

August 22, 2016

INDIVIDUAL PRACTICES IN CRIMINAL CASES
KATHERINE B. FORREST, UNITED STATES DISTRICT JUDGE

Chambers

United States District Court
Southern District of New York
500 Pearl Street, Room 2230
New York, NY 10007
(212) 805-0276

Courtroom

Joseph Pecorino, Courtroom Deputy
Courtroom 23B
500 Pearl Street
(212) 805-0139

1. ECF Cases. Counsel are required to register in accordance with the Procedures for Electronic Case filing within **one week** following the initial pretrial conference. Counsel can access the Court’s web site: www.nysd.uscourts.gov and click on “CM/ECF Home Page” for complete instructions on how to register.

2. Communications. Joseph Pecorino, Judge Forrest’s Courtroom Deputy, is the primary point of contact for all criminal matters. Except for urgent matters requiring **immediate** attention, all communication with the Court should be in writing and must contain the docket number for the case and the Court’s initials (KBF). Written communication should be sent to ForrestNYSDCChambers@nysd.uscourts.gov. For an urgent matter, call chambers at 212-805-0276.

3. Substitution of Counsel. When there is an application for substitution of defense counsel, counsel of record must contact the Courtroom Deputy (212-805-0139) to schedule a conference. At the conference, the Court will address the application by defense counsel to be relieved. The defendant, replacement counsel and the Assistant United States Attorney must also attend the conference.

4. Motions. In making discovery motions, counsel are expected to comply with Southern District Local Criminal Rule 16.1. Any discovery motion must contain the Rule 16.1 Affidavit.

5. Initial Conference / Arraignment.

A. Upon assignment of a criminal case to Judge Forrest, the parties shall immediately arrange with the Courtroom Deputy for a prompt conference at which the defendant will be present in order to set an appropriate schedule. The Assistant United States Attorney shall submit to chambers as soon as possible a courtesy copy each of

the indictment and criminal complaint, if one exists. Courtesy copies should be submitted to ForrestNYSChambers@nysd.uscourts.gov, if possible.

B. Defense counsel are required to ask the Court, at the first conference, to hold a Curcio hearing whenever counsel may have a conflict of interest in his or her representation of the defendant.

6. Guilty Pleas.

A. Guilty pleas will ordinarily be taken by Judge Forrest and are not assigned to a Magistrate Judge. No plea will be scheduled until after a defendant's first appearance before the Court.

B. Defense counsel are expected to have reviewed any plea, cooperation or other agreement—if necessary, with the assistance of an interpreter—with the defendant **prior** to the time set for the conference with the Court.

C. Defendants shall be prepared in advance of their pleas by their attorneys to give narrative allocutions that incorporate all the elements of the offense(s) to which they are pleading guilty.

D. Where a defendant is pleading guilty pursuant to a plea agreement or a cooperation agreement, a copy must be received by chambers no fewer than **three** business days before the scheduled plea. Where a defendant is pleading guilty pursuant to a Pimentel letter, a copy of the Pimentel letter must be received by chambers no fewer than **three** business days before the scheduled plea.

E. Defense counsel shall bring a copy of the Indictment or Information to the proceeding.

7. Exclusion of Time. At scheduled court appearances, parties seeking an exclusion of time under the Speedy Trial Act must be prepared to apprise the Court of facts that will permit the Court to make an independent determination as to whether or not to exclude time, considering both the interest of the public and the interest of the defendant in a speedy trial, in conformance with 18 U.S.C. § 3161(h)(8), Parisi v. United States, 529 F.3d 134 (2d Cir. 2008), and United States v. Zedner, 547 U.S. 489 (2006). It is not sufficient that the parties agree to exclude time.

8. Bail Modifications. Any written request for a bail modification shall indicate whether the Government and the Pre-Trial Services Officer consent to the request.

9. Sentencing.

A. Presentence Reports.

i. Within 14 days of a guilty plea or verdict, defense counsel must schedule an interview with the Probation Department. Defense counsel shall also make himself or herself reasonably available for such interview.

ii. Within 14 days of a guilty plea or verdict, the Government must provide (except for 5K1.1 applications) a statement of the case and all pertinent facts upon which it expects the Court to rely at sentencing to the Probation Department.

iii. If defense counsel does not receive a draft Presentence Report 40 days prior to the sentencing date, counsel shall immediately inform the Court to allow the Court time to expedite processing.

B. Deadline for Sentencing Submissions. Unless otherwise ordered, sentencing memoranda or submissions on behalf of defendants are due two weeks before the scheduled sentencing date. Sentencing memoranda or submissions from the Government are due one week before such date. In addition, sentencing submissions should be filed in accordance with Judge Forrest's Individual Rules of Practice for Sentencing Proceedings.

C. Docketing and Filing of Sentencing Submissions. Sentencing submissions and letters often contain sensitive information that raise concerns for personal privacy, the security of defendants and/or witnesses, or the confidentiality of ongoing law enforcement operations. Judge Forrest docket and files all materials received in connection with sentencing under seal promptly after the sentencing proceeding. Any third-party application for access to such materials must be filed with the Court, with a courtesy copy for chambers, and served on counsel for the defendant concerned and the Government. If an application is made, any party opposing unsealing will have the burden of demonstrating that particular information should be maintained under seal or redacted.

D. Adjournments. Judge Forrest sets sentencing dates in consultation with counsel at the time of plea or verdict, and she expects that the Court and counsel will keep and protect those dates whenever possible. Any request for an adjournment of sentence must be for very good cause and should be made in writing (with a full

explanation) as early as possible, but no later than **three** business days before the date at issue. Such requests should state whether opposing counsel consents.