejudice to other parties in the case. The Court will entertain written requests for exceptions to these page limitations only in rare cases where the facts and issues are particularly complex.

D. Documentation. Affidavits accompanying any motion should contain concise statements attested to by the affiant on the basis of personal involvement or knowledge of pertinent facts. Affidavits shall not be used as a vehicle for counsel to assert matters not within their personal knowledge or for supplemental argumentation of legal issues that would serve to evade the page limitation set forth in the Court’s Individual Practices. Such submissions will not be considered and shall be returned. If depositions are cited in Memoranda of Law and attached thereto, the exhibit should not be limited to clipped excerpts or selective pages, but should include either the entire relevant testimony of the person deposed or, if it is too extensive, all of the pertinent testimony setting forth contextually the matter addressed. In connection with motions for summary judgment, Local Rule 56.1 Statements shall be “short and concise”, and shall not be used for argumentation of legal issues or extensive recitation of deposition testimony or repetition of conclusory pleadings.

E. Service. Notices of motion, affidavits and memoranda of law shall be served in accordance with the dates set by the Court during the pre-motion conference. If a pre-motion conference is not required (paragraph II. A., supra), counsel should follow Local Civil Rule 6.1, unless otherwise ordered by the Court. Any party seeking summary judgment in whole or in part against a pro se litigant must plainly advise that litigant of the nature of the motion, of the possible consequence of failing to respond, and that the Court will deem true the statements contained in a Local Rule 56.1 statement unless controverted. Failure to comply with this requirement may result in a sua sponte denial of the motion. In connection with motions for summary judgment, where the Court may deem it appropriate, the parties may be directed to serve their Local Rule 56.1 statements for the Court’s review prior to proceeding with service of the fully prepared motion.

F. Filing. Motion papers shall be filed in the Clerk’s Office promptly after service.

G. Oral Argument. Motions will be decided on the papers and after all moving papers have been submitted, unless the Court determines that oral argument will be required. If oral argument is scheduled, the Court will advise the parties of the date and time for argument. Counsel should expect that the Court will have reviewed motion papers prior to oral argument and will be familiar with the issues presented

therein.

III. DISCOVERY DISPUTES

In the event a discovery dispute arises that the parties are unable to resolve among themselves, they shall confer and submit to the Court a joint letter setting forth the matters that remain unresolved following such conference. The letter shall describe concisely the issue(s) in dispute and the respective position of each party and cite applicable authority which the respective parties claim for support. The Court will rule upon the written submission, or refer the dispute to the designated Magistrate Judge for resolution, particularly where the circumstances indicate that the parties' discovery disputes are continuous or chronic.

IV. PRETRIAL PROCEDURES

A. Pretrial Conferences. The Court will endeavor to schedule an initial case management conference within 45 days after the filing of the complaint. At least 21 days prior to the date set for such initial conference, counsel shall confer and jointly prepare (a) a joint status letter addressing the relevant facts, claims and defenses; a plan for initial disclosure; contemplated motion practice; and settlement prospects; and (b) a Case Management Plan in the form supplied by the Court. The status letter shall be sent to Chambers so as to be received at least five business days before the initial case management conference. The completed proposed Case Management Plan shall be brought to the initial case management conference for approval and endorsement by the Court. The attorney who will serve as principal trial counsel must appear at all conferences with the Court.

At the initial conference, counsel should be prepared to address adequately the basis for subject matter jurisdiction and whether or not all of the jurisdictional prerequisites have been satisfied in the case. Where appropriate, such discussions shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount. Counsel should further be prepared and authorized to discuss the factual and legal bases for their claims, any contemplated motions and prospects for settlement through assistance of the Court, mediation services or other dispute resolution method. Counsel should also address the option of proceeding to resolution of the case by a Magistrate Judge of the Court pursuant to 28 U.S.C. § 636(c).

B. Filings Prior to Trial in Civil Cases. Unless otherwise ordered by the Court, within 45 days from the date of the completion of discovery in a civil case, and not less than 30 days prior to a firm date scheduled for the trial, the parties shall submit to the Court the following:

1. a joint pretrial order which shall include:

- (a) The full caption of the action;
- (b) The name (including firm name), address, telephone number and fax number of trial counsel;

- (c) A brief summary by each party of the claims and defenses which that party has asserted and which remain to be tried, without recital of evidentiary matters, but including citations to all statutes upon which the party relies. Such summaries shall identify all claims and defenses previously asserted which are not to be tried;
- (d) 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;
- (e) A statement as to whether all parties have consented to trial by a magistrate judge;
- (f) Any stipulations or agreed statements of fact or law;
- (g) A list by each party of all witnesses whose testimony is to be offered in its case in chief (including the qualifications of any expert witnesses) indicating the likely order of appearance and whether such witnesses will testify in person or by deposition and briefly summarizing the testimony of each witness;
- (h) A designation by each party of deposition testimony to be offered in its case in chief, with any cross-designations and objections (with ground(s)) by any other party; and
- (i) A list by each party of exhibits to be offered in its case in chief, with one star indicating the exhibits to which there is any objection. The ground(s) for each objection should be listed. The exhibits to which no party objects should be listed with no stars.

2. In jury cases, joint requests to charge and joint proposed voir dire questions. Any objection(s) to a request to charge or a voir dire question shall be set forth immediately next to the charge or question. Proposed jury charges should also be submitted on a 3.5" diskette in WordPerfect version 8 or higher format;

3. In nonjury cases, a statement of the elements of each claim or defense involving such party, together with a summary of the facts relied upon to establish each element or defense;

4. In all cases, motions addressing any evidentiary or other issues which should be resolved in limine; and

5. A pretrial memorandum describing each party's position on the factual and legal issues to be tried that is no longer than 25 double-spaced pages and in no smaller type than a 12- point font.

Unless otherwise directed by the Court, the filing of a joint pretrial order, joint requests to charge,

joint proposed voire dire questions, in limine motions and a pretrial memorandum will not be stayed with the filing of a motion for summary judgment.

V. TRIAL PROCEDURES

Counsel with either jury or bench trials scheduled before Judge Marrero are to comply with the Court's trial procedures, a copy of which is attached hereto as Exhibit A.