

**INDIVIDUAL RULES OF THE
HONORABLE ALVIN K. HELLERSTEIN
SOUTHERN DISTRICT OF NEW YORK**

Effective October 4, 2010

Chambers

Room 1050
United States Courthouse
500 Pearl Street
New York, New York 10007
Tel: (212) 805-0152
Fax: (212) 805-7942

Courtroom

Room 14D
United States Courthouse
500 Pearl Street
New York, New York 10007
(212) 805-0127

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

1. Communications With Chambers.

A. Letters. Copies of letters to Chambers shall simultaneously be delivered to all counsel in no less speedy a manner than the method of delivery to the Court. Counsel shall not copy the Court on correspondence between and among them. Refer to Rule 2.E below for letters concerning disputes.

B. Method of Delivery.

- i. Copies of documents may either be mailed to Chambers or left with the Court Security Officer at the Worth Street entrance of the Courthouse. Papers shall not be delivered directly to Chambers **except following special permission to do so.**
- ii. Faxes to Chambers shall not exceed five pages in length, unless following special permission to exceed that length. If a fax is sent, a duplicate copy should not be mailed or delivered to Chambers.

C. Telephone Calls. Telephone calls to Chambers are permitted. However, do not call Chambers with procedural questions that are covered by these Individual Rules, the Local Rules of this Court, or the Federal Rules of Civil Procedure. For docketing, scheduling and calendar matters, **except** for matters relating to September 11-related Litigation, call Brigitte Jones, Courtroom Deputy, at (212) 805-0127. For questions or information relating to the September 11 Litigation, please check our website: www.nysd.uscourts.gov (Click on "cases"). For requests for adjournments or extensions, see the following paragraph.

D. Requests for Adjournments or Extensions of Time. All requests for adjournments or extensions of time **must be made in writing** and 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; (4) whether the adversary consents, and, if not, the reasons by the applicant, and by the adversary, for and against the relief requested, and (5) all other dates previously scheduled after the original date, including dates for conferences with the Court, and a suggested modified schedule, agreed to by all other counsel. If the request is for an adjournment of a court appearance, absent an emergency, it should be made at least 48 hours prior to the scheduled appearance. **DO NOT call Chambers or Courtroom to announce your intention to request an adjournment, or to ask permission to fax a letter requesting an adjournment or extension.**

E. ECF Cases. All civil and criminal cases (except Pro Se and special cases) filed on or after March 1, 2004 assigned to Judge Hellerstein are Electronic Case Filings (“ECF”). All counsel must register for ECF in each case pending before this Court. Counsel are responsible for checking their registered email and court docket sheet for memo-endorsements and orders. If you are not receiving such emails, please contact the ECF Help Desk at (212) 805-0800.

2. Pleadings, Motions, and Disputes.

A. Pre-Motion Conferences in Civil Cases. Pre-motion conferences, or permission to file motions, are not required.

- i. One week prior to a status conference in a civil case, the parties shall draft a joint proposed case management plan. The parties shall use the form case management plan which is appended to these Individual Rules. Wherever the parties are not in agreement, the alternative proposals will be set out in the same document. The draft plan shall be submitted to me at the status conference.
- ii. The lawyers in charge of the case shall be present at any status conference. A status conference is intended to achieve substantive results and should not be considered a formality.

B. Filing of Motion Papers. Motion papers shall be filed promptly after service. All motions, and courtesy copies of motions, shall include a table of contents listing all affidavits and exhibits.

- i. Affidavits and exhibits shall be clearly identified by tabs on both original and courtesy copies.
- ii. All affidavits, exhibits, and motions shall be bound, preferably on the side. Memoranda of law shall be bound separately.

- iii. Exhibits shall be marked sequentially such that no exhibit number or letter repeats, regardless of the affidavit to which it is attached. Exhibits for plaintiffs should be marked by numbers; exhibits for defendants should be marked by letters.

C. Courtesy Copies. Parties shall send to Chambers one courtesy copy of pleadings, motion, or supporting papers. Courtesy copies are required in cases following electronic filing procedures.

