

INDIVIDUAL PRACTICES IN CRIMINAL CASES
Lewis J. Liman, United States District Judge

Chambers

United States District Court
Southern District of New York
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New York, NY 10007
(212) 805-0226
LimanNYSDCambers@nysd.uscourts.gov

Courtroom

500 Pearl Street
Courtroom 15C
Matthew Fishman, Courtroom Deputy
(212) 805-0161

1. Electronic Case Filing (“ECF”)

Counsel are required to register for Electronic Case Filing (“ECF”) promptly after being retained or assigned. Counsel can obtain instructions on how to register at <https://nysd.uscourts.gov/electronic-case-filing>.

2. Communications with Chambers

A. Initial Pretrial Conference. Upon assignment of a criminal case to Judge Liman, the Assistant United States Attorney (“AUSA”) shall immediately call Chambers to arrange for a prompt conference. The AUSA shall email a courtesy copy of the Indictment and the criminal Complaint, if one exists, to the Court (LimanNYSDCambers@nysd.uscourts.gov) as soon as practicable.

B. Letters. Except for docketing, scheduling and calendar matters, or matters requiring immediate attention, communications with Chambers shall be by text-searchable letter filed on ECF. Letters seeking relief, including requests for extensions, adjournments, or bail modification, should be filed on ECF as letter-motions in accordance with Paragraphs 2(C) and 3(A) below, *not* as ordinary letters. Parties should not submit courtesy copies of letters filed on ECF.

Letters to be filed under seal or containing sensitive or confidential information may be emailed as a text-searchable .pdf attachment to the Court (LimanNYSDCambers@nysd.uscourts.gov) with a copy simultaneously delivered to all counsel. Any such email shall state clearly in the subject line: (1) the caption of the case, including the lead party name and docket number, and (2) a brief description of the contents of the letter. Parties shall not include substantive communications in the body of the email.

Letters may not exceed five (5) pages in length. Copies of correspondence between counsel may not be filed on ECF or otherwise sent to the Court (except as exhibits to an otherwise properly filed document).

C. Requests for Adjournments or Extensions of Time. All requests for adjournments or extensions of time must be made in writing and filed on ECF as letter-motions in

accordance with Paragraph 3(A), *not* as ordinary letters. (If a request contains sensitive or confidential information, it may be submitted by email in lieu of being filed electronically.) The letter-motion must state: (1) the original date(s), (2) the number of previous requests for adjournment or extension, (3) whether these previous requests were granted or denied, (4) the reason for the extension or adjournment, (5) whether the adversary consents and, if not, the reasons given by the adversary for refusal to consent, and (6) the date of the parties' next scheduled appearance before the Court.

If a party seeks an exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161, it must confer with the opposing party and indicate in its letter-motion whether the parties consent. The party seeking exclusion must include in its request for adjournment or extension facts that would permit the Court to make an independent finding whether or not to exclude time in conformance with 18 U.S.C. § 3161, and must also submit to the Court by email (LimanNYSChambers@nysd.uscourts.gov) a proposed order (in Microsoft Word format). Any party opposing the request may file a short reply *within two business days* in accordance with Paragraph 3(A).

Any request for extension or adjournment should be made as early as possible and, absent an emergency, should be made *at least 48 hours* prior to the deadline, scheduled appearance, or scheduled proceeding. Requests for extensions will ordinarily be denied if made after the expiration of the original deadlines.

- D. Docketing of Letters.** Absent a request to file a letter under seal, the parties should assume that any substantive letter received by the Court that is not filed on ECF will be docketed by the Court.
- E. Telephone Calls.** Except as set forth elsewhere in these Individual Practices, telephone calls to Chambers should be reserved only for questions that cannot be answered by reference to these Individual Practices or the S.D.N.Y. Local Rules, or for urgent matters requiring immediate attention. In such situations, call Chambers at (212) 805-0226.
- F. Urgent Communications.** As a general matter, the Court reviews materials filed via ECF the business day after they have been filed. If a submission requires immediate attention, please notify Chambers by telephone after filing it on ECF.
- G. Hand Deliveries.** Hand-delivered mail should be left with the Court Security Officers at the Worth Street entrance of the Daniel Patrick Moynihan United States District Courthouse at 500 Pearl Street, New York, NY 10007 and may not be brought directly to Chambers, except by representatives of the United States Attorney's Office or the Federal Defenders of New York. Hand deliveries are continuously retrieved from the Worth Street entrance by Courthouse mail staff and then forwarded to Chambers. If the hand-delivered letter is urgent and requires the Court's immediate attention, ask the Court Security Officers to notify Chambers that an *urgent* package has arrived that needs to be retrieved by Chambers staff immediately.

