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Revised: March 7, 2023

INDIVIDUAL PRACTICES IN CIVIL CASES
ANALISA TORRES, UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF NEW YORK
500 PEARL STREET
NEW YORK, NEW YORK 10007

Unless otherwise ordered by Judge Torres, these Individual Practices apply to all civil matters except for civil *pro se* cases (see Individual Practices in Civil *Pro Se* Cases, at https://www.nysd.uscourts.gov/hon-analisa-torres).

I. Communications with Chambers

A. Contact with Chambers. Communications with the Court shall occur by letter, except as otherwise provided below. Telephone calls to chambers are permitted **only in emergencies requiring immediate attention**. Prior to calling chambers with questions about the Court's rules and practices, parties should review the Court's Individual Practices. The chambers phone number is (212) 805-0292. Faxes to chambers are permitted only with prior authorization. Faxed submissions shall identify the individual in chambers who authorized the fax. Copies shall be simultaneously faxed, emailed, or hand-delivered to all counsel.

B. Letters and Letter Motions. Unless there is a request to file a letter under seal, letters and letter motions shall be filed electronically on ECF, with a courtesy copy delivered to the Court by email, and must comply with the S.D.N.Y. Local Rules and Electronic Case Filing Rules and Instructions. The email address for chambers is Torres_NYSDChambers@nysd.uscourts.gov.

Letters to be filed under seal shall be emailed to the Court in accordance with Rule IV(A) below. Letters solely between parties or their counsel or otherwise not addressed to the Court shall not be filed on ECF or sent to the Court (except as exhibits to an otherwise properly filed document).

Except as provided in Rule V(G), no papers, including courtesy hard copies of any filing or document, may be submitted to chambers. All documents must be filed on ECF or, if permitted or required under these rules, emailed to the Court. In the event that a party or counsel is unable to submit a document electronically—either by ECF or email—the document may be mailed to the Court. To the maximum extent possible, however, this means of delivery should be avoided, as delivery of mail to the Court may be delayed.

C. Requests for Adjournments or Extensions of Time. All requests for adjournments or extensions of time shall be made in writing and filed on ECF as letter motions in accordance with Rule I(B) above. The letter motion shall state: (1) the original date(s); (2) the reason for the request; (3) the number of previous

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requests for adjournment or extension; (4) whether these previous requests were granted or denied; and (5) 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 schedule shall be included in the letter. Absent an emergency, any request for adjournments or extensions must be made at least 48 hours prior to the scheduled appearance or deadline. Requests for extensions will ordinarily be denied if made after the expiration of the original deadline.

D. Related Cases. After an action has been accepted as related to a prior filing, all future court papers and correspondence shall contain the docket number of both the new action and the docket number of the case to which it is related (e.g., 13 Civ. 1234 [rel. 12 Civ. 4321]).

E. ECF. In accordance with the Electronic Case Filing Rules & Instructions, counsel are required to register as ECF filers and enter an appearance in the case before the deadline for submitting the proposed Case Management Plan and Scheduling Order. Instructions are available on the Court website at https://nysd.uscourts.gov/electronic-case-filing.

II. Conferences and Case Management Plan

A. Attendance by Principal Trial Counsel. The attorney who will serve as principal trial counsel shall appear at all conferences.

B. Scheduling Order. The Court shall generally request a jointly proposed Case Management Plan and Scheduling Order pursuant to Federal Rule of Civil Procedure 16(b) within two months after the filing of the complaint or notice of removal. The Rule 16(b) Order will be docketed on ECF, and plaintiff's counsel (or, in a matter removed from state court, defense counsel) is directed to promptly distribute copies to all parties. If a deadline for submitting the proposed Case Management Plan and Scheduling Order has not been set within two months after the filing of the complaint or notice of removal, counsel shall send a letter to alert the Court.

The Rule 16(b) Order will also direct the parties to submit a joint letter with their jointly proposed Case Management Plan and Scheduling Order. If defense counsel has not appeared at least one week prior to the deadline for these submissions, plaintiff's counsel is directed to submit a letter requesting an adjournment and informing the Court of the status of defense counsel's appearance and whether plaintiff intends to seek a default judgment.

