

**INDIVIDUAL PRACTICES OF
MAGISTRATE JUDGE PAUL E. DAVISON**

Cases come before magistrate judges in one of two ways: for one or more specific purposes pursuant to an order of reference by the assigned district judge, or, on consent of the parties, for all purposes pursuant to 28 U.S.C. § 636(c). When a district judge approves an all-purposes consent form signed by counsel, the magistrate judge assumes the role of the district judge. Any appeal is directly to the Court of Appeals and the right to a jury trial is preserved.

It is the uniform practice of the magistrate judges in this District to schedule trials in civil consent cases for firm dates, rather than using a trailing trial calendar or requiring counsel to be available for trial on short notice. Additionally, because magistrate judges rarely try criminal cases, such firm trial dates are unlikely to be changed to accommodate criminal trials. Should counsel wish to consent to have Judge Davison hear their case for all purposes, the necessary form is available at nysd.uscourts.gov/judge/Davison.

Unless otherwise ordered by Judge Davison, matters before him shall be conducted in accordance with the following practices. These practices are applicable to cases before Judge Davison if the matter is within the scope of the district judge's order of reference or if the case is before Judge Davison for all purposes pursuant to 28 U.S.C. § 636(c). Otherwise, the practices of the district judge to whom the case is assigned apply.

Nothing in Judge Davison's Individual Practices supersedes a specific time period for filing a motion specified by statute or Federal Rule where failure to comply with the specified time period could result in forfeiture of a substantive right.

1. 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. **All letters to the Court shall be filed via ECF**, *except* for letters submitted by *pro se* litigants who do not have ECF privileges, letters which the sender is authorized to submit *ex parte*, letters as to which there is a request to file under seal, or letters containing confidential information. Letters submitted by attorneys which are not required to be filed on ECF may be delivered by mail, fax, or hand-delivery, and shall be prominently designated as "EX PARTE" or "NOT FILED VIA ECF DUE TO CONFIDENTIAL CONTENT." Whether filed on ECF or not, letters on subjects other than discovery disputes may not exceed 5 pages, exclusive of exhibits, unless prior permission has been requested from, and granted by, the Court. Letters on discovery disputes shall comply with the discovery order issued in the case. Responsive letters shall be filed on ECF in accordance with these rules, and shall identify by docket entry number which letter is being responded to. Courtesy copies must be provided for all letters in excess of 10 pages, inclusive of exhibits.

B. Telephone Calls. Telephone calls to chambers are permitted. The telephone number is (914) 390-4250.

C. Faxes. Brief faxes to chambers are permitted only where ECF filing is not required. The fax number is (914) 390-4256. Do not send faxes exceeding 5 pages in length without contacting chambers to secure permission to fax a longer document. If you send a fax, do not follow up with a hard copy.

D. Docketing, Scheduling, and Calendar Matters. For docketing, scheduling and calendar matters, call Frank Cangelosi, Magistrate Judge Davison's Courtroom Deputy, at (914) 390-4250, between 8:30 A.M. and 5:00 P.M.

E. Requests for Adjournments or Extensions of Time. All requests for adjournments or for extensions of time with regard to filing deadlines must be made in writing and filed on ECF as letter-motions. The letter-motion 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 (5) 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) must be attached. If the request is for an adjournment of a court appearance, absent an emergency it shall be made at least 48 hours prior to the scheduled appearance.

F. Urgent Requests. The Court ordinarily reviews ECF filings on the business day *after* filing. Parties seeking adjournments or extensions of time within 48 hours of a scheduled conference or expiring deadline, or filing other documents which require immediate attention, shall contact chambers by telephone to alert the Court.

2. Motions

A. Pre-Motion Procedures in Civil Cases. For discovery motions, follow Local Civil Rule 37.2. For motions other than discovery motions, the moving party shall file a letter (not a letter-motion) not to exceed three pages in length setting forth the basis for the anticipated motion. The Court will notify the parties if a pre-motion conference is required.

B. Courtesy Copies. Courtesy copies of all motion papers, marked as such, shall be submitted to chambers. Courtesy copies are required in **both** ECF and non-ECF cases.

C. Memoranda of Law. Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 pages, and reply memoranda are limited to 10 pages. Memoranda of 10 pages or more shall contain a table of contents.

D. Filing of Motion Papers. Motion papers shall be filed promptly after service.

E. Oral Argument of Motions. Parties may request oral argument by letter at the time their moving, opposing or reply papers are filed. Any such request shall state whether opposing counsel agrees that oral argument is desirable. The Court will determine whether argument will be heard and, if so, will advise counsel of the argument date.

3. Pretrial Procedures

A. Joint Pretrial Orders in Civil Cases. Pretrial orders are not required unless specifically directed by the court in a particular case.

B. Filings Prior to Trial in Civil Cases. Unless otherwise ordered by the Court, each party shall file, 15 days before the commencement of trial:

- i. In jury cases, requests to charge and proposed voir dire questions.

ii. In non-jury 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;

iii. In all cases, motions addressing any evidentiary or other issues which should be resolved *in limine* (any responses to motions *in limine* shall be filed no later than 5 days before trial); and

iv. In any case where a party believes it would be useful, a pretrial memorandum.

4. Inclement Weather or Other Emergency

White Plains Courthouse closures are announced by 6:00 a.m. Call (914) 390-4220 to hear a recorded message. In the event of severe weather conditions when the Courthouse is open, counsel with scheduled appearances should call chambers to confirm that Judge Davison is holding court.