

INDIVIDUAL RULES AND PRACTICES IN CRIMINAL CASES

Jesse M. Furman, United States District Judge

Chambers

United States District Court
Southern District of New York
500 Pearl Street, Room 630
New York, NY 10007
Furman_NYSDChambers@nysd.uscourts.gov

Courtroom Deputy

Alexandra Barnes
(212) 805-4520

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 http://www.nysd.uscourts.gov/ecf_filing.php.

2. Communications with Chambers

- A. Initial Pretrial Conference.** Upon assignment of a criminal case to Judge Furman, the Assistant United States Attorney shall immediately call Chambers to arrange for a prompt conference/arraignment. The Assistant United States Attorney shall e-mail a courtesy copy of the indictment and the criminal complaint, if one exists, to the Court (Furman_NYSDChambers@nysd.uscourts.gov) as soon as practicable.
- B. Telephone Calls.** Any other communications with Chambers, including requests for extensions or adjournments, shall be by letter in accordance with Paragraph 1.C. For questions that cannot be answered by reference to these Rules or for *urgent* matters requiring immediate attention, call Alexandra Barnes, Courtroom Deputy, at (212) 805-4520.
- C. Letters.** Except for docketing, scheduling, and calendar matters, or matters requiring immediate attention, communications with Chambers shall be by letter, which shall be e-mailed as a .pdf attachment to the Court (Furman_NYSDChambers@nysd.uscourts.gov) with a copy simultaneously delivered to all counsel. E-mails shall state clearly in the subject line: (1) the caption of the case, including the lead party names 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 e-mail; such communications shall be included only in the body of the letter. (The sender of an e-mail will ordinarily receive an auto-reply e-mail appearing to come from the Courtroom Deputy stating that substantive communications in the body of the e-mail will be disregarded. Parties need not,

and should not, respond to the auto-reply message.) Copies of correspondence between counsel shall not be sent to the Court.

- D. Faxes.** Faxes are *not* permitted except with prior approval of Chambers, which will be granted only in rare circumstances, and must not exceed 10 pages in length. All faxes must clearly identify the person in Chambers who authorized the sending of the fax and copies must simultaneously be faxed or delivered to all parties. Faxes sent without prior permission will not be read.
- E. Hand Deliveries.** Hand-delivered mail should be left with the Court Security Officers at the Worth Street entrance of the Courthouse 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.
- F. Requests for Adjournments or Extensions of Time.** All requests for adjournments or extensions of time must be made in writing, consistent with Paragraph 2.C above and with the word "SCHEDULING" included in the e-mail subject line, and 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; and (4) whether the adversary consents and, if not, the reasons given by the adversary for refusing to consent. If a party seeks an exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161, the party must submit to the Court a proposed order (in Microsoft Word format) along with its request for adjournment or extension.

Absent an emergency, any request for extension or adjournment shall be made *at least 48 hours* prior to the deadline or scheduled appearance and any request for adjournment of sentencing shall be made *at least 72 hours* prior to the scheduled proceeding. Requests for extensions will ordinarily be denied if made after the expiration of the original deadline.

- G. Docketing of Letters.** Absent a request to file a letter under seal, the parties should assume that any substantive letter will be docketed by the Court.

3. 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 must inform the Court and request a *Curcio* hearing *at the first conference*.
- B. 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 Assistant United States Attorney must also attend the conference.

4. Discovery Motions

In making discovery motions, counsel must comply with Southern District Local Criminal Rule 16.1. Any discovery motion must contain the Rule 16.1 affidavit.

5. Bail Modification

Any written request for a bail modification by a defendant shall indicate whether the Government and the Pre-Trial Services Officer consent to the request.