In any action in which subject-matter jurisdiction is founded on diversity of citizenship pursuant to 28 U.S.C. § 1332, the party asserting the existence of such jurisdiction shall, prior to the deadline for submitting the proposed Case Management Plan and Scheduling Order, file with and email to the Court a letter

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no longer than two pages explaining the basis for that party's assertion that diversity of citizenship exists. Where any party is a corporation, the letter shall state both the place of incorporation and the principal place of business. In cases where any party is a partnership, limited partnership, limited liability company, or trust, the letter shall state the citizenship of each of the entity's members, shareholders, partners, and/or trustees.

C. Discovery Disputes. All parties shall follow Local Civil Rule 37.2 with the following modifications: A party wishing to raise a discovery dispute with the Court shall first confer in good faith with the opposing party, in person or by telephone, in an effort to resolve the dispute. If this meet-and-confer process does not succeed, the parties shall describe the dispute in a single joint letter to the Court, normally not exceeding six pages. The joint letter shall include a representation that the meet-and-confer process occurred, identifying the time, place, and duration and naming the counsel involved in the discussion.

III. Motions

A. Pre-Motion Letters in Civil Cases.

i. A pre-motion letter is required prior to the filing of any motion, except motions with a jurisdictional time limit as provided by the Federal Rules of Appellate Procedure, post-judgment motions, motions brought on by order to show cause, motions for reargument or reconsideration, motions by incarcerated *pro se* litigants, motions for admission *pro hac vice*, motions for attorneys' fees, motions for remand, motions to appoint lead plaintiff and lead defense counsel in securities class actions, objections to magistrate judges' rulings, motions for sanctions, motions to withdraw as counsel, motions for reduction of sentence, *in forma pauperis* motions, petitions to confirm or compel arbitration, or where a delay in filing might result in the loss of a right.

ii. The movant shall file and email a letter to the Court, normally not exceeding four pages, setting forth the basis for the anticipated motion. Opposition letters, normally not exceeding four pages, shall be submitted within five business days after receipt of the movant's letter. The parties must also comply with the special rules set forth below for motions to dismiss or for summary judgment. Thereafter, the Court shall notify the parties of the briefing schedule for the motion.

B. Special Rules for Motions to Dismiss.

i. In the case of a motion to dismiss, the parties shall exchange two sets of pre-motion letters.

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ii. First: Before the time to file a responsive pleading has expired, the defendant shall send plaintiff a letter not exceeding three single-spaced pages, seeking a more definite statement or setting forth the specific pleading deficiencies in the complaint and other reasons or controlling authorities that defendant contends would warrant dismissal. The plaintiff shall respond by similar letter within five business days indicating the extent, if any, to which plaintiff concurs with defendant's objections and the amendments, if any, to be made to the complaint to address them, or the reasons and controlling authority that support the pleadings as filed. The parties shall not submit copies of these letters to the Court. If the time to amend the complaint has expired, the plaintiff may seek leave to amend to address deficiencies identified in this first exchange of letters. Such leave to amend should be sought before the second exchange of letters described in Rule III(B)(iii) below. Under these circumstances, the Court shall liberally grant the plaintiff leave to amend and will grant the defendant an extension of time to answer the complaint as appropriate. (This practice may be especially effective as to certain types of motions frequently made that may be avoidable by pre-motion communication between the parties, with or without the Court's involvement, including but not limited to the following: naming a wrong defendant, misnaming a defendant, failing to name a necessary or indispensable party, failing to exhaust available remedies, absolute immunity, expiration of the statute of limitations as to some or all of the claims asserted, failure to satisfy a prerequisite to litigation such as a Right to Sue Letter, and failure to plead the particulars of a fraud claim under Rule 9(b) of the Federal Rules of Civil Procedure.)

iii. Second: If, after the first exchange of letters, the defendant still wishes to file a motion to dismiss, the parties shall follow the steps set forth in Rule III(A) above for pre-motion letters, and this second set of letters shall be emailed to and filed with the Court. Transmittal of a pre-motion letter for a proposed motion under Federal Rule of Civil Procedure 12(b) stays the time to answer or move to dismiss until further order of the Court.

iv. If a motion to dismiss is filed, the non-moving party must, within ten days of receipt of the motion, notify the Court and its adversary in writing whether (1) it intends to file an amended pleading and when it will do so, or (2) it will rely on the pleading being attacked. Non-moving parties are on notice that declining to amend their pleadings to timely respond to a fully briefed argument in the motion to dismiss may well constitute a waiver of their right to use the amendment process to cure any defects that have been made apparent by the briefing. *See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC*, 797 F.3d 160, 190 (2d Cir. 2015) (leaving "unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility.").