H. Faxes. Faxes to Chambers are not permitted without prior permission.

3. Motions

A. Letter-Motions. Letter-motions may be filed via ECF if they comply with the [S.D.N.Y. Local Rules](#) and the [S.D.N.Y. Electronic Case Filing Rules and Instructions](#). In particular, in accordance with Paragraph 2(C) above, all requests for adjournments and extensions should be filed as letter-motions. All letter-motions should be text-searchable and may not exceed five (5) pages in length. A courtesy copy should not be provided to Chambers.

B. Discovery Motions. In making discovery motions, counsel must comply with S.D.N.Y. Local Criminal Rule 16.1. Any discovery motion must contain the Rule 16.1 affidavit.

4. Defense Counsel

A. Benefactor Payments. Whenever defense counsel has received, or is receiving, a benefactor payment that subjects counsel to a conflict of interest, said counsel should inform the Court and request a *Curcio* hearing in advance of the first conference.

B. Other Conflicts. Counsel have an obligation to promptly inform the Court upon learning of any other conflict of interest, whether a potential or an actual conflict, and to request a *Curcio* hearing if appropriate.

C. Substitution of Counsel. When there is a substitution of defense counsel, counsel of record must contact the Courtroom Deputy to schedule a conference as soon as possible. At the conference, the Court will address the application by defense counsel to be relieved. The defendant, replacement counsel, and the AUSA must also attend the conference.

5. Bail Modification / Bail Appeal

Any written request for a bail modification shall be filed on ECF as a letter-motion in accordance with Paragraph 3(A) and shall indicate whether the Government and the Pretrial Services Officer consent to the request.

6. Guilty Pleas

A. Plea / Cooperation Agreements and *Pimentel* letters. Where a defendant is pleading guilty pursuant to a plea agreement or a cooperation agreement, a copy of the agreement ordinarily must be received by Chambers at least *two business days* before the scheduled plea. Where the Government is providing a *Pimentel* letter, a copy must be received by Chambers at least *two business days* before the scheduled plea. The Government shall email these documents to the Court (Liman@nysd.uscourts.gov). The Court requests that, when feasible, the plea or cooperation agreement submitted by the Government be signed by both the defendant and defense counsel.

B. Preparation for Allocution. Prior to the date set for the plea, defense counsel are expected to have reviewed with defendants—if necessary, with the assistance of interpreters—any *Pimentel* letter or plea, cooperation, or other agreement. Defendants shall be prepared in advance of their pleas by their attorneys to give narrative allocutions that incorporate all elements of the offense(s) to which defendants are pleading. At the plea hearing, defense counsel is permitted—without further request of the Court—but not required to inform the Court of any facts of which it would like the Court to be aware prior to the receipt of sentencing memoranda regarding the character of the defendant or the circumstances of the offense.

7. Trial

A. Pretrial Submissions. The Court’s practice is to enter an order scheduling a final pretrial conference and setting deadlines for the submission of proposed *voir dire*, proposed verdict forms, proposed requests to charge, and any motions *in limine*. At the time of filing, each party shall submit one courtesy hard copy of these materials to the Court. In addition, each party should email these materials, with the exception of *in limine* motions, in Microsoft Word format to the Court ([LimanNYSD Chambers@nysd.uscourts.gov](mailto:LimanNYSDChambers@nysd.uscourts.gov)). The parties need not include proposed language for standard instructions (about, for example, the role of the Court and the jury, the standard of proof, etc.), as the Court is likely to use its own standard instructions; instead, the parties should include a list of standard instructions that they believe are appropriate and focus their attention on case-specific requests to charge.

B. Exhibits and Section 3500 Material. At the start of the trial, each of the parties must provide the Court with two (2) hard copies of the exhibit list with a brief description of each exhibit, and binders containing two (2) sets of pre-marked documentary exhibits (and Section 3500 material from the Government), in sequential order separated by numbered tabs. If practicable, the parties shall also submit a CD-ROM containing electronic .pdf copies of all exhibits.

C. Jury Selection. The jury will be selected by the struck panel method.

8. Sentencing

A. Sentencing Adjournments. Any request for an adjournment of a sentencing should be made as early as possible and should be made *no later than 72 hours* before the sentencing proceeding, in accordance with Paragraph 2(C) above. Requests made fewer than 72 hours before the sentencing proceeding will be viewed with disfavor.

