

# Sample Form 6

Current as of March 9, 2009

## INDIVIDUAL RULES

SENIOR JUDGE STERLING JOHNSON, JR.  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201  
Courtroom Deputy: Ana Rodriguez  
(718) 613-2460

Unless otherwise ordered in a specific case, matters before the Court shall be conducted in accordance with the following individual rules:

To facilitate the work of the Clerk's Office and to avoid confusion, all papers filed must bear the Judge's name ("Hon. Sterling Johnson, Jr.") and the docket number of the matter, followed by the initials "SJ" and the initials of the assigned magistrate judge.

### **I. COMMUNICATIONS WITH CHAMBERS**

#### **A. All Requests Must be Made in Writing**

Except in urgent situations requiring immediate attention, all requests must be made in writing and filed via the Electronic Case Filing ("ECF") system before they can be considered.

Ex parte communications and in-person requests will not be considered.

Documents submitted under seal must be hand-delivered to Chambers, not faxed.

#### **B. Telephone Calls and Faxes to Chambers**

Faxes to Chambers are not permitted, unless prior authorization is obtained. When materials are faxed, they must also be filed on ECF.

Telephone calls to Chambers are not permitted, except in emergency situations requiring urgent attention.

**C. *Requests for Adjournments or Extensions of Time***

If the request is for an adjournment of a court appearance, absent an emergency, it shall be made at least forty-eight (48) business hours prior to the scheduled appearance.

All requests for adjournments or extensions of time must be in writing and state:

1. The original date;
2. The number of previous requests for adjournment or extension;
3. Whether those previous requests were granted or denied;
4. Whether the adversary consents, and, if not, the reasons given by the adversary for refusing to consent;
5. Requests for adjournments of court dates must also include three (3) proposed alternative dates on which counsel for both parties are available.

Requests for extensions of time to file pleadings that are made after the pleadings have already become due will be denied.

Urgent inquiries not addressed by these rules can be made to Judge Johnson's courtroom deputy, Ana Rodriguez, at (718) 613-2465.

**II. *ELECTRONIC CASE FILING ("ECF")***

All documents in civil and criminal cases submitted to the Court must be filed electronically, via the Electronic Case Filing system ("ECF"), with the exception of documents filed under seal.

Attorneys will not be excepted from this requirement. Orders will be posted electronically and represented parties not registered on ECF will not receive them. Attorneys having questions regarding ECF registration, filing, or training, should refer to the Court's website: [http://www.nyed.uscourts.gov/CM\\_ECF/cm\\_ecf.html](http://www.nyed.uscourts.gov/CM_ECF/cm_ecf.html)

Hard copies of all papers filed electronically must be provided to Chambers. All such papers must be clearly marked "Courtesy Copy" and indicate that the original was filed by ECF.

**III. *MOTIONS***

**A. *Pre-motion Conference Before Filing a Motion for Summary Judgment***

A pre-motion conference with the Court must be requested before making a motion for summary judgment pursuant to Federal Rule of Civil Procedure ("FRCP") 56.

To request a pre-motion conference, the moving party shall submit a letter not to exceed three (3) pages in length setting forth the basis for the anticipated motion. A statement pursuant to Local Civil Rule 56.1 must be attached to this letter.

All parties so served must serve and file a letter response, not to exceed three (3) pages, within seven (7) days from service of the notification letter.

In many cases, it will be apparent from the letter requesting a pre-motion conference that such a conference will not be a useful expenditure of the parties' time, and a motion schedule will be set (or the parties will be directed to set one) without convening a pre-motion conference.

**B. *Memoranda of Law***

Unless prior permission has been granted, memoranda of law in support of and in opposition to all 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. All memoranda of law shall be produced in a font of eleven (11) or higher and shall have one-inch margins on all sides. All memoranda shall include a table of authorities.

**E. *Filing of Motion Papers***

No motion papers shall be filed until the motion has been fully briefed. Motion papers shall be served on the other parties on or before the dates provided in the briefing schedule, along with a cover letter setting forth (1) the name of the party on whose behalf the papers are being served, and (2) a list of the papers being served. A courtesy copy of this cover letter only—and not the papers themselves—shall be submitted to the district judge and the magistrate judge assigned to the case.

Subject to Court approval, the parties may agree on a briefing schedule. No changes in the approved schedule may be made without Court approval.

