

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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|------------------------|---|------------------|
| -----                  | X |                  |
|                        | : |                  |
| DAVID DOUEK,           | : |                  |
|                        | : |                  |
| Plaintiff,             | : |                  |
|                        | : | 20-CV-8074 (JMF) |
| -v-                    | : |                  |
|                        | : | <u>ORDER</u>     |
|                        | : |                  |
| CITIBANK, N.A., et al, | : |                  |
|                        | : |                  |
| Defendants.            | : |                  |
|                        | : |                  |
| -----                  | X |                  |

JESSE M. FURMAN, United States District Judge:

On January 7, 2021, Defendant Citibank N.A. filed a motion to dismiss the complaint under Rule 12(b) of the Federal Rules of Civil Procedure. Additionally, per the Court's previous Orders, *see* ECF Nos. 9 & 12, Defendants TD Bank, N.A., Experian Information Solutions, Inc, and Equifax Information Services LLC are required to answer or otherwise respond to Plaintiff's complaint no later than February 3, 2021.

Under Rule 15(a)(1)(B), a plaintiff has twenty-one (21) days after a defendant's service of its answer or its motion under Rule 12(b) to amend the complaint once as a matter of course. In light of the extended deadlines for TD Bank, Experian, and Equifax and because Plaintiff is proceeding *pro se*, however, the Court will give Plaintiff additional time to amend the complaint. Put differently, **Plaintiff should not file an amended complaint (or opposition to the motion) now, but should wait to see if any other Defendants file a motion to dismiss.**

Accordingly, it is hereby ORDERED that Plaintiff shall file any amended complaint by **March 10, 2021**. If Plaintiff believes that the pleading of additional facts will cure deficiencies identified in any motion to dismiss that has been filed, the Plaintiff should include those facts in the amended complaint. Plaintiff will not be given any further opportunity to amend the complaint to address issues raised by any motion to dismiss.

If Plaintiff does amend, by three (3) weeks after the amended complaint is filed, each Defendant that has moved to dismiss shall: (1) file an answer; (2) file a new motion to dismiss; or (3) file a letter on ECF stating that it relies on the previously filed motion to dismiss. If a Defendant files an answer or a new motion to dismiss, the Court will deny any previously filed motion to dismiss filed by that Defendant as moot.

If no amended complaint is filed, Plaintiff shall file and serve any opposition to any motion to dismiss by **March 10, 2021**. Plaintiff shall do so in the form of a single, consolidated memorandum of law responding to all motions to dismiss that have been filed. Any reply in support of any motion to dismiss shall be filed by **March 24, 2021**.

Either party may request an extension of the briefing schedule for the motion. A deadline will be extended if the party demonstrates that its pursuit of the action has been diligent and that there is a good reason for extending the deadline.

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All counsel are required to register promptly as filing users on the Court's Electronic Case Filing system ("ECF") and to familiarize themselves with the [SDNY ECF Rules & Instructions, which are available at http://nysd.uscourts.gov/ecf\\_filing.php](http://nysd.uscourts.gov/ecf_filing.php). *Pro se* parties are not eligible to receive service of documents filed in this case through ECF unless they consent in writing, as described below. Therefore, unless Plaintiff consents to receive service of court filings electronically, counsel are required to serve Plaintiff with copies of documents filed with the Court and to file affidavits of such service with the Court thereafter.


**To minimize delays due to mailing, *pro se* parties are encouraged to consent to receive all court documents electronically.** A Consent to Electronic Service Form is attached to this Order and available on the Court's website at <https://nysd.uscourts.gov/sites/default/files/2018-06/proseconsentecfnotice-final.pdf>. Additionally, 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). Instructions for filing documents by email are attached to this Order. *Pro se* parties who are unable to use email may still submit documents by regular mail to the *Pro Se* Office, Thurgood Marshall Courthouse, 40 Centre Street, Room 105, New York, New York 10007, or in person at the drop box located at the U.S. Courthouses in Manhattan (500 Pearl Street) and White Plains (300 Quarropas Street). In either case, however, there may be significant delays before such filings are received and/or docketed. No documents or court filings should be sent directly to Chambers. Copies of correspondence between a *pro se* party and counsel shall not be sent to the Court. For more information, please visit the Court's website at [www.nysd.uscourts.gov](http://www.nysd.uscourts.gov) and review the Court's Individual Rules and Practices in Civil *Pro Se* Cases, attached to this Order.

There is a *Pro Se* Law Clinic in this District to assist non-incarcerated people who are parties in civil cases and do not have lawyers. The Clinic may be able to provide Plaintiff with advice in connection with this case. The *Pro Se* Law Clinic is run by a private organization called the New York Legal Assistance Group; it is not part of, or run by, the Court (and, among other things, therefore cannot accept filings on behalf of the Court, which must still be made by any unrepresented party through the *Pro Se* Intake Unit). Due to the current global health crisis, the 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, Plaintiff should call (212) 659-6190 and leave a message **specifying a call-back number.**

Finally, the Clerk of the Court is directed to mail a copy of this Order to Plaintiff.