D. Return Dates; Oral Argument on Motions. Motions shall be returnable on any day of the week. Counsel should not appear in Court on the return date. The Court generally prefers oral argument on motions and will schedule the date and time for argument. Unless the Court rules otherwise, motions shall not modify or delay discovery or other pre-trial or trial schedules and proceedings.

E. Disputes. Unless directed otherwise, counsel should describe their disputes in a single letter, jointly composed. Separate and successive letters will be returned, unread. Strict adherence to Fed. R. Civ. P. 37(a)(2)(A), the meet and confer rule, is required, and should be described in the joint submission as to time, place and duration, naming the counsel involved in the discussion.

3. Pretrial Procedures

A. Joint Pretrial Orders in Civil Cases. Following the close of discovery, unless otherwise ordered by the Court, a final pretrial conference will be scheduled as close as possible to the date that the trial is scheduled to begin. The parties shall submit, three days prior to that conference, for the Court's approval, a joint pretrial order, which shall include the following:

- i. The full caption of the action.
- ii. The names, addresses (including firm names), e-mail addresses, 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 and cases relied on and relevant facts as to citizenship and jurisdictional amount.
- iv. (a) A brief summary of the claims and defenses to be tried, without recital of evidentiary matter but including citations to all statutes and cases relied on; and

- (b) A copy of the pleadings marked to show, for each claim and defense, in the margin next to each allegation thereof, the admissions and denials; and if any claims or defenses have been withdrawn or previously determined.
- v. A statement as to whether the case is to be tried with or without a jury, and the estimated number of trial days (including direct and cross-examination for all witnesses).
 - 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.
 - viii. A list of each party's witnesses actually intended to be called, and, if the witness cannot be present and will testify through deposition, the precise portions of deposition transcripts actually intended to be introduced together with any cross-designations and objections by any other party. (If voluminous, this portion of the submission may be made after the pretrial conference, on a date set at the conference).
 - ix. A list of exhibits actually intended to be offered at trial, indicating exhibits to which no party objects on grounds of authenticity and exhibits to which no party objects on any ground. (If voluminous, this portion of the submission may be made after the pretrial conference, on a date set at the conference). Exhibits for plaintiffs should be marked by numbers; exhibits for defendants shall not repeat exhibits already identified by plaintiffs and should be marked by letters. Plaintiffs and defendants shall bring to the conference loose-leaf exhibit binders of all exhibits they actually intend to offer at the trial.

B. Filings Prior to Trial in Civil Cases. On or before a date set by the Court, prior to trial, each party shall submit, in duplicate:

- i. A pretrial memorandum, describing the party's position on the factual and legal issues to be tried;
- ii. In jury cases, proposed requests to charge and proposed voir dire questions, limited to the issues that are disputed;
- iii. In non-jury cases, proposed findings of fact and conclusions of law for each claim and defense; and
- iv. The submissions described in ii and iii above shall be in both hard copy and electronically in MS Word format (by email or CD-Rom).

4. Confidentiality Provisions.

A. Protective Orders. Court records and docket sheets are to be accessible to the public, and enjoy a presumption of openness to public inspection. The presumption “is rebuttable upon demonstration that suppression is essential to preserve higher values and is narrowly tailored to serve that interest.” The Hartford Courant Co. v. Pellegrino, 380 F.3d 83, 96 (2d Cir. 2004) (internal quotation marks and citations omitted). Accordingly, no protective order shall be submitted that provides for sealing of documents or other information in connection with a submission to the court, except following a motion supported by competent evidence showing that sealing is essential to preserve higher values and is narrowly tailored to serve that interest.

B. Disputes. The parties are directed to cooperate in seeking to resolve disputed issues of confidentiality prior to filing material designated as “confidential,” or “confidential attorneys’ eyes only,” for example, by redaction of documents to be filed on the public record or by stipulation of facts. In the event that such issues are not resolved promptly, the parties should seek direction from the Court by a single, joint letter as described above in Rule 2.E.

C. Settlements. In the case of settlements, requests that the court retain jurisdiction will be considered only if all documents relating to the settlement are filed and publicly accessible, except for cause shown satisfying Rule 4A.