Except where the movant is *pro se*, the moving party shall be responsible for filing all motion papers once the motion is fully briefed. The moving party is further obligated to furnish to chambers a full set of courtesy copies of the motion papers together with a cover letter specifying each document in the package.

**F. *Oral Argument on Motions***

Oral argument may be requested in writing at the time the fully-briefed motion is filed with the Court. If the Court wishes to hold oral argument, the Court will contact the parties to set the date and time.

**IV. PRETRIAL PROCEDURES IN CIVIL CASES**

**A. Joint Pretrial Orders in Civil Cases**

Unless otherwise ordered by the Court, within sixty (60) days from the date for the completion of discovery in a civil case, the parties shall submit to the Court for its approval a joint pretrial order, which shall include the following:

1. The full caption of the action.
2. The names, addresses (including firm names), and telephone and fax numbers of trial counsel.
3. 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.
4. A brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matters but including citations to all statutes relied on. Such summaries shall identify all claims and defenses previously asserted which are not to be tried.
5. 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.
6. 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).
7. Any stipulations or statements of fact or law which have been agreed to by all parties.
8. A list by each party as to the witnesses (fact and expert) whose testimony is to be offered in its case-in-chief, indicating whether such witnesses will testify in person or by deposition. Each party must also provide a list of possible witnesses who may be called for impeachment or rebuttal purposes and so designated. Only listed witnesses will be permitted to testify except when prompt notice has been given and good cause has been shown.
9. 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.

10. (a) A statement of stipulated facts, if any;
- (b) A schedule listing exhibits to be offered in evidence and, if not admitted by stipulation, the party or parties that will be offering them. The schedule will also include possible impeachment documents and/or exhibits, as well as exhibits that will be offered only on rebuttal. The parties will list and briefly describe the basis for any objections that they have to the admissibility of any exhibits to be offered by any other party. Parties are expected to resolve before trial all issues of authenticity, chain of custody and related grounds. Meritless objections based on these grounds may result in the imposition of sanctions. Only exhibits listed will be received in evidence except for good cause shown; and
- (c) All exhibits must be pre-marked for the trial and exchanged with the other parties at least ten days before trial. Where exhibits are voluminous, they should be placed in binders with tabs.

**B. *Filings Prior to Trial in Civil Cases***

Unless otherwise ordered by the Court, each party shall file fifteen (15) days before the date of commencement of trial if such a date has been fixed, or thirty (30) days after the filing of the final pretrial order if no trial date has been fixed:

1. For each claim, a detailed statement regarding damages and other relief sought;
2. In all cases, motions addressing any evidentiary or other issues which should be resolved in limine;
3. Requests to charge and proposed voir dire questions. Requests to charge should be limited to the elements of the claims, the damages sought, and defenses. General instructions will be prepared by the Court. Proposed jury charges must also be submitted in Microsoft Word format by e-mail to Chambers;
4. 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, and;
5. In any case where such party believes it would be useful, a pretrial memorandum.

**V. *DEFAULT JUDGMENTS***

No default judgment will be granted without the Clerk of Court's certificate/notation of default. A motion for the Clerk's certificate/notation must be filed as a separate motion, not as an exhibit or attachment to a motion for default.

Motions for "Entry of Default" and Motions for "Default Judgment" should be electronically filed (under the "Motions" category).

**VI. *PRETRIAL PROCEDURES IN CRIMINAL CASES***

**A. *Proposed Jury Charges and Voir Dire***

Unless otherwise specified, proposed jury charges and voir dire questions, if any, are due one (1) week prior to the first day of jury selection.

**B. *Motions in Limine***

Motions in limine must be filed no later than one (1) week before the first day of jury selection. Motions filed after this date will not be considered.

**VII. *SENTENCING SUBMISSIONS IN CRIMINAL CASES***

Sentencing submissions, including memoranda and 5K1.1 letters, must be filed at least forty-eight (48) hours prior to the sentencing date.

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These individual rules shall not be interpreted to curtail or limit Judge Johnson's discretion over all matters relating to the cases over which he presides.

For questions concerning expectations and requirements for trial, please see the Memorandum to Counsel.

For procedural questions not otherwise covered by these individual rules, please refer to the Federal Rules of Civil/Criminal Procedure and the Local Rules for the Eastern District of New York.