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This provision does not alter the time to file a response in the Federal Rules or the Local Rules. If the party amends, the opposing party may then (1) file an answer; (2) file a new motion to dismiss; or (3) submit a letter stating that it relies on the previously filed motion to dismiss. If the moving party files an answer or a new motion to dismiss, the Court shall deny the original motion to dismiss as moot without notice to the parties.

C. Special Rules for Summary-Judgment Motions.

i. Absent good cause, the Court shall not ordinarily have summary-judgment practice in a non-jury case.

ii. Any party wishing to move for summary judgment shall provide all other parties with an electronic copy, in Microsoft Word format, of its Statement of Material Facts pursuant to Local Civil Rule 56.1. The movant must simultaneously provide the other parties any admissible evidence cited in its 56.1 statement that has not previously been produced during discovery. Opposing parties shall reproduce each entry in the movant's Rule 56.1 Statement and set out the opposing party's response directly beneath it.

iii. Pursuant to Rule III(A) above, the prospective movant shall email a pre-motion letter to chambers informing the Court of the basis for its anticipated motion for summary judgment and attaching the opposing party's response to the Rule 56.1 Statement. Opposition letters shall be emailed to the Court within five business days after receipt of the prospective movant's letter. All such letters shall also be filed on ECF. The Court shall inform the parties whether a motion for summary judgment is warranted and, if so, set a briefing schedule.

iv. With respect to any deposition or hearing transcript that is supplied in connection with a summary judgment motion, the transcript of a witness' testimony shall be submitted in its entirety and in a **one-page-per-sheet** format with an index.

v. The parties shall provide the Court with an electronic, text-searchable courtesy copy of any deposition or hearing transcript. (Parties shall provide these materials on a CD only, not on a DVD or memory stick and not by email.)

D. Memoranda of Law. A memorandum of law shall accompany motion and opposition papers. The typeface, margins, and spacing of motion papers shall conform to Local Civil Rule 11.1. Memoranda of more than ten pages shall contain a table of contents and a table of authorities. A memorandum of law shall not incorporate by reference any accompanying declarations or affidavits. Instead, the memorandum shall contain a fact section that sets forth all facts relevant to the motion and, for each factual statement, provides one or more

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citations to declarations, affidavits, or other evidence in the records. In the case of summary-judgment motions, factual statements must be supported by citations to both the record evidence and the Rule 56.1 statement, if contained therein. Factual statements in other sections of a memorandum shall also be followed by such citations. Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 30 pages, and reply memoranda are limited to 15 pages. Unless prior permission has been granted, with respect to objections to magistrate judges' rulings, memoranda of law (including responses) shall not exceed 20 pages.

E. Exhibits. All exhibits shall be tabbed and indexed.

F. Format. Motion papers shall be single-sided, double-spaced, shall use 12-point font or larger (including footnotes), and shall have one-inch margins on all sides. Footnotes are discouraged.

G. Text Searchable. All pleadings, letters, motion papers, affidavits, or any other document containing text shall be text searchable.

H. Amended or Corrected Filings. Any amended or corrected filing (including but not limited to amended pleadings) shall be filed with a redline showing all differences between the original and revised filing. Any motion to amend a pleading shall similarly be filed with a redline showing all differences between the operative pleading and the proposed amended pleading.

I. Courtesy Copies. The parties shall provide courtesy copies to chambers of all motion papers, including all declarations and affidavits with exhibits, by email to Torres_NYSDChambers@nysd.uscourts.gov at the time of filing. Courtesy copies may not be submitted through the ECF system. No papers may be submitted to chambers.

J. Filing Motion Papers. Motion papers shall be filed promptly after service.

K. Oral Argument of Motions. Parties may request oral argument by letter emailed to the Court at the time their moving, opposing, or reply papers are filed. The Court typically does not hold oral argument on motions, but it will notify counsel if oral argument is required.

