

INDIVIDUAL PRACTICES IN CRIMINAL CASES
Valerie Caproni, United States District Judge

Chambers

United States District Court
Southern District of New York
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Courtroom

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1. **Notices of Appearance.** Counsel are required to register in accordance with the Procedures for Electronic Case Filing and to file a Notice of Appearance within one week of the Defendant's initial appearance. Complete instructions on how to register are available on the Court's website (www.nysd.uscourts.gov).
2. **Communications with Chambers**
 - A. **Letters.** Communications with Chambers should generally be by letter filed electronically on ECF, unless the communication falls within an exception set forth below. Absent such an exception, any substantive letter received by the Court that is not filed on ECF will be docketed by the Court. In all correspondence with the Court containing an application or request, the requesting party must indicate whether its adversary consents to the request.
 - B. **Courtesy Copies.** When a submission (including letters, briefs, motions, and other documents) exceeds 20 pages in length, the submitting party must both file the submission on ECF and deliver a courtesy hard copy to Chambers by mail or hand delivery. Courtesy copies must be organized in tabbed, three-ring binders. If submissions include exhibits, the submitting party must also provide Chambers with a CD or a file transfer link containing electronic, text-searchable copies of any exhibits that cannot be submitted as a single file on ECF (e.g., video files or very long documents). Parties may not submit materials on flash or thumb drives.
 - C. **Requests for Funding by CJA Counsel.** CJA counsel requesting funding to engage investigative, expert, mentorship, or other services should do so through the CJA eVoucher system, not by letter to the Court. Requests for funding to engage associate CJA counsel, however, must be made by letter on ECF. Requests for authorization to seek interim payments may be made *ex parte* and under seal, via email to Chambers at the email address above.
 - D. **Discovery Motions.** In submitting discovery motions, counsel are expected to comply with this District's Local Criminal Rule 16.1. Any discovery motion must contain the required Rule 16.1 affidavit.

3. Sealing and Redactions

- A. **General Procedures.** Any party wishing to file a submission in redacted form or under seal must request permission to do so. Unless delayed docketing is requested, the requesting party must:
- i. File a letter on ECF that: (a) requests the redactions or sealing; (b) indicates whether the party's adversary consents to the redactions or sealing; and (c) explains why redactions or sealing are appropriate, in light of the presumption of access to the federal courts;
 - ii. File the redacted version of the document on ECF, unless the party seeks to file the entire document under seal; and
 - iii. Email to Chambers a copy of the document that the party seeks to redact or to file under seal and, if the document exceeds 20 pages, deliver to Chambers a courtesy copy (following Rule 2.B above). **Information to be redacted must be highlighted.** Unless the requesting party seeks leave to file the submission *ex parte*, all counsel of record must be copied on the email to Chambers.
- B. **Delayed Docketing.** Unless delayed docketing is specifically requested and granted, the Court will file any redacted or sealed documents with the District's Sealed Records Department.

4. Court Appearances

- A. Counsel are expected to be present and prepared to begin all court proceedings **at their scheduled times**, with no exceptions. If Defense counsel wish to confer with their clients, they must do so in advance of any scheduled conference, so that the conference may begin on time.

5. New Criminal Cases

- A. Arraignments and presentments should be conducted in Magistrate Court. When a case is assigned to this Court, the Government must call Chambers to arrange a time for an initial conference. When calling, the Government must be prepared to inform Chambers: (1) the times that it and Defense counsel are available for the conference; (2) whether the conference will be conducted under seal; and (3) whether an interpreter is required. The Government must email all charging instruments to Chambers, if they are not available on ECF, at least 48 hours prior to the conference.

6. Motions

- A. All parties must submit motion papers on ECF and must submit courtesy copies to the Court, following Rule 2.B above. If multiple Defendants in a case have filed

pretrial motions, the Government must respond to all motions in a single, omnibus brief, unless otherwise ordered.

- B. If any party intends to call an expert witness at trial, it must provide its adversary with notice sufficiently far in advance to allow for any *Daubert* motions. If any party intends to file a *Daubert* motion, the party must notify the Court of the anticipated motion well in advance of trial.

7. **Guilty Pleas**

- A. Judge Caproni prefers to conduct all change-of-plea hearings herself, when possible. If a Defendant intends to enter a disposition to a charge, the Government must call Chambers to schedule a time for a change-of-plea hearing. The Government must be prepared to inform Chambers: (1) the times that it and Defense counsel are available for the hearing; (2) whether the hearing will be conducted under seal; and (3) whether an interpreter is required.
- B. At least 48 hours prior to the hearing, the Government must email to Chambers any plea agreement, cooperation agreement, *Pimentel* letter, and/or superseding charging instrument.
- C. The Court expects change-of-plea hearings to begin on time. Defendants and Defense counsel must review any plea, cooperation, or other agreement (with the assistance of an interpreter, if necessary) **in advance** of the hearing, so that the hearing may begin at the scheduled time.