-----X

	:	_____ Civ. _____ (AKH)
	:	
Plaintiff(s),	:	
	:	<u>CIVIL CASE MANAGEMENT PLAN</u>
-against-	:	
	:	
	:	
Defendant(s).	:	
	:	

-----X

After consultation with counsel for the parties, the following Case Management Plan is adopted. This plan is also a scheduling order pursuant to Rules 16 and 26(f) of the Federal Rules of Civil Procedure.

- A. The case (is) (is not) to be tried to a jury. [Circle as appropriate].
- B. Non-Expert Discovery:
 - 1. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. All non-expert discovery is to be completed by _____, which date shall not be adjourned except upon a showing of good cause and further order of the Court. Interim deadlines for specific discovery activities may be extended by the parties on consent without application to the Court, provided the parties are certain that they can still meet the discovery completion date ordered by the Court.
 - a. The parties shall list the contemplated discovery activities and anticipated completion dates in Attachment A, annexed hereto.
 - 2. Joinder of additional parties must be accomplished by _____.
 - 3. Amended pleadings may be filed without leave of the Court until _____.
- C. For all causes of action seeking monetary damages, each party shall identify and

quantify in Attachment B, annexed hereto, each component of damages alleged; or, if not known, specify and indicate by what date Attachment B shall be filed providing such information.

D. Motions, Settlement, Second Pre-Trial Conference, and Expert Discovery:

1. Upon the conclusion of non-expert discovery, and no later than the date provided below, the parties may file dispositive motions. The parties shall agree to a schedule, and promptly submit same for the Court's approval, providing for no more than three rounds of serving and filing papers: supporting affidavits and briefs, opposing affidavits and briefs, and reply affidavits and briefs. The last day for filing dispositive motions shall be _____. (Counsel shall insert a date 30 days after the completion date for non-expert discovery.)
 - a. There shall be no cross-motions. Any motions not made by the agreed date shall, unless the court orders otherwise, not be considered until after the timely-filed motion is determined.
 - b. Papers served and filed by the parties shall conform to the requirements set out in the Court's Individual Rules.
2. Either before or after the motion schedule set out above, counsel for the parties shall meet for at least two hours at the office of plaintiff's counsel, to discuss settlement. The date for the meeting is _____, at _____m. (Counsel shall insert a date but, at the option of either, the date may be canceled upon the service or filing of a dispositive motion and notice to the court.)
3. Approximately one week thereafter, the parties shall meet with the Court for a Second Case Management Conference to discuss the status of the case, the status and prospects of settlement and whether alternative disputes-resolution procedures should be utilized, the need for and a schedule regulating experts and expert-discovery, a discovery bar date, and any other issue counsel or the Court wish to discuss. The Case Management Conference will be held on _____, at _____m. (The Court will set this date at the Initial Case Management Conference.)

- E. Any request for relief from any date provided in this Case Management Plan shall conform to the Court's Individual Rules, and include an order, showing consents and disagreements of all counsel, setting out all dates that are likely to be affected by the granting of the relief requested, and proposed modified dates. Unless and until the Court approves the proposed order, the dates provided in this Plan shall be binding.

F. A final pre-trial conference will be held on a date to be set, as close as possible to the date that trial is expected to begin. The parties, three days before said meeting, shall submit their pre-trial order, conforming to the Court's Individual Rules and, at the conference, deliver their exhibit books containing all exhibits the parties actually intend to offer at the trial.

G. Pre-Trial Motions:

Applications for adjournments and for discovery or procedural rulings will reflect or contain the positions of all parties, and otherwise conform to my Individual Rule 1(D). Unless the Court rules otherwise, motions shall not modify or delay the conduct of discovery or the schedules provided in this Case Management Plan.

SO ORDERED.

DATED: New York, New York

_____, 20__

ALVIN K. HELLERSTEIN
United States District Judge

ATTACHMENT A

The Parties are to list the discovery activities (i.e., production of documents, number of depositions, requests to admit, interrogatories) and anticipated completion dates:

<u>DISCOVERY ACTIVITIES</u>	<u>COMPLETION DATE</u>
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	

ATTACHMENT B

For all causes of action seeking monetary damages, each party shall identify and quantify each component of damages alleged:

1. **PLAINTIFF'S CLAIMS:**

2. **COUNTERCLAIMS AND CROSS-CLAIMS:**

3. **THIRD-PARTY CLAIMS:**