SO ORDERED.

Dated: January 8, 2021  
New York, New York

  
JESSE M. FURMAN  
United States District Judge



United States District Court  
Southern District of New York  
[Temporary\\_Pro\\_Se\\_Filing@nysd.uscourts.gov](mailto:Temporary_Pro_Se_Filing@nysd.uscourts.gov).

## **INSTRUCTIONS: EMAIL PRO SE FILINGS**

### **How do I email documents to the Clerk's Office for filing?**

- **SIGN.** You must sign your document by either signing the document before you scan it or typing "/s/ [Your Name]." The Court will accept typed signatures in this format.
- **CONTACT INFORMATION.** The document must include your name, address, telephone number and email address (if available).
- **SUBJECT LINE.** For existing cases, the subject line of the email must read, "Pro Se Filing – XX-CV-XXXX." For new cases, the subject line of the email must read, "Pro Se Filing – New Case."
- **EMAIL** the PDF document to  
[Temporary\\_Pro\\_Se\\_Filing@nysd.uscourts.gov](mailto:Temporary_Pro_Se_Filing@nysd.uscourts.gov).

### **Can I start a new case by email?**

- **YES.** To start a new case, you may email your complaint to  
[Temporary\\_Pro\\_Se\\_Filing@nysd.uscourts.gov](mailto:Temporary_Pro_Se_Filing@nysd.uscourts.gov).
- In addition to emailing your complaint, you must either (1) email an application requesting that the fee be waived, available at <https://nysd.uscourts.gov/node/838>, or (2) pay the filing fee of \$400. If you are paying the filing fee, add to the subject line, "Pro Se Filing – New Case – FEE PAID." Payment must be made within 21 days by certified check or money order, made out to Clerk, USDC, SDNY, and mailed to: Cashiers-Room 120, 500 Pearl Street, New York, NY 10007. The check must include the case number, which you can learn by calling (212) 805-0175.

### **Can I include any questions or information in my email?**

- **NO.** You must only include the attached document(s) for filing. No one will read messages in the body of the email and no one will respond to any questions.

### **Will someone respond to my email?**

- **NO.** This email address cannot respond to inquiries. The Clerk's Office will download the email attachment. This is a NO-REPLY email address. But you may call (212) 805-0175 to confirm that your documents were received. Please wait at least one week before calling.

### **Can I email the assigned judge instead?**

- **NO.** Any submission emailed to any other court email address will be disregarded by the recipient.

### **Can the Clerk's Office assist with scanning?**

- **NO.** If you are unable to email your documents, you must submit them by mail to the Pro Se Intake Unit.

### **Can someone email my documents for me?**

- **YES.** But please include your email address, if available, in the document. The Court will only communicate with the email address listed on the filed documents, and only if you have consented to receive court documents by email.

### **Can I receive court documents by email?**

- **YES.** Complete and email a signed [consent to electronic service](#) form.

### **Do I need to serve my adversary?**

- **NO.** After the document is emailed to the Court and electronically filed, your adversary will receive electronic notification of the filing.



**United States District Court  
Southern District of New York  
*Pro Se Office***

## **Pro Se (Nonprisoner) Consent & Registration Form to Receive Documents Electronically**

Parties who are not represented by an attorney and are not currently incarcerated may choose to receive documents in their cases electronically (by e-mail) instead of by regular mail. Receiving documents by regular mail is still an option, but if you would rather receive them only electronically, you must do the following:

1. Sign up for a PACER login and password by contacting PACER<sup>1</sup> at [www.pacer.uscourts.gov](http://www.pacer.uscourts.gov) or 1-800-676-6856;
2. Complete and sign this form.

If you consent to receive documents electronically, you will receive a Notice of Electronic Filing by e-mail each time a document is filed in your case. After receiving the notice, you are permitted one “free look” at the document by clicking on the hyperlinked document number in the e-mail. Once you click the hyperlink and access the document, you may not be able to access the document for free again. After 15 days, the hyperlink will no longer provide free access. Any time that the hyperlink is accessed after the first “free look” or the 15 days, you will be asked for a PACER login and may be charged to view the document. For this reason, *you should print or save the document during the “free look” to avoid future charges.*

### **IMPORTANT NOTICE**

Under Rule 5 of the Federal Rules of Civil Procedure, Local Civil Rule 5.2, and the Court’s Electronic Case Filing Rules & Instructions, documents may be served by electronic means. If you register for electronic service:

1. You will no longer receive documents in the mail;
2. If you do not view and download your documents during your “free look” and within 15 days of when the court sends the e-mail notice, you will be charged for looking at the documents;
3. This service does *not* allow you to electronically file your documents;
4. It will be your duty to regularly review the docket sheet of the case.<sup>2</sup>

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<sup>1</sup> Public Access to Court Electronic Records (PACER) ([www.pacer.uscourts.gov](http://www.pacer.uscourts.gov)) is an electronic public access service that allows users to obtain case and docket information from federal appellate, district, and bankruptcy courts, and the PACER Case Locator over the internet.

