

Please review Rules and Procedures (I)(A) regarding Pre-Motion Conferences, as this section has been amended as of December 2024.

RULES AND PROCEDURES

Hon. Robert Kirsch, U.S.D.J.

Chambers

Unites States District Court
District of New Jersey
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street
Trenton, NJ 08608
Tel: (609) 989-2123
Courtroom: 4E

Courtroom Deputy

Patti Markey
(609) 989-2109

Court Reporter

Paula Horovitz
(609) 815-2381

Unless otherwise ordered, the following rules and procedures apply to all matters before this Court:

I. Civil Motion Practice

A. Pre-Motion Conference

In an effort to resolve cases expeditiously, before bringing a **motion to dismiss**, **motion for a more definite statement**, **motion to remand**, **motion for change of venue**, or **motion for a judgment on the pleadings**, a party must submit a letter, not to exceed three (3) single-spaced pages, requesting a pre-motion conference. The letter must set forth the basis for the anticipated motion and include citations to relevant authority.

Within seven (7) days of the filing of this letter, the movant and all adversaries must meet and confer regarding the issues and substance of the movant's letter in an attempt to resolve some or all of the issues therein. If the parties require additional time to meet and confer, there will be a one-time automatic extension of five (5) days upon request by any party.

In the event the parties then resolve some or all of the outstanding issues, the parties must file a joint letter within seven (7) days of the meet and confer advising the Court of such resolution. If the matter remains unresolved following the parties' meet and confer, all adversaries may file, if they so choose, within seven (7) days of the meet and confer, a letter, not to exceed three (3) single-spaced pages, setting forth their objections to the movant's original letter and certifying the parties' meet and confer efforts. In the event an adversary does not file a letter within seven (7) days, they will be precluded from filing a letter that the Court will consider at the pre-motion conference. No party may submit a reply letter unless directed by the Court. Affidavits and exhibits are not permitted unless directed by the Court. A proffer by

the attorney, however, of the content of any such affidavit(s) and/or exhibit(s) shall suffice.

The Court will further attempt to resolve the dispute(s) at a pre-motion conference (in person or via telephone/videoconference), to the extent possible. If the dispute cannot be resolved at the pre-motion conference (or if the Court determines that a conference would not be helpful), the moving party may proceed with filing its motion. To be clear, this procedure does not preclude a party from filing any of the above motions pursuant to Local Civil Rule 12.1. Rather, the Court hopes to use this procedure to advance the case efficiently and minimize the costs of litigation to the parties. In addition, compliance with this procedure shall not be deemed a waiver of any parties' defenses as to lack of personal jurisdiction, improper venue, insufficient process or insufficient service of process.

A party's submission of a pre-motion letter will toll that party's time to file its motion (or answer) through (i) the date of the pre-motion conference or (ii) the Court's decision not to conduct such a conference. If the Court determines that a pre-motion conference would not be helpful and instructs a party to proceed with filing its proposed motion without a conference, that party shall have an additional seven (7) days to file after its Fed. R. Civ. P. 12(a) deadline, unless additional time is stipulated or the Court so orders.

This letter exchange procedure does not apply in cases in which either side is *pro se* or in bankruptcy or social security appeals.

B. Motion Days and Oral Argument

The only purpose of a motion's return date or "motion date" is to determine the briefing schedule for that motion. The Court generally will not hear oral argument on the return date. Rather, if the Court decides to hear oral argument on any issue, it will advise counsel of the argument date.

C. Adjournments

All requests for adjournments or extensions of time, other than those pursuant to Local Rule 7.1(d)(5), must comport with Local Rule 6.1 and include: (1) the date or dates sought to be extended; (2) the number of previous requests for extensions and the Court's ruling; (3) the reason for the current request; and (4) whether the adversary consents and, if not, the reason given by the adversary for refusing to consent. If the requested extension affects any other scheduled dates/deadlines, the request must list the proposed change for all such other dates/deadlines.

D. Participation by Junior Attorneys

The Court encourages the participation of less experienced attorneys (i.e., those with less than four years' experience) in all proceedings, including pretrial conferences, hearings on discovery disputes, and oral arguments, particularly where that attorney

played a substantial role in drafting the underlying filing. The Court is also more likely to grant oral argument if a junior attorney will present the argument. Therefore, consistent with Local Rule 78.1, a party shall clearly mark on the first page of the notice of notice and/or the brief that a junior attorney will present the argument. The Court is amenable to permitting more than one lawyer to argue for one party if this creates an opportunity for a junior lawyer to participate.

II. Submissions

A. Electronic Submissions (ECF)

All parties, with the exception of *pro se* parties, shall file all documents, in both civil and criminal matters, electronically via ECF. All papers electronically submitted shall, to the extent possible, be submitted in a text-searchable PDF format. Telephone calls to Chambers are permitted only in emergent situations which require immediate attention.

B. Proposed Orders: If any relief is being sought, the CM/ECF filing must be accompanied by a proposed order in searchable PDF format.

C. *Pro se* Filings: All filings by *pro se* litigants shall be mailed to or filed directly with the Clerk's Office, **NOT** Judge Kirsch.

D. Confidential Information: Any documents filed under seal shall comply with Local Rule 5.1.

E. Courtesy Copies

Unless otherwise directed by the Court, the parties shall provide one (1) courtesy copy of their supporting briefs only, and any supporting exhibits which exceed 50 pages, which should kindly be plainly marked as "courtesy copies." Any exhibits and supporting papers which are 50 pages or less shall be filed electronically on ECF only, and shall be clearly labeled, dated, tabbed, and indexed in a proper manner in ECF.

III. Communications with Chambers

A. Faxes and E-Mails

Chambers does not accept faxes or email, unless an emergency.

B. Letters

All communications with Chambers shall be by letter electronically filed via ECF. No hard copies or courtesy copies of letters shall be delivered to the Court. *Pro se* parties are exempt from this requirement.

IV. Electronic Devices

- A. Photography, use of audio or video recording devices, and use of broadcasting, on-line posting or streaming, or televising devices are strictly prohibited in the courtroom and areas immediately adjacent thereto.
- B. Electronic devices having a primary function of wireless communication, including but not limited to cell phones, laptops, and tablets, are permitted in the courtroom but must be silenced and may not be used to transmit, record, or broadcast audio or visual feeds, updates or messages in any form.
- C. Any person in violation of the rules regarding electronic devices will have their devices confiscated and risk being removed from the courtroom or courthouse at the discretion of the court, U.S. Marshals Service, and/or Court Security Officers.
- D. Additional information relating to media coverage and use/possession of electronic equipment is provided through Local Civil Rules 401.1 and 501.1.