

**COVID-19 EMERGENCY INDIVIDUAL PRACTICES IN CIVIL AND CRIMINAL
CASES**

Lewis J. Liman, United States District Judge

Chambers

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Unless otherwise ordered by the Court, these COVID-19 Emergency Individual Practices apply to *all* matters before Judge Liman (whether criminal or civil and whether involving a *pro se* party or all counseled parties), and they are a supplement to Judge Liman's standard Individual Practices. If there is a conflict between these Practices and Judge Liman's standard Individual Practices, these Practices control.

The Court encourages parties to check these Practices frequently because they may change as the public health situation evolves.

1. Scope

- A. These Practices apply to all matters, deadlines, and events proceeding before Judge Liman, regardless of when the case was filed or when any applicable deadline or event was scheduled.
- B. For example, Paragraphs 3(A)–(B) apply to all depositions, even if a deposition was previously noticed to be held in person. Additionally, Paragraphs 4(A)–(B) apply to all conferences, even if a previous order directed parties to appear in person.

2. 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 ECF or, if permitted or required under the Court's Individual Practices, emailed to LimanNYSDCChambers@nysd.uscourts.gov. This rule relieves counsel of any courtesy copy obligations contained in Judge Liman's Individual Practices.
- 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 delivery of mail to the Court is likely to be delayed.

3. Depositions

- A. Pursuant to Fed. R. Civ. P. 30(b)(3) and (b)(4), 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 Fed. R. Civ. P. 30(b)(5), 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, 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. The references to a schedule for depositions in all Case Management Plan and Scheduling Orders in matters assigned to Judge Liman should be construed and understood to include and expressly to permit depositions by telephone, videoconference, or other remote means.
- B. Nothing in the above-mentioned rule prevents parties from seeking to modify any pretrial schedule in light of the COVID-19 pandemic (or for any other good cause). Prior to seeking such relief, the parties must, as always, attempt to meet and confer (via remote means) in a good faith effort to reach agreement.

4. Conferences and Proceedings

- A. In Civil Cases.** Unless otherwise ordered by the Court *at a date subsequent to the effective date of these Practices*, all conferences and proceedings in civil cases will be held by telephone. In some cases, the Court may direct one of the parties to set up a conference line. In all other cases, the parties should call into the Court’s dedicated conference line at (888) 251-2909 and enter Access Code 2123101 followed by the pound (#) key.
- B. In Criminal Cases.** To the maximum extent possible, all conferences and proceedings will be held by either telephone or videoconference. 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), and any other relevant law, conduct the matter by telephone or videoconference 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. Decorum.** Parties are expected to treat teleconferences as they would treat any public court appearance. If the Court is running late and a conference or hearing in another matter is ongoing, parties shall remain silent (mute the line) until their case is called. When speaking on a conference held by telephone, each counsel should identify him or herself prior to speaking.

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

E. Notice Obligation. With the sole exception of *pro se* litigants, each party is responsible for ensuring that every other party is aware that the conference will proceed telephonically.

5. Teleconference Protocol. Parties are asked to respect the following procedures for conferences proceeding telephonically.

A. Use a landline whenever possible.

B. Use handset rather than speakerphone.

C. Identify yourself each time you speak.

D. Remain mindful that, unlike in a courtroom setting, interrupting will likely render both speakers unintelligible.

E. Place the phone on mute when not speaking to eliminate background noise.

F. Spell proper names.

6. Communications with Chambers

A. Telephone Calls. Telephone calls will not be answered but will go to voicemail; and there may be significant delays in responding to any voicemail messages. Thus, parties are encouraged to make any requests or inquiries to the Court through ECF or, if permitted or required under the Court's Individual Practices, by email. If leaving a voicemail, a party should (1) briefly state the nature of the issue (including, if applicable, the case name and docket number), and (2) provide a call-back telephone number.

B. Urgent Matters. For *urgent* matters requiring immediate attention, parties should send an email to Chambers that (1) includes the word "URGENT" in the subject line, (2) specifies the case name and docket number, (3) briefly describes the nature of the issue, and (4) provides a telephone number at which the party (and any other relevant parties) can be reached.

C. Faxes. Faxes are *not* permitted for any purposes.

D. Hand Deliveries. Nothing may be delivered to Chambers absent advance permission from the Court.

E. By *Pro Se* Parties. In light of the current global health crisis, parties proceeding *pro se* are encouraged to submit all filings by email to:

[Temporary Pro Se Filing@nysd.uscourts.gov](mailto:Temporary_Pro_Se_Filing@nysd.uscourts.gov).

Pro se parties also are encouraged to consent to receive all court documents electronically. A [consent to electronic service form](https://nysd.uscourts.gov/sites/default/files/2018-06/prose-consentecfnote-final.pdf) is on the Court’s website, available at <https://nysd.uscourts.gov/sites/default/files/2018-06/prose-consentecfnote-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>.

F. In New Criminal Cases. Upon assignment of a new criminal case to Judge Liman, the Assistant United States Attorney must immediately email the Court to arrange for a prompt conference/arraignment.

7. Applications for Temporary Restraining Orders (“TROs”).

Parties intending to file applications for TROs or other emergency relief must send all of their papers (in text-searchable .pdf format) to the Court by email. 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.

8. Pro Se Law Clinic

The New York Legal Assistance Group’s *Pro Se* Law 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**.