<sup>2</sup> The docket sheet is the official record of all filings in a case. You can view the docket sheet, including images of electronically filed documents, using PACER or you can use one of the public access computers available in the Clerk’s Office at the Court.



**United States District Court  
Southern District of New York**  
*Pro Se Office*

**CONSENT TO ELECTRONIC SERVICE**

I hereby consent to receive electronic service of notices and documents in my case(s) listed below. I affirm that:

1. I have regular access to my e-mail account and to the internet and will check regularly for Notices of Electronic Filing;
2. I have established a PACER account;
3. I understand that electronic service is service under Rule 5 of the Federal Rules of Civil Procedure and Rule 5.2 of the Local Civil Rules, and that I will no longer receive paper copies of case filings, including motions, decisions, orders, and other documents;
4. I will promptly notify the Court if there is any change in my personal data, such as name, address, or e-mail address, or if I wish to cancel this consent to electronic service;
5. I understand that I must regularly review the docket sheet of my case so that I do not miss a filing; and
6. I understand that this consent applies only to the cases listed below and that if I file additional cases in which I would like to receive electronic service of notices of documents, I must file consent forms for those cases.

**Civil case(s) filed in the Southern District of New York:**

**Note:** This consent will apply to all cases that you have filed in this court, so please list all of your pending and terminated cases. For each case, include the case name and docket number (for example, John Doe v. New City, 10-CV-01234).

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Name (Last, First, MI)

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| Address | City | State | Zip Code |
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| Telephone Number | E-mail Address |
|------------------|----------------|

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| Date | Signature |
|------|-----------|

**Return completed form to:**

Pro Se Office (Room 200)  
500 Pearl Street  
New York, NY 10007

Revised: November 12, 2019

**INDIVIDUAL RULES AND PRACTICES IN CIVIL *PRO SE* CASES**

**Jesse M. Furman, United States District Judge**

**Pro Se Office**

United States District Court  
Southern District of New York  
Thurgood Marshall Courthouse  
40 Centre Street, Room 105  
New York, NY 10007  
(212) 805-0175

**Unless otherwise ordered by the Court, these Individual Practices apply to all civil cases involving *pro se* litigants (that is, litigants without counsel) before Judge Furman.**

**1. Communications with Chambers**

- A. By a *Pro Se* Party.** All communications with the Court by a *pro se* party should be delivered in person or mailed to the *Pro Se* Office, Thurgood Marshall Courthouse, 40 Centre Street, Room 105, New York, New York 10007. No documents or court filings may be sent directly to Chambers. **Any questions should be directed to the *Pro Se* Office at (212) 805-0175; *pro se* parties may not call the Court directly.** Unless the Court orders otherwise, all communications with the Court will be docketed upon receipt; such docketing shall constitute service on any user of the ECF system. If any other party is not a user of the ECF system (*e.g.*, if there is another *pro se* party in the case), a *pro se* party must send copies of any filing to that party and include an Affidavit of Service or other statement affirming that it has done so. Copies of correspondence between a *pro se* party and opposing parties shall not be sent to the Court.
- B. By Parties Represented by Counsel.** Except as otherwise provided below, communications with the Court by a represented party shall be governed by Judge Furman's Individual Rules and Practices in Civil Cases, available at <https://nysd.uscourts.gov/hon-jesse-m-furman>.
- C. Requests for Adjournments or Extensions of Time.** All requests for adjournments or extensions of time must be made in writing and must state: (1) the original date(s); (2) the number of previous requests for adjournment or extension; (3) whether these previous requests were granted or denied; (4) the reasons for the requested extension; (5) whether the adversary consents and, if not, the reasons given by the adversary for refusing to consent; and (6) the date of the parties' next scheduled appearance before the Court. If the requested adjournment or extension affects any other scheduled dates, a represented party

must submit a proposed Revised Scheduling Order in accordance with Judge Furman's Individual Rules and Practices in Civil Cases. A *pro se* party may, but is not required to, submit a proposed Revised Scheduling Order. Requests for extensions of deadlines regarding a matter that has been referred to a Magistrate Judge shall be directed to that assigned Magistrate Judge.

Absent an emergency, any request for extension or adjournment shall be made *at least 48 hours* prior to the deadline or scheduled appearance. Requests for extensions will ordinarily be denied if made after the expiration of the original deadline.

