

INDIVIDUAL RULES AND PRACTICES OF JUDGE GEORGE B. DANIELS

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Unless governed by the Federal Rules, Local Rules, or otherwise ordered by Judge Daniels, matters before Judge Daniels shall be conducted in accordance with the following practices:

I. ELECTRONIC CASE FILING (“ECF”)

A. Counsel for all parties are required to register as filing users in accordance with the SDNY ECF Rules and Instructions.¹

B. In **ALL** cases (civil and criminal) that are designated ECF, the parties are responsible for being current in any and all matters filed electronically by this Court. No other means of notification will be used by this Court.

C. *See* Rule III regarding Courtesy Copies.

D. Filing Under Seal/Redactions

i. **Sealing/Redactions Not Requiring Court Approval.** The parties are referred to the E-Government Act of 2002, Rule 5.2 of the Federal Rules of Civil Procedure and the Southern District’s ECF Privacy Policy (“Privacy Policy”). There are two categories of information that may be redacted from public court filings without prior permission from this Court: “sensitive information” and information requiring “caution.” 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]). 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).

ii. **Sealing/Redactions Requiring Court Approval.** Except for redactions permitted by the previous Paragraph, all redactions or sealing of public court filings require Court approval. To be approved, any redaction or sealing of a court filing must be narrowly tailored to serve whatever

¹ http://www.nysd.uscourts.gov/ecf_filing.php

purpose justifies the redaction or sealing and must be otherwise consistent with the presumption in favor of public access to judicial documents. *See, e.g., Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119–20 (2d Cir. 2006). In general, the parties' consent or the fact that information is subject to a confidentiality agreement between litigants is not, by itself, a valid basis to overcome the presumption in favor of public access to judicial documents. *See, e.g., In re Gen. Motors LLC Ignition Switch Litig.*, No. 14- MD-2543(JMF), 2015 WL 4750774, at *4 (S.D.N.Y. Aug. 11, 2015).

Any party seeking to file a document under seal or in redacted form shall proceed as follows:

1. **Meet and Confer.** The party seeking leave to file sealed or redacted materials should meet and confer with any opposing parties (or any third party seeking confidential treatment of the information) in advance to narrow the scope of the request. When a party seeks leave to file sealed or redacted materials on the ground that an opposing party or third party has requested it, that party shall notify the opposing party or third party that it must file, within three days, a letter explaining the need to seal or redact the materials.
2. **Sealed Document(s).** The party shall electronically file a letter motion seeking leave to file a document under seal on ECF in accordance with Standing Order 19-MC-583 and Section 6 of the S.D.N.Y. Electronic Case Filing Rules and Instructions. The letter motion itself shall be filed in public view, should explain the reasons for seeking to file the document under seal, and should not include confidential information. The proposed sealed document shall be separately and contemporaneously filed under seal on ECF (with the appropriate level of restriction) and electronically related to the motion (or to the relevant Court order if this Court previously granted leave to file the document under seal). Note that the summary docket text, but not the document itself, will be open to public inspection and, thus, the summary docket text should not include confidential information sought to be filed under seal.
3. **Redacted Document(s).** Where a party seeks leave to file a document in redacted form, the party shall electronically file a

letter motion seeking leave to file a document in redacted form on ECF in accordance with Standing Order 19-MC-583 and Section 6 of the S.D.N.Y. Electronic Case Filing Rules and Instructions. The letter motion itself shall be filed in public view, should explain the reasons for seeking to file the document in redacted form, and should not include confidential information. At the same time, the party shall (1) publicly file on ECF and electronically relate to the letter motion a copy of the document with the proposed redactions; and (2) file under seal on ECF (with the appropriate level of restriction) and electronically relate to the motion an unredacted copy of the document with the proposed redactions highlighted.

- iii. **Submission by Other Manner.** Any party unable to comply with the requirement for electronic filing under seal through the ECF system, or who believes that a particular document should not be electronically filed at all, must move for leave of the Court to file in the traditional manner, on paper.
- iv. **Additional Guidance for Criminal Cases.** Parties are directed to Rule V below for additional guidance for filing sentencing submissions in redacted form or under seal.

II. COMMUNICATIONS WITH CHAMBERS

- A. **Letters.** All communications with Chambers shall be filed by letter electronically on ECF. In addition, the following rules apply:
 - i. Letters submitted to Chambers shall state clearly in the subject line: (1) the caption of the case, including the docket number and names of the lead parties; and (2) a brief description of the contents of the letter. Letters that pertain to multiple cases shall list all relevant docket numbers in the subject line.
 - ii. In multi-defendant criminal matters, letters that pertain only to an individual defendant shall identify the docket number specific to that individual defendant (e.g., 1:14-cr-12345-01) and include the defendant's name.
 - iii. Copies of correspondence solely between counsel shall not be filed on ECF or sent to Chambers (except as exhibits to a properly filed document).

B. **Telephone Calls.** Telephone calls to Chambers are permitted only in **emergency situations** requiring immediate attention.

i. The following calls to Chambers are **never permitted**:

1. Ex parte calls (absent extraordinary justification, counsel for all affected parties should be on the line when a call to Chambers is placed, except that similarly situated parties may designate a lead counsel to represent them on such a call);
2. Calls from *pro se* litigants (*pro se* litigants should call the Office of *Pro Se* Litigation at **(212) 805-0175** for questions regarding their cases);
3. Calls requesting substantive or procedural legal advice;
4. Calls requesting updates regarding the status of filings; and
5. Questions about how to file case documents electronically. Electronic Case Filing questions should be directed to the ECF Help Desk at **(212) 805-0136**.