L. Participation of Junior Attorneys. Given the decline in cases going to trial, opportunities for courtroom advocacy are increasingly rare. To assist in the training of the next generation of attorneys, the Court strongly encourages relatively inexperienced attorneys—in particular women and underrepresented minorities—to participate in all courtroom proceedings. Further, the Court is amenable to having multiple attorneys speak for one party if it creates an opportunity for a lawyer who is relatively inexperienced or from an underrepresented group. However, all attorneys appearing should have the degree

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of authority consistent with the proceeding. For example, an attorney attending a pre-motion conference should have the authority to commit his or her party to a motion schedule, and should be prepared to address other matters likely to arise, including the party's willingness to participate in a settlement conference with the assigned Magistrate Judge.

M. Motions to Exclude Testimony of Experts. Pursuant to Rules 702–705 of the Federal Rules of Evidence and the *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), line of cases, motions to exclude testimony of experts shall be made by the deadline for dispositive motions and shall not be treated as motions *in limine*.

N. Default Judgments. A plaintiff seeking a default judgment shall proceed by way of order to show cause, pursuant to the procedure set forth in Attachment A, *infra*.

IV. Other Pretrial Guidance

A. 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 Misc. 583, 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

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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, 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.

B. Applications for a Temporary Restraining Order. A party shall confer with its adversary before making an application for a temporary restraining order, unless the requirements of Rule 65(b) of the Federal Rules of Civil Procedure are met. As soon as a party decides to seek a temporary restraining order, he or she shall

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call or email chambers and state whether: (1) he or she has notified the adversary and if the adversary consents to temporary injunctive relief or (2) the requirements of Rule 65(b) are satisfied and no notice is necessary. If a party's adversary has been notified but does not consent to temporary injunctive relief, the party seeking a restraining order shall call or email chambers in order to determine a time mutually agreeable to the Court, the party, and its adversary, so that the Court may have the benefit of advocacy from both sides in deciding whether to grant temporary injunctive relief.

C. Settlement Agreements. The Court shall not retain jurisdiction to enforce confidential settlement agreements. If the parties want the Court to retain jurisdiction to enforce the agreement, the parties shall place the terms of their settlement agreement on the public record. The parties may either provide a copy of the agreement for the Court to endorse or include the terms of their agreement in their stipulation of settlement and dismissal.

D. Bankruptcy Appeals. Briefs shall be submitted in accordance with Federal Rules of Bankruptcy Procedure 8015 through 8018 unless otherwise ordered by the Court. Counsel may extend the default deadlines by stipulation submitted to the Court no later than two business days before the brief is due. One courtesy copy of the briefs and the bankruptcy record on appeal, marked as such, shall be submitted to chambers by email by the appellant at the time the reply is due.

V. Trial Procedures

A. Pretrial Disclosure. The parties are reminded of their obligation to make certain disclosures regarding expert testimony pursuant to Federal Rule of Civil Procedure 26(a)(2) and to make disclosure regarding evidence that may be presented at trial pursuant to Federal Rule of Civil Procedure 26(a)(3). Failure to comply with these requirements may result in preclusion or other sanctions.

B. Joint Pretrial Order. Unless otherwise ordered by the Court, within thirty days after the date for the completion of discovery, or within thirty days after the Court's decision on a dispositive motion, if any, the parties shall file and, in both PDF format and as a Microsoft Word document, email to the Court a proposed joint pretrial order, which shall include the following:

i. The full caption of the action.

ii. The names; law firms; addresses; and work, cellular, and fax numbers of trial counsel.

iii. A statement as to whether or not all parties have consented to trial by a magistrate judge, without identifying which parties do or do not consent.

iv. A brief statement by plaintiff as to the basis for subject-matter jurisdiction and a brief statement by each other party as to the presence or absence of

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subject-matter jurisdiction. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount.

v. A brief summary by each party of the claims and defenses that the party asserts remain to be tried, including citations to any statutes on which the party relies. Such summaries shall also identify all claims and defenses previously asserted which are not to be tried. The summaries shall not recite any evidentiary matters.

vi. A statement as to the number of trial days needed and whether the case is to be tried with or without a jury.

