

EMERGENCY INDIVIDUAL PRACTICES IN LIGHT OF COVID-19
Denise Cote, United States District Judge
Southern District of New York

Chambers Email:

CoteNYSDChambers@nysd.uscourts.gov

Unless otherwise ordered by the Court, these Emergency Practices apply to *all* matters before Judge Cote (whether criminal or civil and whether involving a *pro se* party or all counseled parties), and they are a supplement to Judge Cote’s standard Individual Practices. If there is a conflict between these Emergency Practices and Judge Cote’s standard Practices, these Emergency Practices control.

1. No Paper Submissions Absent Undue Hardship

- A.** No papers, including courtesy hard copies of any filing or document, may be submitted to Chambers. All documents must be filed on ECF or, if permitted or required under the Court’s Individual Practices, emailed to CoteNYSDChambers@nysd.uscourts.gov.
- B.** In the event that a party or counsel is unable to submit a document electronically — either by ECF or email — the document may be mailed to the Court. To the maximum extent possible, however, this means of delivery should be avoided, as the delivery and the receipt of mail to the Court are likely to be delayed.

2. Conferences and Proceedings

- A. In Civil Cases.** Unless otherwise ordered by the Court, all conferences and proceedings in civil cases will be held by telephone. Unless otherwise directed, the parties should call into the Court’s dedicated conference line at (888) 363-4749, and enter Access Code 4324948, followed by the pound (#) key. If possible, counsel should use a landline when participating in the telephone call.

Counsel should consult as to whether pretrial proceedings, including depositions and mediation, may be conducted through video conference or teleconference. On consent, pursuant to Rules 30(b)(3) and (4), Fed. R. Civ. P., all depositions may be taken via telephone, videoconference, or other remote means, and may be recorded by any reliable audio or audiovisual means. This does not dispense with the requirements set forth in Fed. R. Civ. P. 30(b)(5), including the requirement that, unless the parties stipulate otherwise, the deposition be “conducted before an officer appointed or designated under Rule 28,” and that the deponent be placed under oath by that officer. For avoidance of doubt, however, a deposition will be deemed to have been conducted “before” an officer so long as that officer attends the deposition via the same remote means (*e.g.*, telephone conference call or video conference) used to connect all other remote participants, and so long as all

participants (including the officer) can clearly hear and be heard by all other participants.

- B. In Criminal Cases.** No later than one week before a scheduled appearance, counsel must confer and submit a letter to the Court indicating their views on whether the Court can, consistent with the U.S. Constitution, Federal Rules of Criminal Procedure (*see, e.g.*, Rules 5(f), 10(b) & (c), and 43), CARES Act, and any other relevant law, conduct the matter by telephone or video and, if applicable, whether the Defendant either consents to appearing in that manner or to waiving his or her appearance altogether. Counsel should include the same information in any request for a conference or other proceeding.

In new criminal cases, counsel are advised that a trial date may be set at the initial conference.

3. Teleconferences Generally. The following procedures shall apply to all teleconferences with the Court.

- A.** At least twenty-four hours before a scheduled teleconference, the parties must jointly email to CoteNYSChambers@nysd.uscourts.gov a list of counsel — absent permission of the Court, no more than two per party — who may speak during the teleconference. The email should also provide the telephone numbers from which counsel expect to join the call.
- B.** Counsel should use a landline whenever possible, should use a headset instead of speakerphone, and must mute themselves whenever they are not speaking to eliminate background noise. In addition, counsel should not use voice-activated systems that do not allow the user to know when someone else is trying to speak at the same time.
- C.** To facilitate orderly teleconferences and the creation of an accurate transcript where a teleconference is held on the record, counsel are required to identify themselves every time they speak. Counsel should spell any proper names for the court reporter. Counsel should also take special care not to interrupt or speak over one another.
- D.** If there is a beep or chime indicating that a new caller has joined while counsel is speaking, counsel should pause to allow the Court to ascertain the identity of the new participant and confirm that the court reporter has not been dropped from the call.
- E.** The recording of any court conference is prohibited by law.

4. Communications with Chambers

- A. Telephone Calls.** Parties are encouraged to make **any** requests or inquiries to the Court through ECF. If leaving a voicemail, a party should (1) briefly state the nature of the issue (including, if applicable, the case name and docket number); and (2) provide a call-back telephone number. Telephone calls will not be

answered but will go to voicemail; and there may be significant delays in responding to any voicemail messages.

B. Faxes. Faxes are *not* permitted for any purposes.

C. Hand Deliveries. Nothing may be delivered to Chambers absent advance permission from the Court.

D. By *Pro Se* Parties. *Pro se* parties are encouraged to (1) consent to electronic service (via ECF or email); and (2) submit all filings by email to Temporary_Pro_Se_Filing@nysd.uscourts.gov. *Pro se* parties who are unable to use email may submit documents by regular mail to the Pro Se Intake Unit, Thurgood Marshall Courthouse, 40 Centre Street, Room 105, New York, New York 10007 or in person at the drop box located at the U.S. Courthouses in Manhattan (500 Pearl Street) and White Plains (300 Quarropas Street). For more information, including instructions on this new email service for *pro se* parties, please visit the Court's website at <https://www.nysd.uscourts.gov/prose>. Any questions should be directed to the Pro Se Intake Unit at (212) 805-0175.

E. In New Criminal Cases. Upon assignment of a new criminal case to Judge Cote, the Assistant United States Attorney must immediately email CoteNYSChambers@nysd.uscourts.gov to arrange for a prompt conference/arraignment.

5. Applications for Temporary Restraining Orders (“TROs”).

Parties intending to file applications for TROs or other emergency relief must send all of their papers (in text-searchable PDF format) to CoteNYSChambers@nysd.uscourts.gov. The email should (1) include the word “URGENT” in the subject line; (2) provide a telephone number at which the party (and any other relevant parties) can be reached; and (3) provide the relevant parties’ availability for a telephone conference in the next few days. As noted above, parties should not hand-deliver any documents without advance permission.

6. Pro Se Clinic

The New York Legal Assistance Group’s Pro Se Clinic has suspended all in-person client meetings until further notice. Limited-scope legal assistance will continue to be provided, **but only by appointment and only over the telephone**. To schedule an appointment, call (212) 659-6190 and leave a message **specifying a call-back number**.