

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

Effective March 18, 2020

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) 805-0152

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

- 1. Communications with Chambers.** In general, there should be no need to communicate with Chambers. All information related to a case can be obtained by visiting the Court's Electronic Case Filing ("ECF") system.
 - A. Letters.** Parties shall send to Chambers a hard copy of all 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. Parties are not permitted to file letter motions and briefs in lieu of formal motions, unless special permission to do so is granted.
 - B. Method of Delivery.** Copies of all documents shall 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 unless special permission to do so is granted.
 - i. Faxes.** Faxes may be sent only: for urgent matters requiring an immediate response from Chambers; to request an adjournment or extension of time as provided by Rule 1.D; or to make a technology request as provided by Rule 1.F. Faxes should be brief, and may not exceed 5 pages without special permission from Chambers. Do not follow faxes with a hard copy.
 - ii. ECF.** Letters filed on ECF must also be sent to Chambers, either by mail or, if five pages or under, by fax.

- C. Telephone Calls.** Phone calls are not permitted (i) to seek adjournments, (ii) for inquiries as to the status of a pending motion, (iii) for oral interpretation or clarification of written orders, or (iv) to seek guidance on procedures that are governed by these Individual Rules, the Local Rules of this Court, or the Federal Rules.
- D. Requests for Adjournments or Extensions of Time.** All requests for adjournments (including adjournments of court conferences) or extensions of time must be made in writing at least 48 hours before the scheduled deadline or date of appearance. All requests must state: (i) the original date; (ii) the number of previous requests for adjournment or extension; (iii) whether these previous requests were granted or denied; (iv) whether the adversary consents, and, if not, the reasons by the applicant, and by the adversary, for and against the relief requested; and (v) 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. Requests for adjournments should be faxed to (212-805-7942).
- i. DO NOT** call Chambers or the Courtroom (i) to announce your intention to request an adjournment, (ii) to inquire about the status of your request, (iii) to confirm that your request has been received, unless more than 5 business days have lapsed since you sent your request, or (iv) to ask permission to fax a letter requesting an adjournment or extension. Requests for adjournments or extensions of time may be made by fax without advance permission.
- ii. DO NOT** file requests for adjournments or extensions of time on ECF without also sending a hard copy or fax of the request to Chambers. (See 1(B)(ii).)
- 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 ECF cases. 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 counsel are not receiving such emails, please contact the ECF Help Desk at (212) 805-0800. **All filings on ECF—including letters, briefs, and sworn statements—must be text-searchable.**
- F. Technology Requests.** Under appropriate circumstances, counsel may bring laptops and other technology, such as projectors, into the courtroom. Counsel who wish to bring such technology into the courtroom must fill out the technology request form provided on the Court’s website (under *Local Rules/Standing Orders* – Electronic Device Order). Counsel shall submit a hard copy of the request, along with a letter explaining the need for the technology requested. The letter and technology form may be faxed to Chambers.

2. Conferences, Pleadings & Motions.

- A. **Conferences in Civil Cases.** Conferences in all civil cases will generally be called after Answers are filed and on Fridays at 10:00 a.m. Lawyers in charge of the case shall be present. Counsel shall bring with them a proposed case management plan, using the form attached to these individual Rules.
- B. **Motions.** Counsel shall not request a pre-motion or permission to file a motion. Motions may be filed in the discretion of the attorneys, and shall conform to the Federal Rules of Civil Procedure. Letter motions or oppositions will not be accepted.
- C. **Filing of Motion Papers.** Motion papers shall be filed promptly after service. All motions, and courtesy copies of all motions, shall include a table of contents listing all affidavits and exhibits. The Court does not impose a page limit for briefs.
 - i. **Affidavit and Exhibit Requirements.** All affidavits and exhibits shall conform to the following requirements.
 - 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.
 - 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. Parties shall refer to exhibits already filed and not duplicate them.
- D. **Oral Argument on Motions.** Motions shall be returnable on any day of the week. Counsel shall not appear in Court on the return date. The Court will schedule the date and time for argument if it desires argument.
- E. **Disputes.** Unless directed otherwise, counsel shall describe their disputes in a single letter, jointly composed. Separate and successive letters will be returned, unread. Strict adherence to 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. The Court will not resolve disputes not brought to its attention in conformity with this rule.
- F. **Courtesy Copies.** Parties shall send to Chambers one courtesy copy of all pleadings, motions, and supporting papers, except motions for admission *pro hac vice*. In the event of an especially voluminous submission, and only with written

approval from Chambers, parties may submit their exhibits by CD. In any event, courtesy copies are to be submitted without plastic covers.

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, omitting all dismissed parties.
 - ii.** The names, addresses (including firm names), e-mail 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 and cases relied on and relevant facts as to citizenship and jurisdictional amount.
 - iv.** 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.
 - v.** 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.
 - vi.** 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).
 - vii.** 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).
 - viii.** Any stipulations or agreed statements of fact or law.
 - ix.** 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.
 - x.** 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. Exhibits for plaintiffs should be marked by

numbers; exhibits for defendants should be marked by letters; and plaintiffs and defendants shall bring to the conference loose-leaf exhibit binders of all exhibits they actually intend to offer at the trial. Defendants shall not duplicate exhibits identified by Plaintiffs.