vii. Any stipulations or agreed statements of fact or law to which all parties consent.

viii. A list of all trial witnesses, indicating whether such witnesses will testify in person or by affidavit and a brief summary of the substance of each witness' testimony.

ix. A designation by each party of deposition testimony to be offered in its case-in-chief and any counter-designations and objections by any other party.

x. A list by each party of exhibits to be offered in its case-in-chief. Each exhibit shall be pre-marked (plaintiff to use numbers, defendant to use letters). For any exhibit as to which there is an objection, the objecting party shall briefly specify, next to the listing of that exhibit, the nature of the party's objection. Where a party objects to an exhibit on any ground other than authenticity, the objection shall cite the Federal Rule of Evidence that is the basis for the objection. Any objection not listed shall be deemed waived.

xi. A statement of the damages claimed and any other relief sought, including the manner and method used to calculate any claimed damages and a breakdown of the elements of such claimed damages.

xii. A statement of whether the parties consent to a less-than-unanimous verdict.

C. Required Pretrial Filings. Each party shall file and serve with the proposed joint pretrial order:

i. In <u>all</u> cases, motions addressing any evidentiary issues or other matters which shall be resolved *in limine*.

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ii. In all cases, a pretrial memorandum of law, if a party believes it would be useful to the Court.

iii. In jury cases, requests to charge (including citation to authority) and proposed *voir dire* questions, in accordance with the requirements of Rule V(D) below.

iv. In non-jury cases, proposed findings of fact and conclusions of law, in accordance with the requirements of Rule V(E)(i) below.

v. In all cases, one copy of each documentary exhibit sought to be admitted, pre-marked and assembled sequentially in a loose leaf binder or in separate manila folders labeled with the exhibit numbers and placed in a suitable container for ready reference.

vi. In all cases, all deposition or hearing transcripts which will be offered as substantive evidence, as well as a one-page synopsis of those excerpts for each deposition. Each synopsis shall include page citations to the pertinent pages of the deposition transcripts. The parties shall submit the entire transcript of a witness' testimony in one-page-per-sheet format with an index. The parties shall provide the Court with an electronic, text-searchable courtesy copy of any deposition or hearing transcript if such a copy is available. (Parties shall provide the electronic version of these materials on a CD, and may also provide a link to download by email to chambers.)

D. Requests to Charge and Proposed *Voir Dires*. In all jury cases, joint requests to charge, joint proposed verdict forms, and joint proposed *voir dire* questions shall be submitted as attachments to the proposed joint pretrial order. At the time of filing, parties shall also submit copies of these documents to the Court by email, as Microsoft Word documents. For any request to charge or proposed *voir dire* question on which the parties cannot agree, each party shall clearly set forth its proposed charge or question and briefly state why the Court should use its proposed charge or question, with citations to supporting authority.

E. Additional Submissions in Non-Jury Cases. At the time the proposed joint pretrial order is filed, each party shall:

i. File on ECF their proposed findings of fact and conclusions of law. The proposed findings of fact shall be detailed and shall include citations to the proffered trial testimony and exhibits, as there may be no opportunity for post-trial submissions. At the time of filing, parties shall also submit copies of these documents to the Court by email, both in PDF format and as a Microsoft Word document.

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ii. Mail or hand-deliver to the Court and serve on opposing counsel, but not file on ECF, the following:

a. Copies of affidavits constituting the direct testimony of each trial witness, except for the direct testimony of an adverse party, a person whose attendance is compelled by a subpoena, or a person from whom the Court has otherwise agreed to hear direct testimony live at the trial.

b. Three business days after submission of such affidavits, counsel for each party shall submit a list of all affiants whom he or she intends to cross-examine at the trial. Only those witnesses who will testify in live direct examination or who will be cross-examined need to appear at trial.

c. The original signed affidavits shall be brought to trial to be marked as exhibits.

F. Filings in Opposition. Any party may file the following documents within one week after the filing of the proposed joint pretrial order, but in no event fewer than three days before the scheduled trial date:

i. Objections to another party's requests to charge or proposed *voir dire* questions;

ii. Opposition to any motion *in limine*; and

iii. Opposition to any legal argument in a pretrial memorandum.