C. **Requests for Adjournment or Extension of Time.** All requests for adjournments or extensions of time shall be **in writing** and **electronically** filed as a “*letter*” rather than a “*letter motion*” **no later than 48 hours** in advance of the conference. To file a letter electronically, counsel should make the following selections on ECF: civil → civil events → other filings → other documents → letter. If the requested adjournment or extension affects any other scheduled dates, a Proposed Amended Scheduling Order shall be attached to the request. In addition, the request shall clearly state:

- i. the original date of the appearance or deadline;
- ii. the number of previous requests for adjournment or extension;
- iii. whether these previous requests were granted or denied; and
- iv. whether opposing counsel consents, and, if not, the reasons provided by opposing counsel for withholding consent.

III. COURTESY COPIES

- A. Please note that due to ongoing concerns with COVID-19 we are not accepting courtesy copies until further notice. Please check Judge Daniels' Individual Rules and Practices regularly for any changes to this policy.

IV. MOTIONS

- A. **Pre-Motion Conferences in Civil Cases.** For discovery motions, follow Local Civil Rule 37.2. For motions other than discovery motions, pre-motion conferences are not required.
- B. **Memoranda of Law.** Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 pages, and reply memoranda are limited to 10 pages. Memoranda of 10 pages or more shall contain a table of contents. Sur-reply memoranda will not be accepted without prior permission of this Court.
- C. **Filing of Motion Papers.** Motion papers shall be filed on ECF promptly after service.
- D. **Oral Argument on Motions.** Parties may request oral argument by letter at the time their moving, opposing, or reply papers are filed. This Court will determine whether argument will be heard and, if so, will advise counsel of the argument date.
- E. **Encouraging Courtroom Advocacy by Junior Lawyers.** Opportunities to train new lawyers in courtroom skills have become increasingly rare. Accordingly, where junior lawyers are familiar with the matter under consideration by this Court but are less experienced in arguing a motion, they are encouraged to actively participate in courtroom proceedings. In such circumstances, where a junior lawyer is afforded the opportunity to present arguments to this Court, Judge Daniels is amenable to permitting more than one lawyer to argue for a party. However, the ultimate decision of who speaks on behalf of a client rests with the lawyer responsible for the case, not with this Court.

V. CRIMINAL SENTENCINGS

- A. **Sentencing Submissions.** A defendant's sentencing submission shall be served **eight (8) days** in advance of the date set for sentence. The Government's sentencing submission shall be served **five (5) days** in advance of the date set for

sentence. All sentencing submissions shall be filed on ECF, unless there is a request to file a document under seal or in redacted form.

B. **Privacy Policy.** The parties are referred to the E-Government Act of 2002 and 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]).

C. **Redactions**

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 filed at the time the sentencing submission is served. The application must clearly identify the requested redaction and explain the reasons for the redaction. The application will be addressed at the sentencing proceeding.

iii. **Sealing.** If any material is redacted from a publicly filed document, only those pages containing the redacted material will be filed under seal. Counsel shall 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 this Court for filing under seal.

VI. **PRETRIAL PROCEDURES**

A. **Joint Pretrial Orders in Civil Cases.** Unless otherwise ordered by this Court, within **thirty (30) days** after the date for completion of discovery in a civil case, the parties shall submit to this Court, for its approval, a joint pretrial order, which shall include the following:

i. The full caption of the action;

- ii. The names, addresses (including firm names), and telephone and fax numbers of trial counsel;
- iii. A brief statement by plaintiff as to the basis for subject matter jurisdiction, and a brief statement by each other party as to the presence or absence of subject matter jurisdiction;
- iv. A brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matter but including citations to all statutes relied upon. Such summaries shall also identify all claims and defenses previously asserted which are not to be tried;
- v. A statement by each party as to whether the case is to be tried with a jury, and the number of trial days needed;
- vi. A statement as to whether all parties have consented to trial of the case by a magistrate judge (without identifying which parties have or have not so consented);
- vii. Any stipulations or statements of fact or law which have been agreed upon by all parties;
- viii. A statement by each party as to the witnesses whose testimony is to be offered in its case-in-chief, indicating whether such witnesses will testify in person or by deposition;
- ix. A designation by each party of deposition testimony to be offered in its case-in-chief, with any cross-designations and objections by any other party; and
- x. A list by each party of exhibits to be offered in its case-in-chief, with one asterisk indicating exhibits to which no party objects on grounds of authenticity, and two asterisks indicating exhibits to which no party objects on any ground.

B. Filings Prior to Trial in Civil Cases. Unless otherwise ordered by this Court, each party shall file thirty **(30) days** prior to the commencement of trial if such a date has been fixed, or thirty **(30) days** after the filing of the joint pretrial order if no trial date has been fixed:

- i. In jury cases, requests to charge and proposed voir dire questions;
- ii. In non-jury cases, a statement of the elements of each claim or defense involving such party, together with a summary of the facts relied upon to establish each element;
- iii. In all cases, motions addressing any evidentiary or other issues which should be resolved *in limine*; and
- iv. In any case where such party believes it would be useful, a pretrial memorandum.

C. Filings Prior to Trial in Criminal Cases.

- i. Any Rule 404(b) notice shall be served **thirty (30) days** prior to the commencement of trial.
- ii. Any Rule 16 expert disclosures, including all required information, shall be made **thirty (30) days** prior to the commencement of trial.
- iii. Motions *in limine* shall be filed **thirty (30) days** prior to the commencement of trial.
- iv. Not later than **seven (7) days** prior to the commencement of trial, the parties shall file their:
 1. proposed jury instructions with citations to authority;
 2. proposed verdict forms;
 3. proposed voir dire; and
 4. the Government's proposed witness list.