

United States District Court District of New Jersey

CHAMBERS OF
EDWARD S. KIEL
UNITED STATES DISTRICT JUDGE

MITCHELL H. COHEN BUILDING
UNITED STATES COURTHOUSE
4TH & COOPER STREETS
CAMDEN, NJ 08101
856-757-5057

RULES AND PREFERENCES

The following shall apply to civil matters assigned to District Judge Edward S. Kiel. Failure to comply with the terms of the following rules and procedures may result in sanctions pursuant to Federal Rule of Civil Procedure (“Rule”) 16(f) and Rule 37.

1. Communications with the Court. All communications to the Court shall be by CM/ECF or by telephone. Absent permission from Chambers or as otherwise provided herein, the Court will not accept or consider communications by fax, mail, or email. Judge Kiel permits communications with his law clerks only as to questions regarding Chambers’ procedures and not as to any substantive matters.

2. Adjournment Requests. Conferences and hearings, whether telephonic or in-person, are normally scheduled with ample notice to the parties. Accordingly, adjournment requests must be made no later than five business days before the scheduled conference or hearing and shall indicate whether all parties consent.

3. Copies. Two copies of all filed papers exceeding 40 pages per individual document shall be provided to Chambers by mail. Exhibits to any papers should be separated with corresponding exhibit tabs.

4. Electronic Submissions. All parties, with the exception of *pro se* parties, shall electronically file all documents. All filed papers shall be in a text-searchable PDF format as required by Local Civil Rule 5.21(h). Parties are directed to ensure that all supporting documents to a filing are docketed as attachments to the primary document. For example, a notice of motion filed at ECF No. 10, should have the supporting brief filed at ECF No. 10-1 and any further supporting documents at 10-2, 10-3, et. cetera.

5. Pro se Filings. All filings by *pro se* parties shall be mailed or filed directly with the Clerk’s Office. Documents mailed to the courthouse must be addressed to the Clerk’s Office, NOT Judge Kiel. *Pro se* parties are directed to the Procedural Guide for Pro Se Litigants found at: http://www.njd.uscourts.gov/sites/njd/files/ProSePacket_1.pdf.

6. Motion Practice.

Pre-Motion Procedure. In an effort to resolve cases expeditiously, a party must submit a pre-motion letter, not to exceed three single-spaced pages, requesting leave to file the following motions: (i) motion to dismiss; (ii) motion for a more definite statement; (iii) motion to remand; (iv) motion for change of venue; (v) motion for judgment on the pleadings; and (vi) motion to compel arbitration. The letter must set forth the basis for the anticipated motion and include citations to relevant authority. Within seven days after receipt of this letter, all adversaries must submit a written response, not to exceed three single-spaced pages. No party may submit a reply unless directed by the Court. Affidavits and exhibits are not permitted unless directed by the Court. A proffer by the attorney, however, of the contents of any such affidavit(s) and/or exhibit(s) shall suffice.

Failure to file a pre-motion letter may result in the motion being administratively terminated.

A party's submission of a pre-motion letter will toll that party's time to file its motion (or answer) through the date of the Court's decision as to whether leave will be granted. The Court reserves the right to hold a conference to determine whether leave will be granted.

This procedure does not apply to cases in which the pre-answer motions listed above are filed solely by or against *pro se* litigant(s) only, or in bankruptcy or social security appeals.

Motions for Summary Judgment. Parties may not file an early motion for summary judgment (i.e., prior to the close of fact discovery) without leave from either Judge Kiel or the Magistrate Judge. When seeking leave from Judge Kiel, the moving party must first submit a letter, no longer than three pages, summarizing the party's substantive argument. Within seven days of the moving party's letter, the party opposing the motion must submit a letter, no longer than three pages, summarizing the party's substantive argument in opposition.

Parties may not incorporate by reference, in their briefs, their numbered statements of material facts (L.Civ.R. 56.1(a)) or responses thereto as a substitute for a statement of facts. In other words, briefs submitted as to motions for summary judgment must include a detailed statement of facts.

Extensions of Time to a Deadline. Extension requests shall be made by letter application, which shall indicate whether all parties consent.

Motion Day. The purpose of a motion's return date or "motion day" is to determine the briefing schedule for that motion. Unless otherwise notified by the Court, Judge Kiel decides all motions on the papers and no appearances are required on the motion day.

7. RICO Cases. In all matters in which the complaint contains a RICO claim, pursuant to 18 U.S.C. §§ 1961—1968, plaintiff(s) must file a RICO Case Statement within 30 days of filing the complaint, in accordance with Appendix O of the Local Civil Rules & Appendices found at: <https://www.njd.uscourts.gov/local-rules-and-appendices>.

8. Patent Cases. Judge Kiel does not permit the filing of summary judgment motions in ANDA patent cases. A party may, however, submit a letter to the Court, not to exceed three single-spaced pages, seeking a waiver of this rule if the party believes that a summary judgment motion would assist the Court in expeditiously resolving the case and would resolve more than mere tangential issues. The letter must set forth the basis for the proposed motion for summary judgment, with citations to relevant authority, and the issue(s) expected to be resolved by the motion. Within seven days after receipt of this letter, all adversaries must submit a written response, not to exceed three single-spaced pages. No party may submit a reply unless directed by the Court.

9. Class Action Cases. It is Judge Kiel's practice to conduct a preliminary settlement approval hearing in advance of the final settlement approval hearing required by Rule 23(e). At the preliminary approval hearing the parties shall be prepared to address, in a reasonably comprehensive manner, all of the factors the Court will consider at the final approval hearing, including but not limited to the factors enumerated in Rule 23(e), *Girsh v. Jepson*, 521 F.2d 153, 157 (3d Cir. 1975), and *In re Prudential Ins. Co. Am. Sales Practice Litig. Agent Actions*, 148 F.3d 283, 323 (3d Cir. 1998).