G. Courtesy Copies. Two courtesy copies of all documents identified in Rules V(B)–(F) above shall be mailed or hand-delivered to chambers on the date on which they are to be served or filed. Only one set of documentary exhibits is required. Voluminous material may be organized either in binders or manila file folders, but, in any event, the courtesy copies shall be separately arranged into two independent sets.

H. Trial Schedule. Court shall be in session Monday through Friday from 9:00 a.m. to 5:00 p.m. with a break from 1:00 to 2:00 p.m.

VI. Policy on the Use of Electronic Devices

A. Mobile Phones and Personal Electronic Devices. Attorneys' use of mobile phones and other personal electronic devices within the Courthouse and its environs is governed by Standing Order M10-468. Any attorney wishing to bring a telephone or other personal electronic device into the Courthouse shall be a member of this Court's Bar, shall obtain the necessary service pass from the District Executive's Office, and shall show the service pass upon entering the Courthouse. Mobile phones are permitted inside the Courtroom, but they shall be

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kept off at all times. Non-compliance with this rule shall result in forfeiture of the device for the remainder of the proceedings.

B. Computers, Printers, or Other Electronic Equipment. In order for an attorney to bring into the Courthouse any computer, printer, or other electronic equipment not qualifying as a "personal electronic device," specific authorization is required by prior court order. Any party seeking to bring such equipment into the Courthouse shall email a letter to the Court at least ten business days in advance of the relevant trial or hearing requesting permission to use such equipment. The letter shall identify the type(s) of equipment to be used and the name(s) of the attorney(s) who will be using the equipment. Chambers will coordinate with the District Executive's Office to issue the order and forward a copy to counsel. The order shall be shown upon bringing the equipment into the Courthouse.

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ATTACHMENT A

DEFAULT JUDGMENT PROCEDURE

Before moving for default judgment, a party must first acquire a Certificate of Default from the Clerk of Court pursuant to Federal Rule of Civil Procedure 55(a), Local Civil Rule 55.1, and Rule 16.1 of the Electronic Case Filing Rules & Instructions. Once the certificate has been filed on the CM/ECF system, the party should take the following steps to seek default judgment:

1. In accordance with Rule 16.3 of the Electronic Case Filing Rules & Instructions, file the following documents:

    a. A proposed order to show cause for default judgment;

        i. Leave blank the date and time of the conference. Judge Torres will set the date and time when she signs the order.

    b. An affidavit or declaration signed by a party with personal knowledge (i.e., not the attorney in the action except in limited circumstances), which sets forth a statement of proposed damages and the basis for each element of damages, including a step-by-step explanation of each calculation; and

    c. An affidavit or declaration in support of the order.

        i. The affidavit or declaration shall set forth:

            1. The basis for entering a default judgment, including a description of the method and date of service of the summons and complaint;

            2. The procedural history beyond service of the summons and complaint, if any;

            3. The legal basis, including citations to appropriate authorities, for a finding of liability based on the allegations in the complaint;

            4. Whether, if the default is applicable to fewer than all of the defendants, the Court may appropriately order a default judgment on the issue of damages prior to resolution of the entire action;

            5. The proposed damages and the basis for each element of damages, including interest, attorneys' fees, and costs; and

            6. Legal authority for why an inquest into damages would be unnecessary, if applicable.

        ii. The affidavit or declaration shall include as attachments:

            1. A proposed default judgment;

            2. A Certificate of Default from the Clerk of Court;

            3. Copies of all of the pleadings; and

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4. A copy of the affidavit of service of the summons and complaint.

2. The Orders and Judgments Clerk will review the papers after they are filed on the CM/ECF System and indicate whether there are any deficiencies. After the Orders and Judgments Clerk approves the papers, Judge Torres will review them.

3. After Judge Torres sets the date and time of the conference and signs the order, the order will be docketed on the CM/ECF system. Within five business days, serve a conforming copy of the signed order and supporting papers on the defendant.

4. Within two business days of serving the order, file through the CM/ECF system: (1) the supporting papers and (2) an affidavit of service, reflecting that the defendant was served with a conforming copy of the order and supporting papers.

5. Counsel for the party seeking default judgment must appear in person at the show-cause hearing.