

EMERGENCY INDIVIDUAL PRACTICES IN LIGHT OF COVID-19

**JOHN P. CRONAN
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF NEW YORK**

Chambers

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

The Court encourages parties to check these Practices frequently because they may change as the public health situation evolves. The Court also encourages parties to check the Southern District's website for additional updates: <https://nysd.uscourts.gov/covid-19-coronavirus>.

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 the Electronic Case Filing (ECF) system or, if permitted or required under the Court's Individual Practices, emailed to CronanNYSDCChambers@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. 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 (866) 434-5269, and enter Access Code 9176261, followed by the pound (#) key.

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) of the Federal Rules of Civil Procedure, 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 Rule 30(b)(5) of the Federal Rules of Civil Procedure, 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. 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.

C. Record. All teleconference and videoconference participants are hereby on notice that the Court may be recording teleconferences via audio or video file and/or through the service of a court reporter who also participates telephonically.

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 CronanNYSChambers@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.

4. Communications with Chambers

A. Telephone Calls. Parties are encouraged to make any requests or inquiries to the Court through ECF or, if permitted or required under Judge Cronan’s Individual Practices, by email. In the event a telephone call to Chambers is not answered, a party should leave a voicemail (1) briefly

stating the nature of the issue (including, if applicable, the case name and docket number) and (2) providing a call-back telephone number.

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. A consent to electronic service form is on the Court's website, available at <https://nysd.uscourts.gov/sites/default/files/2018-06/proseconsentecfnotice-final.pdf>. *Pro se* parties who are unable to use email may submit documents by regular mail 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 "Response to COVID-19" page on the Court's website, available at <https://nysd.uscourts.gov/covid-19-coronavirus>. Any questions should be directed to the *Pro Se* Intake Unit at (212) 805-0175.

5. Applications for Temporary Restraining Orders ("TROs")

Parties intending to file applications for TROs or other emergency relief must make such applications through the Court's ECF system. The party seeking emergency relief must then alert the Clerk of Court, by telephone, that it has made an application for emergency relief. *Pro se* parties without electronic filing privileges are exempt from the requirement to file electronically through the ECF system. *Pro se* litigants intending to file applications for emergency relief should follow the procedures set forth in 4.D above.

For more information, please visit the Court's website at <https://www.nysd.uscourts.gov/rules/ecf-related-instructions>. Any questions should be directed to the ECF Help Desk at helpdesk@nysd.uscourts.gov.

In addition to filing its application on ECF, a party seeking emergency relief should send all of its papers (in text-searchable PDF format, if practicable) to CronanNYSDCChambers@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.