6. Guilty Pleas

- A. **Plea Agreements and *Pimentel* Letters.** When 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 of the *Pimentel* letter must be received by Chambers no fewer than two business days before the scheduled plea. These documents should be e-mailed to the Court at Furman_NYSDChambers@nysd.uscourts.gov.
- B. **Preparation for Allocution.** Prior to the date set for the plea, defense counsel are expected to have reviewed with the defendant — if necessary, with the assistance of an interpreter — any *Pimentel* letter or plea, cooperation, or other agreement, as well as the Advice of Rights form available at <http://nysd.uscourts.gov/judge/Furman>. Defense counsel and the defendant should execute any plea or cooperation agreement, as well as the Advice of Rights form, prior to the time set for the plea. The defendant should also be prepared in advance of a guilty plea to give narrative allocutions that incorporate all of the elements of the offense(s) to which the defendant is pleading guilty.

7. Trials

- A. **Proposed *Voir Dire*, Jury Instructions, and Verdict Forms.** At the time of filing, each party should submit two courtesy hard copies of its proposed *voir dire*, proposed jury instructions, and a proposed verdict form to the Court. In addition, each party should e-mail those documents, as Microsoft Word documents, to Furman_NYSDChambers@nysd.uscourts.gov.
- B. **Exhibits and 3500 Material.** At the start of the trial, the Government must provide the Court with three hard copies of the exhibit list, and one set of pre-marked

documentary exhibits and Section 3500 material assembled sequentially in a loose leaf binder, or in separate manila folders labeled with the exhibit numbers and placed in a suitable container for ready reference.

- C. Other Trial Rules and Procedures.** In addition to the foregoing, counsel shall familiarize themselves with, and abide by, Judge Furman’s Individual Rules and Practices for Trials, available at <http://nysd.uscourts.gov/judge/Furman>.

8. Sentencing

- A. Sentencing Adjournments.** Any request for an adjournment of a sentencing should be made as early as possible, and *no later than 72 hours* before the sentencing proceeding, in accordance with Paragraph 2.F above.
- B. Sentencing Submissions.** Unless otherwise ordered by the Court, a defendant’s sentencing submission shall be served two weeks in advance of the date set for sentencing. The Government’s sentencing submission shall be served one week in advance of the date set for sentencing. The parties should provide the Court with two courtesy hard copies of each submission when it is served.
- C. Public Filing.** The Court assumes that every document in a sentencing submission, including letters, will be filed in the public record either in paper form or through the ECF system, using one of the following two procedures:
- i. Paper Filing.** If letters are filed as hard copies, a party shall group all letters together in a single paper filing under a cover marked SENTENCING MEMORANDUM with the caption and docket number clearly indicated and submit it to the Clerk’s Office.
 - ii. ECF Filing.** If letters are filed electronically, they must be grouped and filed together as attachments to a single document marked SENTENCING MEMORANDUM with the caption and docket number clearly indicated.
- D. Letters.** 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.
- E. Privacy Policy.** The parties are referred to the E-Government Act of 2002 and the Southern District’s ECF Privacy Policy (“Privacy Policy”) and reminded not to include, unless necessary, the five categories of “sensitive information” in their submissions (i.e., social security numbers, names of minor children [use the initials only], dates of birth [use the year only], financial account numbers, and home addresses [use only the City and State]).
- F. Redactions.** If any material is redacted from a publicly filed document, only those pages containing the redacted material will be filed under seal. Bring a copy of those

pages to the sentencing proceeding, marked to indicate what information has been redacted from the publicly filed materials, to give to the Court for filing under seal.

- i. Redactions Not Requiring Court Approval.** Parties may redact the five categories of “sensitive information” and the six categories of information requiring caution (i.e., personal identifying number, medical records, treatment and diagnosis, employment history, individual financial information, proprietary or trade secret information, and information regarding an individual’s cooperation with the government), as described in the Privacy Policy, without Court approval.

- ii. Redactions 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. The application will be addressed at the sentencing proceeding.

If you have any questions about these practices, please contact Alexandra Barnes, Courtroom Deputy, at (212) 805-4520.