

INDIVIDUAL RULES OF PRACTICE IN CRIMINAL CASES

Gregory H. Woods, United States District Judge

Chambers

United States District Court
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 2260
New York, NY 10007
WoodsNYSDCChambers@nysd.uscourts.gov

Courtroom Deputy

Valerie Adolphe
(212) 805-4233

Unless otherwise ordered, these Individual Practices apply to all criminal matters before Judge Woods.

1. Initial Pretrial Conference. When a criminal case is assigned to Judge Woods, the Assistant United States Attorney (“AUSA”) should immediately call the Courtroom Deputy to arrange for a prompt conference/arraignment. In the event the Courtroom Deputy is not available, the AUSA should call Chambers. The AUSA should provide via email (WoodsNYSDCChambers@nysd.uscourts.gov) a courtesy copy of the indictment and the complaint, if one exists, as soon as practicable.

2. Communications with Chambers

A. Letters. Except as otherwise provided below, communications with the Court should be by letter, filed electronically on ECF. Parties should not submit courtesy copies of letters filed on ECF. Copies of correspondence between counsel must not be filed on ECF or otherwise sent to the Court (except as exhibits to an otherwise properly filed document). Absent a request to file a letter under seal, the parties should assume that any substantive letter will be docketed by the Court.

Letters to be filed under seal or containing sensitive or confidential information may be emailed to the Court at WoodsNYSDCChambers@nysd.uscourts.gov as a .pdf attachment with a copy simultaneously delivered to all counsel. Any such email must 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 must not include substantive communications in the body of the email; any such communications should be included only in the body of the attached letter. Parties must explain the particular reasons for seeking to file that information under seal. When a party seeks approval to redact information from a document that is to be publicly filed, the filing party must publicly file the document with the proposed redactions.

In all correspondence involving a request, the requesting party must indicate whether the adversary consents to the request. In a written request for bail modification by a defendant, the request should also state whether the Pre-Trial Services Officer consents to the request.

B. Telephone Calls. Parties should avoid calling Chambers unless an urgent matter requires immediate attention. In such an event, counsel may call Chambers directly; in such situations, parties should email the Chambers inbox requesting the Court's contact information. For docketing-related issues, please consider calling the ECF help desk at (212) 805-0800.

C. Faxes. Faxes to Chambers are not permitted except with prior approval.

D. Hand Deliveries. Hand-delivered materials 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; they may not be brought directly to Chambers. Hand deliveries are retrieved regularly from the Worth Street entrance by Courthouse mail staff and then forwarded to Chambers. If the hand-delivered materials are urgent and require 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.

E. Requests for Adjournments or Extensions of Time. All requests for adjournments or extensions of time must be made by letter and must state: (1) the original due date; (2) the number of previous requests for adjournment or extension of time; (3) the reason for the current request; (4) whether the adversary consents and, if not, the reason given by the adversary for refusing to consent; and (5) proposed alternative dates. If a party seeks an exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161, the party must (a) state in its letter whether it and each of the other parties consent to the proposed exclusion of time, and (b) submit to the Court via email to WoodsNYSDCChambers@nysd.uscourts.gov a proposed order (in Microsoft Word format) along with its request for adjournment or extension. A model order excluding time under the Speedy Trial Act is available on the Court's website.

Absent an emergency, any such request must be made at least two business days prior to the original due date, with the exception of a request to adjourn sentencing, which must be made at least three business days prior to the proceeding.

F. Urgent Communications. Materials filed via ECF are generally reviewed by the Court the business day after they have been filed. If a submission requires immediate attention, please notify Chambers by telephone after the submission has been filed via ECF.

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, defense counsel must inform the Court in advance of the first conference and request a *Curcio* hearing.

B. Substitution of Counsel. When there is a substitution of defense counsel, counsel of record must write a letter to the Court requesting 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.

4. Motions

A. Discovery Motions. In making discovery motions, counsel are expect to comply with Southern District Local Criminal Rule 16.1. Any discovery motion must contain a Rule 16.1 affidavit.

B. Courtesy Copies of Motions. At the time the reply is served, the movant must mail or hand-deliver to the Court two courtesy copies of all motion papers, marked as such and which include the automatically-generated ECF header at the top of each page. Courtesy copies should be double-sided, three-hole punched, tabbed, and placed in binders. The non-moving party shall provide the movant with a set of its motion papers in time for the movant to deliver all motion papers to the Court. Unless doing so would be unduly burdensome, the movant should also submit via CD a copy of electronic, text-searchable copies of any hearing or deposition transcripts, as well as any other item on which the parties rely that cannot be submitted as a single file on ECF (e.g., videos or very long documents).

