

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
JUDGE LAURA TAYLOR SWAIN

The following rules apply to all criminal matters pending before Judge Swain on and after October 5, 2012.

Sentencing Submission Procedures

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 the procedures described below. The defendant is responsible for filing all letters submitted on behalf of the defendant, including those from friends, relatives, etc. The Government is responsible for filing all letters from victims.

In this regard, the parties are referred to E-Government Act of 2002 and the Southern District's ECF Privacy Policy ("Privacy Policy") and reminded not, unless necessary, to include 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]). 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 application to the Court.

If any material is redacted from the 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.

1. A defendant's sentencing submission must be served two weeks in advance of the date set for sentence. The Government's sentencing submission must be served one week in advance of the date set for sentence. Any reply submission must be made at least three days before the date set for sentence.* The parties must provide the Court with one courtesy copy of each submission when it is served. At the time it is served, a party shall file its sentencing submission following one of the two procedures described here. (If the criminal case is a non-ECF case, then only paper filing is allowed.)

- a. Paper Filing

* If the presentence report is not available in time for counsel to make submissions consistent with this timetable, counsel may request an adjournment.

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.

b. 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.

2. 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.
3. If you have any questions about these practices, contact the Law Clerks, (212) 805-0417 or the Courtroom Deputy Clerk, Lisa Ng, (212) 805-0424.