B. Sentencing Submissions. Unless otherwise ordered by the Court, a defendant’s sentencing submission shall be filed and served fourteen (14) days prior to sentencing. The Government’s sentencing submission shall be filed and served seven (7) days prior to sentencing. If a party does not intend to file a substantive sentencing submission, the Court nevertheless requires a written statement to that effect submitted by the date that party’s sentencing submission is due.

- C. ECF Filing.** Except for submissions to be filed under seal or in redacted form, every document in a sentencing submission, including letters, must be filed on ECF. Letters should be grouped and filed together as attachments to a single document marked SENTENCING SUBMISSION with the caption and docket number clearly indicated. The defendant is responsible for filing all letters submitted on behalf of the defendant, including those from friends and relatives. The Government is responsible for filing all letters from victims.
- D. Privacy Policy.** Unless permission to the contrary has been obtained, every document in a sentencing submission, including letters, shall be filed in the public record.
- E. Redactions Not Requiring Court Approval.** The parties are referred to Federal Rule of Civil Procedure 5.2 and the [Southern District's ECF Privacy Policy](#) ("Privacy Policy") and reminded not to include, unless necessary, two categories of information that may be redacted from public court filings without prior permission from the Court: "sensitive information" and information requiring "caution."
- i. Parties should not include in their public filings, unless necessary, the five categories of "sensitive information" (*i.e.*, social security numbers [use the last four digits only], names of minor children [use the initials only], dates of birth [use the year only], financial account numbers [use the last four digits only], and home addresses [use only the City and State]).
 - ii. Parties may also, without prior Court approval, redact from their public filings the six categories of information requiring caution described in the Privacy Policy (*i.e.*, any personal identifying number, medical records including information regarding treatment and diagnosis, employment history, individual financial information, proprietary or trade secret information, and information regarding an individual's cooperation with the government).
- F. Redactions and Sealed Filings Requiring Court Approval.** If a party redacts information beyond the eleven categories of information identified in the Privacy Policy, an application to do so must be served and filed at the time the sentencing submission is served. The application should clearly identify the redaction and explain the reasons for the redaction.
- G. Procedures for Filing Documents with Redactions.** Any party seeking to file a document with partial redactions should follow the following three steps:
- i. **ECF Filing of the Redacted Document(s).** The party should file the redacted version of the document on ECF.
 - ii. **Filing or Emailing of a Letter-Motion Seeking Leave to File with Redactions.** If the party is seeking leave of the Court to redact the document (*i.e.*, if the redactions are not among the categories of redactions that can be made without Court approval), the party should simultaneously file on ECF a

letter-motion seeking leave to file the document with those redactions. The letter-motion must explain the purpose of the redactions, and why the redactions are consistent with the standards discussed in Paragraphs 8(E)(i)-(ii) above. (The party should endeavor to draft the letter-motion in a form that can be filed publicly on ECF. If, however, the party believes that the letter-motion itself should be sealed or redacted, the party should include an unredacted copy of the letter-motion as an attachment to the email described in Paragraph 8(G)(iii) below, and—if possible—file a redacted version of the letter-motion on ECF.)

- iii. **Emailing of Documents to Chambers.** At the same time, the party should email to Chambers (LimanNYSDChambers@nysd.uscourts.gov) (1) a clean (*i.e.*, unredacted) copy of the document, (2) a copy of the document highlighting the information that has been redacted in the ECF filing, and (3) an unredacted copy of the letter-motion described in Paragraph 8(G)(ii), should the party also be seeking leave to file that letter-motion with redactions or under seal.

H. Procedures for Filing Sealed Documents. Any party seeking leave to file under seal an entire submission (with or without exhibits) should *not* file anything on ECF in the first instance. Instead, the party should email an unredacted copy of the submission to Chambers (LimanNYSDChambers@nysd.uscourts.gov) and should include as an attachment to the email a letter-motion seeking leave to file the document under seal. The letter-motion must explain why sealing is justified in light of the standards discussed in Paragraph 8(E) above. If the party believes that the letter-motion itself should be sealed or redacted, the letter-motion should so state and should provide the justification therefor. The Court will include instructions for filing sealed or redacted versions of the document and accompanying letter-motion, if necessary, in any order disposing of the motion to seal.

If you have any questions after reading these Individual Practices, please contact Chambers at (212) 805-0226.