5. Guilty Pleas

A. Plea Agreements and *Pimentel* Letters. The Government must provide a courtesy copy of the signed plea agreement, cooperation agreement, or *Pimentel* letter to the Court. These documents should be e-mailed to Chambers at WoodsNYSDChambers@nysd.uscourts.gov as soon as practicable but no later than three business days before the scheduled plea.

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. Defense counsel and the defendant should execute any plea or cooperation agreement 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.

C. Preparation for Possible Remand. Prior to the date set for the plea, the parties are directed to discuss their respective positions regarding bail conditions or remand following the defendant's plea. In all cases in which the defendant is not detained prior to the plea, defense counsel is expected to have prepared the defendant regarding the possibility of remand following the plea. In particular, defense counsel is directed to consider whether the offense to which the defendant intends to plead guilty is one which mandates remand pursuant to 18 U.S.C. § 3143(a)(2).

6. Trials

A. Requests to Charge, Proposed Verdict Forms, and Proposed *Voir Dire* Questions. Unless otherwise ordered, requests to charge, proposed verdict forms, and proposed voir

dire questions must be filed via ECF no later than three weeks prior to the trial date. At the time of filing, each party must also email copies of these documents in Microsoft Word format to WoodsNYSDCchambers@nysd.uscourts.gov. Proposed requests to charge must include citations to supporting legal authority.

B. Exhibits and 3500 Material

- i.** At the start of trial, the Government must provide the Court with three copies of the witness list and exhibit list and two complete sets of pre-marked documentary exhibits and Section 3500 material assembled sequentially in loose leaf binders.
- ii.** Sidebars during jury trials are discouraged, and counsel are expected to anticipate any matters that might require argument and to raise those issues with the Court in advance of the time that the jury will be hearing the evidence.
- iii.** In advance of each trial session, counsel for the party going forward at that session must show opposing counsel the exhibits he or she intends to introduce at the session. The opponent shall indicate those exhibits to which he or she has no objection, and the Court will admit them when offered at the session. Those exhibits to which there is an objection shall be presented to the Court for ruling before the opening of the session.
- iv.** If counsel intend to distribute copies of documentary exhibits to the jury, they are to make a separate copy for each juror.
- v.** Counsel are obligated to maintain custody of all original exhibits. The Court does not retain them, and the Courtroom Deputy is not responsible for them.

7. Sentencing

- A. Deadlines for Filing and Courtesy Copies.** The defendant's submission must be filed via ECF no later than two weeks in advance of the date set for sentencing. The Government's sentencing submission must be filed via ECF at least one week in advance of the date set for sentencing. The parties must provide the Court with two courtesy copies of each submission at the time of filing.
- B. 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. A party must group and file the letters together as attachments to a single document marked SENTENCING MEMORANDUM with the caption and docket number clearly indicated.
- C. Video and Audio Media.** A party submitting media files in connection with a sentencing hearing must, to the extent possible, provide them in a format capable of being played using

commonly available media players, *e.g.*, Windows Media Player. Any party that submits a video or audio media file to the Court must simultaneously file a transcript of the content of the video or audio file. Because media files cannot currently be uploaded to ECF, a party submitting media files must file them physically with the Clerk of Court.

D. Public Record. Unless permission to the contrary has been obtained, every document in a sentencing submission, including letters, must be filed in the public record via ECF.

- i. Redactions Not Requiring Court Approval.** Parties are reminded not to include, unless necessary, the five categories of sensitive information listed in Rule 21.3 of the SDNY ECF Rules and Instructions (*i.e.*, social security numbers, names of minors, dates of birth, financial account numbers, and home addresses), and to exercise caution with the six categories of sensitive information listed in Rule 21.4 of the SDNY ECF Rules and Instructions (*i.e.*, personal identifying numbers, medical records, employment history, individual financial information, proprietary or trade secret information, and information regarding an individual's cooperation with the government). A party may, without the Court's approval, redact any such sensitive information.
- ii. Redactions Requiring Court Approval.** If a party redacts information beyond the eleven categories of information identified in Rule 7(C)(i) above, an application must be served and filed at the time the sentencing submission is served. The party seeking approval to redact information must publicly file the document with the proposed redactions. The application must clearly identify the 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 must 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.