July 29, 2014

INDIVIDUAL RULES & PRACTICES IN CRIMINAL CASES
VERNON S. BRODERICK, UNITED STATES DISTRICT JUDGE

Chambers
United States District Court
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Room 415
New York, NY 10007
(212) 805-6165

Courtroom
United States District Court
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Courtroom 518
New York, NY 10007
Melissa Williams, Courtroom Deputy
(212) 805-0183

1. **Initial Matters.** Upon assignment of a criminal case to Judge Broderick, the parties shall contact Courtroom Deputy Melissa Williams to arrange a prompt initial conference. If Mrs. Williams is unavailable, the parties are directed to contact one of Judge Broderick's law clerks by calling Chambers at (212) 805-6165. The Assistant United States Attorney ("AUSA") shall provide to Chambers, as soon as practicable, a courtesy copy of the Indictment and the Complaint, if one exists.

2. **Electronic Case Filing (ECF).** Counsel are required to register for ECF promptly after being retained or assigned. Counsel can obtain instructions on how to register at http://www.nysd.uscourts.gov/ecf_filing.php.

3. **Communications with Chambers.** For docketing, scheduling and calendar matters, counsel shall contact the Courtroom Deputy. Otherwise—except for matters requiring immediate attention—all communications with Chambers must be in writing and contain the docket number for the case and the Court's initials (VSB). Written communications should be filed on ECF.

   Parties should not submit courtesy copies of letters filed on ECF, unless the letter has an attachment greater than ten pages. In such cases, counsel should ensure that the courtesy copy is a copy of the ECF-filed version of the letter and includes the automatically-generated ECF header (that is, the text—*e.g.*, "Case 1:14-cr-01234-ABC Document 100 Filed 01/1/14 Page 1 of 1"—appearing at the top of each page of a document on the ECF system).

   Letters to be filed under seal or containing sensitive or confidential information may be emailed to the Court at BroderickNYSDChambers@nysd.uscourts.gov as a .pdf attachment. All counsel must be copied on the email. The email shall state clearly in the subject line: (1) the caption of the case, including the lead party names and docket number; and (2) a brief description of the contents of the letter (*e.g.*, "14-cr-9999 – U.S. v. Smith – Request to File Under Seal"). Parties shall not include substantive communications in the body of the email; such communications shall be included only in the body of the attached letter. Parties are directed to Rule 10.E for additional guidance for filing documents in redacted form or under seal.

4. **Benefactor Payments.** Whenever defense counsel has received, or is receiving, benefactor payments that subject counsel to a conflict of interest, said counsel must inform the Court and request a *Curcio* hearing in advance of the first conference.

5. **Substitution of Counsel.** When there is a substitution of defense counsel, counsel of record must promptly contact the Courtroom Deputy 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 AUSA must also attend the conference.

6. **Discovery Motions.** In making discovery motions, counsel shall comply with Local Criminal Rule 16.1. Any discovery motion must contain the Rule 16.1 affidavit.

7. **Bail Modification.** Any written request for a bail modification by a defendant shall indicate whether or not the Government and the Pretrial Services Officer consent to the request.

8. **Guilty Pleas.** Guilty pleas will ordinarily be taken by Judge Broderick. Permission for guilty pleas to be taken before a Magistrate Judge will be given in certain circumstances. The AUSA shall provide a courtesy copy of the plea agreement, cooperation agreement or *Pimentel* letter to Chambers as soon as practicable, ordinarily at least two business days before the scheduled plea. These documents should be emailed to BroderickNYSDChambers@nysd.uscourts.gov. 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.

9. **Trial Procedures**

   A. **Pretrial Submissions.** Unless otherwise ordered, *in limine* motions shall be filed no later than two weeks prior to the scheduled commencement of trial, and responses shall be filed no later than 10 days prior to the scheduled commencement of trial. Any proposed voir dire questions, jury instructions, verdict forms or trial memoranda shall be filed the Thursday prior to trial. Two courtesy copies should be delivered to Chambers that same day. In addition, each party shall email those documents as Word documents to BroderickNYSDChambers@nysd.uscourts.gov.

   B. **Schedule.** Trials will generally be conducted Monday through Thursday from 9:30 a.m. to 5:00 p.m., with lunch from 12:45 p.m. to 2:00 p.m. However, any Trial scheduled to last for approximately one week will be conducted Monday through Friday. Upon request, the Court will be available to meet with counsel from 9:00 a.m. to 9:30 a.m. Such requests must be made by 9:30 p.m. the evening before the requested meeting. Testimony will begin at 9:30 a.m. Jurors may deliberate on Fridays.

   C. **Jury Selection.** Jurors will be selected by the struck panel method as described in Judge Broderick's Rules for Jury Selection, available at http://nysd.uscourts.gov/judge/Broderick.

   D. **Exhibits and 3500 Material**

    i. Exhibits shall be pre-marked.

    ii. At the start of trial, the Government shall provide the Court with three copies of the witness list and exhibit list and one set of pre-marked documentary exhibits and Section 3500 material assembled sequentially in a binder, or in separate manila folders labeled with the exhibit numbers and placed in a suitable container for ready reference.

    iii. In advance of each trial session, counsel for the party going forward at that session must show opposing counsel the exhibits he or she intends to introduce at the session. The opponent shall indicate those exhibits to which he or she has no objection, and the Court will admit them when offered at the session. Those exhibits to which there is an objection shall be presented to the Court for ruling **before** the opening of the session.

    iv. Sidebars during jury trials are discouraged. Counsel are expected to anticipate any matters that might require argument and to raise those issues with the Court in advance of the time that the jury will be hearing the evidence.

    v. If counsel intend to distribute copies of documentary exhibits to the jury, they are to make a separate copy for each juror.

    vi. Counsel shall make certain that they have custody of all original exhibits. The Court does not retain them, and the Courtroom Deputy is not responsible for them.

10. Sentencing

A. Sentencing Submissions

    i. ECF Filing. The defendant's sentencing submission shall be filed on ECF two weeks in advance of the date set for sentencing. The Government's sentencing submission shall be filed on ECF one week in advance of the date set for sentencing. The parties shall provide the Court with one courtesy copy of each submission when it is filed.

    ii. Letters. 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. A party shall group and file the letters together as attachments to a single document marked SENTENCING MEMORANDUM with the caption and docket number clearly indicated.

B. Adjournments.
Any request for an adjournment of a sentencing proceeding shall be made as early as possible, and **no later than three business days** before the proceeding. Such requests should indicate whether opposing counsel consents.

C. Public Record.
Unless permission to the contrary has been obtained, every document in a sentencing submission, including letters, shall be filed in the public record.

    D. Privacy Policy. The parties are directed to the E-Government Act of 2002 and the Southern District's ECF Privacy Policy ("Privacy Policy") and reminded not to include, unless necessary, the five categories of "sensitive information" in their submissions (*i.e.*, social security numbers, names of minor children [use only the initials], dates of birth [use only the year], financial account numbers and home addresses [use only the City and State]).

    E. Redactions

        i. Redactions Not Requiring Court Approval. 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 Court approval.

        ii. Redactions Requiring Court Approval. If a party redacts information beyond the eleven categories of information identified in the Privacy Policy, an application to do so must be filed at the time the sentencing submission is served. The application must clearly identify the requested redaction and explain the reasons for the redaction. The application will be addressed at the sentencing proceeding.

        iii. Sealing. If any material is redacted from a publicly-filed document, only those pages containing the redacted material will be filed under seal. Counsel shall 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.