



NEW YORK
CITY BAR

**COMMITTEE ON
FEDERAL COURTS**

HARRY SANDICK
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March 17, 2020

Hon. Robert A. Katzmann
Chief Judge, U.S. Court of
Appeals for the Second
Circuit
Thurgood Marshall United
States Courthouse
40 Foley Square
New York, New York 10007

Hon. Roslynn R. Mauskopf
Chief Judge, United States
District Court for the Eastern
District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Hon. Colleen McMahon
Chief Judge, United States
District Court for the Southern
District of New York
Daniel Patrick Moynihan United
States Courthouse, Room 24A
500 Pearl St.
New York, NY 10007-1312

Re: Recommendations in Light of the COVID-19 Pandemic

We write this open letter to the Chief Judges in the federal district courts in the New York City metropolitan area and to the United States Court of Appeals for the Second Circuit, to make certain recommendations during the public health crisis in which we now find ourselves due to the COVID-19 pandemic that is gripping our city, nation and world.

Even during times of crisis, lawyers have a duty to seek to advance justice and to make sure that legal proceedings continue where possible. That said, there are certain modest and immediate changes in practice that judges and courts can encourage lawyers to take that would reduce the risk of transmission of the COVID-19 disease. We recognize that some of these proposed changes may not be appropriate for certain cases; and some of these proposals may have already been adopted by individual judges. While no one size fits all, and while there will likely be more complicated issues that arise as the public health crisis continues, here are certain initial steps that can be taken by judges and the courts:

- In cases where retained attorneys have appeared for both parties, email service of discovery demands and responses should be acceptable, without the need for the mailing of paper copies.
- Courts should accept electronic signatures or the use of “/s” rather than require a physical signature on a document (physical signatures can be accepted at a later date if needed).
- Courtesy copies should not be delivered to court.

- Court appearances should, to the maximum feasible extent, be held by teleconference or video-conference, including arraignments (particularly in multi-defendant cases).
- Courts should give strong consideration to a request for the extension of discovery schedules if specific discovery in the case would require lawyers, witnesses, court stenographers, vendors and others to take steps that would be dangerous given the current public health crisis. A generalized desire by the court to move a case along, should not override the need for safety, especially where the case involves lawyers, witnesses or others who are at high-risk to COVID-19. Courts should also encourage counsel to use technological means, if reasonably feasible, to continue case progress while preserving health and safety.
- Courts should give strong consideration to requests for adjournments of sentencings made by defendants, in order to enable family and friends to attend.
- In cases with pro se litigants, their court filings should be accepted as valid if sent to the court by mail, and such mailed filings by pro se litigants should be deemed made as of the date of mailing, with opposing counsel receiving five additional business days to respond.
- Appellate briefs should not need to be filed on paper if they are filed by ECF, until the current state of emergency is lifted.

Sensible steps such as these will harmonize the goals of the justice system with those called for by public health experts and we strongly urge that these steps be taken wherever possible. Thank you for your consideration of this request.

Respectfully,

Harry Sandick
Chair, Federal Courts Committee