

**INDIVIDUAL PRACTICES AND PROCEDURES
FRANK MAAS, UNITED STATES MAGISTRATE JUDGE**

Chambers

United States District Court
Southern District of New York
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Courtroom

Marilyn Ong, Deputy Clerk
500 Pearl Street
Courtroom 20-A
Phone: (212) 805-6729

1. Introduction

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. Counsel should also be aware that Judge Maas usually does not require formal pretrial orders in cases assigned to him on consent. Should counsel wish to consent to have Judge Maas hear their case for all purposes, the necessary form is available at:

<http://www.nysd.uscourts.gov/file/forms/consent-to-proceed-before-us-magistrate-judge>

Unless otherwise ordered by Judge Maas, matters before him shall be conducted in accordance with the following practices. These practices are applicable to cases before Judge Maas if the matter is within the scope of the district judge's order of reference or if the case is before Judge Maas 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.

2. Communications With Chambers

A. Letters. Letters to Chambers are permitted, as is the filing of copies of letters on the Electronic Case Filing System (ECF). **Letters that are filed, but not also submitted to Chambers as set forth below, will not be acted upon, and any relief that may have been requested will be denied.**

If you wish to file a letter on ECF, do not select the "letter motions" option. Instead, after selecting "civil events" under the "civil" headings on the main menu bar, select the "other documents" event under "other filings." A list with the option "letter" will then appear. Select the "letter" option. A courtesy copy of any letter to Judge Maas filed in this manner must be sent to Chambers promptly either by fax, first class mail, or overnight courier. If feasible, the courtesy copy of any letter filed on ECF should be a copy of the filed version bearing the ECF header containing the docket entry number.

If your letter requires a rapid response it should be faxed to Chambers as set forth in paragraph 1.D below.

B. Telephone Calls. In addition to Paragraph 1(D) below, telephone calls to Chambers are permitted. For matters other than docketing, scheduling, or calendaring, call Chambers at (212) 805-6727.

C. Telephone Conferences. In an effort to reduce the cost of litigation, Judge Maas often will hold follow-up conferences by telephone rather than requiring in-court appearances. This accommodation is counterproductive if counsel attempt to participate by cell phone or from noisy locations such as crowded courthouse corridors. Accordingly, when a telephone conference is scheduled counsel must be available by landline in a quiet room unless the Court has expressly waived this requirement in advance.

D. Faxes. Faxes to Chambers are permitted only if copies are simultaneously faxed or delivered to all counsel or have previously been filed via ECF. No document longer than five pages may be faxed without prior authorization. Copies of faxes need not be mailed to Chambers. If a hard copy of a faxed letter is sent to Chambers, it should bear the legend "PREVIOUSLY FAXED." The fax number is (212) 805-6724.

E. Docketing, Scheduling, and Calendar Matters. For docketing, scheduling, and calendar matters, call Marilyn Ong at (212) 805-6729 on weekdays between 9:00 A.M. and 4:30 P.M..

F. 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) must be attached. If the request is for an adjournment of a court appearance, absent an emergency it must be made at least two business days prior to the scheduled appearance. Additionally, counsel requesting the adjournment of a court appearance should contact Chambers to secure an acceptable alternative date and communicate the proposed date to all other counsel. The letter requesting the adjournment of a court date should set forth the other parties' positions concerning the proposed new date.

G. Cell Phones and Other Electronic Devices. Cell phones are not permitted in the courthouse without an Attorney Service Pass. Attorneys admitted to the United States District Court for the Southern District of New York may obtain an application for a Service Pass on the Court's website at:

<http://www.nysd.uscourts.gov/file/forms/attorney-service-pass-application>

Applications to bring an electronic device other than a cellphone into the courthouse must be submitted to Chambers at least five business days prior to the date of the conference. Applications are available on the Court's website at:

<http://www.nysd.uscourts.gov/file/forms/application-for-electronic-devices>

3. Motions

A. Pre-Motion Conferences in Civil Cases. For discovery motions, follow Local Civil Rule 37.2. For other motions, a pre-motion conference with the Court is required. To arrange a pre-motion conference, the moving party shall submit a letter not to exceed three pages in length setting forth the basis for the anticipated motion, and other parties may respond within three business days.

B. Form of Motion Papers. Documents bound at the top may not be reproduced as double-sided documents. If deposition transcripts are among the exhibits, the Court would prefer to receive condensed transcripts that reproduce four pages of transcript on a single page. If the entire transcript is supplied, it should include the index to the deposition.

C. Courtesy Copies. Courtesy copies of all motion papers, marked as such, must be submitted to Chambers, within one day of electronic filing. Courtesy copies shall be bound on the left side and MUST include protruding tabs for exhibits.

D. 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 (25) pages, and reply memoranda are limited to ten (10) pages. Memoranda of ten (10) pages or more shall contain a table of contents.

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

F. Summary Judgment Motions. The Local Rule 56.1 statement of any party opposing summary judgment shall repeat verbatim the text (including the numbering) of each statement to which it responds.

G. 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 date.

4. Pretrial Procedures

A. Joint Pretrial Orders in Civil Cases. In cases assigned to a district judge, the pretrial order shall conform to that judge's individual rules. In cases assigned to Judge Maas on the consent of the parties, a pretrial order is not required unless specifically directed in a particular case. In the event a pretrial order is required by Judge Maas, the parties shall submit to the court a joint pretrial order which shall contain the following:

- i. The full caption of the action.
- ii. The names, addresses (including firm names) 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 relied on and relevant facts as to citizenship and jurisdictional amount.
- iv. 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 relied on. Such summaries shall identify all claims and defenses previously asserted which are not to be tried.
- v. 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.
- vi. Any stipulations or agreed statements of fact or law which have been agreed to by all parties.
- vii. 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.
- viii. A designation by each party of deposition testimony to be offered in its case in chief, with any cross-designations and objections by any other party.
- ix. A list by each party of exhibits to be offered in its case in chief, with one star indicating exhibits to which no party objects on grounds of authenticity, and two stars indicating exhibits to which no party objects on any ground.

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

- i. In jury cases, requests to charge and proposed voir dire questions. Proposed jury charges should also be submitted on a CD-ROM in WordPerfect format;
- ii. 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;
- iii. In all cases, motions addressing any evidentiary or other issues which should be resolved in limine; and
- iv. In any case where such party believes it would be useful, a pretrial memorandum.