

May 6, 2002

**INDIVIDUAL PRACTICES OF
THE HONORABLE CONSTANCE BAKER MOTLEY**

I. In General

All attorneys appearing before Judge Motley are required to familiarize themselves with these Individual Practices. These Individual Practices supplement the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York which must be consulted first in all instances. *Failure to comply to comply with the Local Rules or these Individual Practices may result in the imposition of sanctions.*

II. Communications with Chambers

A. Letters. Except as otherwise provided below, communications with chambers shall be by letter, with copies simultaneously delivered to all counsel. Copies of correspondence between counsel shall not be sent to the Court.

(1) Mailing Address. The mailing address for chambers is:

The Honorable Constance Baker Motley
United States District Court for the Southern District of New York
500 Pearl Street
New York, NY 10007

(2) Hand Delivery. Any hand-delivered correspondence intended for chambers must be left with security personnel at the courthouse entrance who will then forward the correspondence to chambers. *Absolutely no deliveries are to be made directly to chambers without prior authorization.*

B. Telephone Calls. Except as provided in Paragraph II.D below, telephone calls to chambers are permitted only in emergency situations requiring immediate attention. In such situations only, call chambers at 212-805-0232.

C. Faxes. Faxes to chambers are permitted only if copies are also simultaneously faxed or delivered to all counsel. No document longer than three pages may be faxed without prior authorization. It is not necessary to follow with hard copy. The chambers fax number is 212-805-7916.

D. Docketing, Scheduling, and Calendar Matters. For docketing, scheduling and calendar matters, call 212-805-0232 between 9:00 a.m. and 5:00 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, a proposed Revised Scheduling Order (reflecting only business days) should be attached. 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.

(1) Form and Manner. Requests for extensions of Court-imposed deadlines may be made informally by letter or fax, but not by telephone. *Under no circumstances may the parties simply agree among themselves to extend a Court-imposed deadline. The Court's permission is required.*

(2) Pending Settlements. Pretrial conferences will not be cancelled or adjourned merely because the parties have agreed to a settlement in principle. A pretrial conference will be cancelled only if papers discontinuing the action are filed prior to the scheduled conference.

III. Motions

A. Pre-Motion Conferences in Civil Cases. For discovery motions, follow Local Civil Rule 37.2. For motions other than discovery motions, pre-motion conferences are not required.

(1) Informal efforts to resolve issues required. Prior to making any motion, and prior to requesting a conference on any discovery issues, the parties shall use their best efforts to resolve informally the matters in controversy. Such efforts shall include, but need not be limited to, an exchange of letters outlining their respective positions on the matters and at least one telephonic or in-person discussion of the matters. The movant, or party requesting a discovery conference, shall include in its motion papers or written request a certification that it has used its best efforts to resolve informally the matters raised in its submission.

B. Courtesy Copies. Courtesy copies of all motion papers and other pleadings, marked as such, shall be submitted to chambers as soon as practicable after filing.

C. Memoranda of Law. Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to twenty-five pages in length, and reply memoranda are limited to ten pages. Memoranda of ten pages or more shall contain tables of contents and authorities.

D. Filing of Motion Papers. Motion 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 and, if so, will advise counsel of the argument.

F. Pretrial Conferences. Unless the Court has ordered otherwise, all parties attending a pretrial conference must arrive prepared for hearing on any pending motions.

IV. Final Pretrial Procedures

A. Joint Pretrial Orders in Civil Cases. Unless otherwise ordered by the Court, within thirty days from the date after the completion of discovery in a civil case, the parties shall submit to the court for its approval a final joint pretrial order which shall include the following:

- (1) The full caption of the action.
- (2) The names, addresses (including firm names), e-mail addresses, telephone and fax numbers of trial counsel.
- (3) 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 and cases relied on and relevant facts as to citizenship and jurisdictional amount.
- (4) A brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matter but including citations to all statutes and cases relied on. Such summaries shall identify all claims and defenses previously asserted which are not to be tried.
- (5) 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.
- (6) A statement as 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).
- (7) Any stipulations or agreed statements of fact or law to which all parties have agreed.
- (8) A statement by each party as to the witnesses whose testimony is to be offered in its case in chief, indicating whether such witnesses will testify in person or by deposition.

(9) A designation by each party of any deposition testimony to be offered in its case in chief, with any cross-designations and objections by any other party.

(10) A list by each party of exhibits to be offered in its case in chief, with one asterisk (*) indicating exhibits to which no party objects on grounds of authenticity, and two asterisks (**) indicating exhibits to which no party objects on any ground. Exhibits for plaintiffs should be marked by numbers; exhibits for defendants should be marked by letters. Plaintiffs and defendants shall bring to the final pretrial conference loose-leaf exhibit binders of all exhibits they actually intend to offer at the trial.

B. Filings Prior to Trial in Civil Cases. Unless otherwise ordered by the Court, each party shall file, fifteen days before the date of commencement of trial if such a date has been fixed, or thirty days after the filing of the final pretrial order if no trial date has been fixed:

(1) In jury cases, requests to charge and proposed voir dire questions.

(2) 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.

(3) In all cases, motions addressing any evidentiary or other issues which should be resolved *in limine*.

(4) In any case where such party believes it would be useful, a pretrial memorandum.

The submissions described in subsections (1) and (2) should be in both hard copy and on 3.5" diskettes in WordPerfect version 7.0 or higher format.

V. Opinions

When the Court renders an opinion in a case, one of the law clerks will normally notify the parties immediately by telephone or fax. In any case, the Clerk's Office will notify the parties by mail that an opinion has been rendered in the case. The specific result of the opinion, however, cannot be disclosed via telephone. Opinions will be available for photocopying in Room 270.