8. **Changes of Counsel**

- A. If a Defendant wishes to relieve or substitute his counsel of record, the Defendant's counsel of record must submit a letter on ECF requesting the substitution. The letter must indicate the times that the Defendant's counsel of record and the Government are available to appear for a conference with the Court. If a Defendant is represented by the Federal Defender or by CJA counsel, the Court will not grant the Defendant more than one request to substitute counsel, absent compelling circumstances.

9. **Sentencings**

- A. **Adjournments.** Any request for an adjournment of sentencing must be made by letter on ECF no later than **three business days** before the scheduled proceeding. The request must state the reason for the adjournment and whether opposing counsel consents.
- B. **Written Submissions on Sentence.** Unless otherwise ordered, the Court requires both parties to file their written sentencing submissions **on the same day**. The Court generally does not permit written responses or replies to sentencing submissions. The parties' sentencing submissions must be filed at least two

weeks prior to sentencing, unless otherwise ordered. Courtesy copies of written sentencing submissions and letters must be submitted to Chambers, following Rule 2.B above. Any requests for redactions or sealing must comply with Rule 3 above.

- C. **Letters.** Except for submissions requested to be filed under seal, every document in a sentencing submission, including letters, must be filed on ECF. Letters should be grouped and filed together as attachments to a single document marked “SENTENCING MEMORANDUM,” with the caption and docket number clearly indicated. The Defendant is responsible for filing all letters submitted on behalf of him- or herself, including letters from friends and relatives. The Government is responsible for filing all letters from victims.

10. **Trials**

- A. **Requests to Charge and Proposed Voir Dire Questions.** Requests to charge and proposed voir dire questions must be submitted to the Court at least two weeks prior to trial, unless otherwise ordered. The parties must submit these materials on ECF and must submit courtesy copies to the Court in Word by the Court-ordered deadline. Proposed voir dire questions should include only those questions unique to the facts of the case being tried. Proposed voir dire questions should also include a list of persons and places that may be mentioned during the trial. If multiple Defendants will be tried, all Defendants must, unless otherwise ordered, submit a single request to charge and a single set of proposed voir dire questions.
- B. **Exhibits.**
- i. At least one week prior to trial, the Government must submit to the Court an exhibit list and copies of all exhibits that it intends to use in its case-in-chief by file transfer portal (e.g., USAfx). The exhibit list must be in large font and consist of a chart with four columns labeled: “Exhibit Number,” “Document Description,” “Identified,” and “Admitted” (with the last two columns left blank). The exhibit list must be emailed to the Court in both PDF and Microsoft Word or Microsoft Excel formats. All exhibits must be pre-marked.
 - ii. During trial, if either the Government or the Defense identify or admit any exhibit that has not previously been submitted to the Court, that party must email a PDF copy of the exhibit to Chambers no later than 8:00 p.m. on the day that the exhibit was identified or admitted.
- C. **Section 3500 Material.** The Government is encouraged to adhere to its customary practice of producing § 3500 material prior to trial. If the Government adheres to this practice, it must submit all § 3500 material to the Court in electronic format by file transfer portal (e.g., USAfx) at least one week prior to trial.

- D. **Jury selection.** The Court selects jurors using a struck-panel method.
- E. **Trial Schedule.** The Court generally holds trials on Mondays through Thursdays between 9:30 a.m. and 5:00 p.m. The Court may also sit for trial on Fridays if trial proceeds slowly (or as otherwise needed). The Court will generally allow jurors to deliberate on Fridays.
- F. **Objections.** The Court strongly prefers to resolve objections to exhibits prior to the time that trial sessions begin each day. If the parties anticipate prolonged arguments regarding the admissibility of any evidence, they are urged to raise the issue with the Court in advance, so that the Court can hold a conference prior to the time that the trial session is scheduled to begin. All parties must be prepared to appear for such a conference as early as 9:00 a.m. on any day during trial.

11. Policy on the Use of Electronic Devices

- A. **Pre-Approved Personal Electronic Devices.** Attorneys' use of mobile phones and other personal electronic devices within the courthouse and its environs is governed by Revised Standing Order M10-468. Subject to security screening, any attorney who is a member of this Court's Bar, obtains the necessary service pass from the District Executive's Office, and shows the service pass upon entering the courthouse may bring some personal electronic devices into the courthouse. Mobile phones are permitted inside the courtroom, but they must be kept turned off at all times. Non-compliance with this rule may result in forfeiture of the device for the remainder of the proceedings.
- B. **Other Electronic Devices.** Prior court order is required for an attorney to bring into the courthouse any general purpose computing device, such as a laptop or tablet, or any other electronic equipment that does not qualify as a "personal electronic device" pursuant to Revised Standing Order M10-468. In addition, prior court order is required for any attorney who has not obtained a service pass from the District Executive's Office and wishes to bring a personal electronic device into the courthouse. Any attorney seeking to bring such equipment into the courthouse should **e-mail** a proposed order to Chambers **at least 10 business days in advance** of the relevant trial or hearing requesting permission to use such equipment. A fillable version of the order is available at <https://www.nysd.uscourts.gov/sites/default/files/2020-06/Electronic%20Dev.pdf>. If the request is granted, Chambers will file the order with the District Executive's Office. The order must be shown upon bringing the equipment into the courthouse.