- B. Filings Prior to Trial in Civil Cases.** On or before a date set by the Court, and no later than three days before the final pretrial conference, each party shall submit, in duplicate:
- i.** For jury and non-jury trials, a pretrial memorandum, describing the party's position on the factual and legal issues to be tried.
 - ii.** For jury trials, proposed requests to charge and proposed voir dire questions.
 - iii.** For non-jury trials, proposed findings of fact and conclusions of law for each claim and defense.
 - 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).
 - v.** Motions in limine will be heard at the final pre-trial conference. Counsel shall schedule the motions to suit their convenience, providing sufficient time for the court to understand, and rule on, the disputed issues.
- C. Filings Prior to Trial in Criminal Cases.** The procedures for trials in criminal cases shall be the same (to the extent practicable) as the procedures for trials in civil cases.

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 "closure is essential to preserve higher values and is narrowly tailored to serve that interest." *Bernstein v. Bernstein Litowitz Berger & Grossmann LLP*, 814 F.3d 132, 144 (2d Cir. 2016) (quoting *In re N.Y. Times Co.*, 828 F.2d 110, 116 (2d Cir.1987)). 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. All protective orders shall comply with this entire Rule 4, and are subject to ongoing review and reexamination by the Court.
- B. Electronic Filing Under Seal in Civil and Miscellaneous Cases**

- i. **Sealing/Redactions Not Requiring Court Approval.** Federal Rule of Civil Procedure 5.2 describes sensitive information that must be redacted from public court filings without seeking prior permission from the Court. Such sensitive information includes: Social Security numbers; names of minor children; dates of birth; and financial account numbers.

Other information that should be treated with caution and may warrant a motion for approval of sealed or redacted filing includes: personal identifying numbers (PIN numbers); medical records, treatment and diagnosis; employment history; individual financial information; proprietary or trade secret information; home addresses; and information regarding an individual's cooperation with the government.

Sensitive information and information requiring caution must not be included in any document filed with the Court unless such inclusion is necessary and relevant to the case. If such information must be included, personal identifiers must be partially redacted in accordance with the above-cited rules and policies in order to protect any privacy interest.

- ii. **Sealing/Redaction Requiring Court Approval.** Motions or Letter Motions for approval of sealed or redacted filings in civil and miscellaneous cases and the subject documents, including the proposed sealed document(s), must be filed electronically through the court's ECF system in conformity with the court's standing order, 19-mc-00583, and ECF Rules & Instructions, section 6.

The motion must be filed in public view, must explain the particular reasons for seeking to file that information under seal and should not include confidential information sought to be filed under seal. Supporting papers must be separately filed electronically and may be filed under seal or redacted only to the extent necessary to safeguard information sought to be filed under seal.

The proposed sealed document must be contemporaneously filed under seal in the ECF system and electronically related to the motion. The summary docket text, but not the sealed document, will be open to public inspection and should not include confidential information sought to be filed under seal.

Where the motion seeks approval to redact information from a document that is to be publicly filed, the filing party shall: (a) publicly file the document with the proposed redactions, and (b) electronically file under seal a copy of the unredacted document with the redactions highlighted.

Both documents must be electronically filed through the ECF system and related to the motion.

To be approved, any redaction or sealing of a court filing must be narrowly tailored to serve whatever purpose justifies the redaction or sealing and must be otherwise consistent with the presumption in favor of public access to judicial documents. *See, e.g., Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006). In general, the parties' consent or the fact that information is subject to a confidentiality agreement between litigants is not, by itself, a valid basis to overcome the presumption in favor of public access to judicial documents. *See, e.g., In re Gen. Motors LLC Ignition Switch Litig.*, No. 14-MD-2543(JMF), 2015 WL 4750774, at *4 (S.D.N.Y. Aug. 11, 2015).

The party seeking leave to file sealed or redacted materials should meet and confer with any opposing parties (or third parties seeking confidential treatment of the information, if any) in advance to narrow the scope of the request. When a party seeks leave to file sealed or redacted materials on the ground that an opposing party or third party has requested it, that party shall notify the opposing party or third party that it must file, within three days, a letter explaining the need to seal or redact the materials.

Any party unable to comply with the requirement for electronic filing under seal through the ECF system, or who has reason to believe that a particular document should not be electronically filed, must move for leave of the Court to file in the traditional manner, on paper.

5. **Settlements.** In the case of settlements, requests that the Court retain jurisdiction will be considered only if all documents relating to the settlement are exhibited to the Court for review and further instructions, which may include requiring the parties to file all such documents and make them publicly accessible.
6. **Notice for Collective Action Lawsuits.** Parties moving the Court to approve a collective action notice shall use the template attached.

-----X
: _____ Civ. _____ (AKH)
:
:
Plaintiff(s), :
:
-against- : **CIVIL CASE MANAGEMENT PLAN**
:
:
:
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. Second Pre-Trial Conference, Motions, Settlement, and Expert Discovery:

1. Approximately one week after the conclusion of non-expert discovery, 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.
2. On the second Friday thereafter, at 10:00 a.m., the parties shall meet with the Court for a Second Case Management Conference to discuss the status of the case, the schedule for dispositive motions, the status and prospects of settlement and whether alternative dispute-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 10:00 a.m.
3. Prior to the Second Case Management Conference, the parties shall meet and confer concerning a schedule for dispositive motions. The schedule will be finalized at the Second Case Management Conference. The schedule shall provide for no more than three rounds of serving and filing papers: supporting affidavits and briefs, opposing affidavits and briefs, and reply affidavits and briefs.
 - 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.

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: