

TABLE OF CONTENTS

INTRODUCTION	1
What Does It Mean to Proceed <i>Pro Se</i> ?	3
The Decision to Proceed <i>Pro Se</i>	3
THE <i>PRO SE</i> OFFICE	5
General Information	5
Contact Information	5
Accepting Papers	6
Other <i>Pro Se</i> Functions	7
Forms Available From the <i>Pro Se</i> Office	8
THE COURT SYSTEM	9
State Courts	9
Federal Courts	9
Organization of Federal Courts	10
GENERAL INFORMATION ABOUT THE SOUTHERN DISTRICT	11
District Judges/Magistrate Judges	11
Clerk's Office	11
Proper Courthouse Conduct	13
Things To Remember When You Go To The Courthouse	13
At the <i>Pro Se</i> Office	13
In the Courtroom	14
Rules of Procedure	14
Legal Research	15
ALTERNATIVES TO SELF-REPRESENTATION	18
Introduction	18
Hiring an Attorney	18
Appointment of <i>Pro Bono</i> Counsel by the Court	22
Employment Discrimination <i>Pro Bono</i> Mediation Panel	24
Attorneys' Fees and Costs	24
Interpreters	25
LITIGATION OVERVIEW	26

JURISDICTION AND VENUE	32
Federal Question Jurisdiction, 28 U.S.C. § 1331	32
Diversity Jurisdiction, 28 U.S.C. § 1332	34
Venue: In Which Federal Judicial District Should I File My Case?	35
Organization of Federal Judicial Districts	36
Venue for a Federal Question Case	36
Venue for a Diversity Action	37
Venue for a Corporation	37
Selected Venue Provisions for Common Statutes	38
Assignment of Cases: Manhattan Courthouse or White Plains Courthouse	39
COSTS OF FILING AN ACTION IN THIS COURT	40
<i>In Forma Pauperis</i>	40
Prisoners	41
Schedule of Fees	41
WRITING AND FILING THE COMPLAINT	42
Writing the Complaint	42
Contents of the Complaint	43
Caption	43
Jury Demand	44
Subject Matter Jurisdiction	45
Venue	45
Statement of Facts, Rule 8	45
Prisoners - Exhaustion	46
Remedy Sought	47
Signature	47
Exhibits	47
Filing the Complaint	48
SERVICE OF THE SUMMONS AND COMPLAINT	50
Summary	50
Parties Permitted to Serve Process: Rule 4(c)	50
Forms Required for Service	51
Time Limits for Service: Rule 4(m)	53
Rules for Service: Rule 4	53
Waiver of Service of Summons: Rule 4(d)	54
Service Upon Individuals: Rule 4(e)	54
Service Upon Minors and Incompetent Persons: Rule 4(g)	55
Service Upon Corporations and Associations: Rule 4(h)	56
Service Upon the United States and Its Agencies or Officials: Rule 4(i)	56
Service Upon State, Local or Foreign Governments: Rule 4(j)	57
Proof of Service: Rule 4(l)	57

SERVICE AND FILING OF PLEADINGS AND COURT PAPERS AFTER SERVICE OF THE COMPLAINT: RULE 5	58
AMENDED COMPLAINTS	59
Filing and Service of Amended Complaint	59
ANSWER	61
An Answer	61
Responses to the Complaint's Allegations	61
Defenses	62
Counterclaims	62
Cross-Claims Against Other Defendants	63
Third-Party Claim	63
Motion to Dismiss	63
Time Limitations to Respond to a Complaint	64
Extension of Time to Respond to the Complaint	65
Procedure for Filing the Answer of Motion to Dismiss the Complaint	66
Failure to File a Response to a Complaint: Default Judgments	66
MAGISTRATE JUDGES	67
Consent to Proceed Before a Magistrate Judge for All Purposes Including Trial	68
Orders Issued by the Magistrate Judge	69
Objections to a Magistrate Judge's Report & Recommendation	70
PRETRIAL CONFERENCES	71
The Initial Case Management Conference: Rule 16	71
Discovery Conferences	72
The Final Pretrial Conference	72
Behavior at All Conferences	73
DISCOVERY: INTRODUCTION & INITIAL DISCLOSURES	74
Introduction to Discovery	74
Mandatory Initial Disclosures: Rule 26(a)(1)	74
The Content of Initial Disclosures	75
SCOPE OF DISCOVERY IN GENERAL: RULE 26(b)	77
Methods of Discovery: Introduction	78
DISCOVERY: INTERROGATORIES (RULE 33)	79
Answers and Objections to Interrogatories	80
Court Prepared Interrogatories in Certain Prisoner <i>Pro Se</i> Actions (Local Civil Rule 33.2)	81
Court Prepared Discovery Requests in <i>Pro Se</i> Employment Discrimination Cases	82

DISCOVERY: REQUESTS FOR PRODUCTION OF DOCUMENTS (RULE 34)	83
Response to Document Requests	83
Document Requests to Non-Parties (Rules 34 and 45)	84
Response to a Subpoena	85
DISCOVERY: PHYSICAL AND MENTAL EXAMINATIONS (RULE 35)	87
DISCOVERY: REQUESTS FOR ADMISSION (RULE 36)	89
Responding to a Request for Admission	90
DISCOVERY: DEPOSITIONS (RULES 27-32)	91
Objections At the Deposition	94
Deposition of a Non-Party	95
Motions to Quash a Subpoena	96
Request for Production of Documents at a Deposition	96
Failure to Appear for a Noticed Deposition	97
Procedures After a Deposition is Taken	97
Deposition Costs May Make Them Impractical for a <i>Pro Se</i>	98
DISCOVERY DISPUTES AND SANCTIONS (RULE 37)	99
Motion for a Protective Order (Rule 26(c))	99
Motion to Compel or for Sanctions (Rule 37)	100
Discovery Sanctions	101
MOTION PRACTICE	103
Motion Timing	105
Extension of Time	106
Urgent Matters	107
Common Types of Motions	107
Motion to Dismiss the Complaint	108
Discovery Motion	110
Summary Judgment Motion	111
Motions Made During or After Trial	114
Motion for Judgment as a Matter of Law	114
Motions Challenging an Order of Final Judgment	114
SETTLEMENT AND MEDIATION	115
Settlement Negotiations	115
Settlement of Prisoner Lawsuits	117
Mediation in <i>Pro Se</i> Employment Cases	117
The <i>Pro Se</i> Employment Case Mediation Process	119

TRIAL – A BRIEF OVERVIEW	121
The Role of the Judge During Trial	121
The Stages of a Trial	122
Jury Selection	122
Judge's Statements to the Jury	123
Opening Statements	123
Presentation of Evidence	124
Direct and Cross Examination of Witnesses	124
Objections	125
Closing Statements (also known as Closing Arguments)	126
Jury Instructions (also known as Jury Charge)	126
Proposed Jury Instructions	127
Objections to Jury Instructions	127
Jury Deliberation	127
Verdict	128
Judgment	128
APPEALS	129
Appeal Fees	130
Interlocutory Appeals	131
Alternatives to Appeals	132
Motion for a New Trial or to Alter or Amend the Judgment (Rule 59)	132
Motion for Reconsideration or Reargument (Local Civil Rule 6.3)	133
Motion for Relief from Judgment or Order (Rule 60)	133
Proceedings on Appeal Before the Second Circuit	134
GLOSSARY OF TERMS USED IN THIS MANUAL	136

FORMS INCLUDED IN THIS MANUAL

<u>FORM</u>	<u>PAGE*</u>
APPLICATION FOR THE COURT TO REQUEST COUNSEL, AND REQUEST TO PROCEED <i>IN FORMA PAUPERIS</i> FOR APPLICATION FOR THE COURT TO REQUEST COUNSEL	22-23
REQUEST TO PROCEED <i>IN FORMA PAUPERIS</i>	40
PRISONER AUTHORIZATION (RE PLRA FILING FEES)	41
COMPLAINT UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983 (PRISONER COMPLAINT)	42
COMPLAINT FOR EMPLOYMENT DISCRIMINATION	42
GENERAL COMPLAINT FORM	42
SUMMONS IN A CIVIL CASE, CIVIL COVER SHEET	48
AFFIRMATION OF SERVICE	58
ANSWER AND NOTICE OF APPEARANCE	61
MOTION FOR DEFAULT JUDGMENT	65-66
CONSENT TO PROCEED BEFORE A MAGISTRATE JUDGE	68
PRISONER LOCAL RULE DISCOVERY REQUESTS	82
PRO SE EMPLOYMENT DISCRIMINATION CASES DISCOVERY REQUESTS	82
NOTICE OF MOTION, AFFIRMATION IN SUPPORT OF MOTION, AFFIRMATION IN OPPOSITION TO MOTION, REPLY AFFIRMATION IN SUPPORT OF MOTION	105
LOCAL CIVIL RULE 12.1 & NOTICE	110
LOCAL CIVIL RULE 56.2 & NOTICE	113
SAMPLE SETTLEMENT AGREEMENT AND RELEASE	116
REFERRAL FORM FOR PRO SE EMPLOYMENT DISCRIMINATION MEDIATION	119
NOTICE OF APPEAL IN A CIVIL CASE	129
MOTION FOR EXTENSION OF TIME TO FILE APPEAL	130
COMBINED NOTICE OF APPEAL IN A CIVIL CASE & MOTION FOR AN EXTENSION OF TIME	130

* Page refers to the page on which the form is discussed; the form itself is found at the end of that section of the manual.