## **2. Filing of Papers and Service**

- A. Papers Filed by a *Pro Se* Party.** All papers to be filed with the Court by a *pro se* party, along with one courtesy copy of those papers, shall be delivered in person or sent by mail to the *Pro Se* Office, Thurgood Marshall Courthouse, 40 Centre Street, Room 105, New York, New York 10007. Any *pro se* party that wishes to participate in electronic case filing ("e-filing") must file a Motion for Permission for Electronic Case Filing (available at <http://nysd.uscourts.gov/file/forms/motion-for-permission-for-electronic-case-filing-for-pro-se-cases> and in the *Pro Se* Office). If the Court grants a motion to participate in "e-filing," that party *will not* receive hardcopies of any document filed electronically via ECF.
- B. Service on a *Pro Se* Party.** Counsel in *pro se* cases must serve a *pro se* party with a paper copy of any document that is filed electronically and must file with the Court a separate Affidavit of Service. Submissions filed without proof of service that the *pro se* party was served will not be considered.

## **3. Discovery**

All requests for discovery by a *pro se* party should be sent to counsel for the party from whom discovery is sought. Discovery requests should not be sent to the Court.

If there are any discovery disputes, the parties are required to confer with one another in an effort to resolve the dispute without the need for Court intervention. If the parties are unable to resolve their dispute, either party may file a letter-motion, no longer than three pages and in accordance with Paragraph 1 above, explaining the nature of the dispute and requesting an informal conference. If the opposing party wishes to respond to the letter, it must promptly file a responsive letter, not to exceed three pages.

#### 4. Motions

- A. Filing and Service.** Unless otherwise ordered by the Court, papers filed in opposition to a motion must be served and filed within 30 days of service of the motion papers, and reply papers, if any, must be served and filed within two weeks of receipt of opposition papers.
- B. *Pro Se* Notices.** Parties who file a motion to dismiss, a motion for judgment on the pleadings, or a motion for summary judgment must provide the *pro se* party with a copy of the notices required under Local Civil Rules 12.1 or 56.2.
- C. Special Rule for Summary Judgment Motions.** With respect to any deposition that is supplied, whether in whole or in part, in connection with a summary judgment motion, the index to the deposition should be included if it is available.
- D. Courtesy Copy.** One courtesy hard copy of all formal motion papers, marked as such, should be submitted to Chambers *by the non-pro se party* at the time the reply is due. Courtesy copies should not be submitted to Chambers at the time of filing. If all the parties are *pro se*, then no courtesy copies of formal motion papers are required.
- E. Oral Argument.** Unless otherwise ordered by the Court, oral argument will not be heard in *pro se* matters.

#### 5. Initial Case Management Conference

Absent a motion to dismiss, the Court will generally schedule an initial case management conference within four months of the filing of the complaint. The Notice of Initial Pretrial Conference will be docketed on ECF and mailed to the *pro se* party or parties.

The Court will set a schedule for the case at the initial case management conference. In most cases, the Court will give the parties four months (from the date of the conference) to complete all discovery, and set a deadline for the filing of any motions for summary judgment 30 days after the close of discovery. In advance of the initial case management conference, the parties should, if practicable, confer with one another to determine if such a schedule would be appropriate or if there is anything unusual about the case that would require more time and be prepared to discuss those issues at the conference. The Court will issue a written order memorializing all dates and deadlines following the conference.

An incarcerated party may not be able to attend this or other conferences, but may be able to participate by telephone. If an incarcerated party does not have counsel and is unable to participate by telephone, a family member or a representative may attend the conference. In such instances, the incarcerated party may write to the Court in advance of the conference regarding any issue the *pro se* party wishes to have addressed at the conference. If a representative is designated, he or she should contact Chambers at (212)

805-0282 to determine the location of the conference. The Court will also have a transcript of the conference sent to the incarcerated party.

## 6. Trial Documents

- A. Pretrial Statement.** Unless otherwise ordered by the Court, within 30 days of the completion of all discovery or, if a summary judgment motion is filed, within 30 days of the Court's ruling on summary judgment, the plaintiff in a *pro se* case shall file a concise, written Pretrial Statement. This Statement need take no particular form, but it must contain the following: (1) a statement of the facts the plaintiff hopes to prove at trial; (2) a list of all documents or other physical objects that the plaintiff plans to put into evidence at trial; and (3) a list of the names and addresses of all witnesses the plaintiff intends to have testify at trial. The Statement must be sworn by the plaintiff to be true and accurate based on the facts known by the plaintiff. If *pro se*, the plaintiff shall file an original of this Statement, plus one courtesy copy, with the *Pro Se* Office. Two weeks after service of the plaintiff's Statement, the defendant must file and serve a similar Statement of its case containing the same information.
- B. Other Pretrial Filings.** If the case is to be tried before only a Judge without a jury, any parties represented by counsel must also file proposed findings of fact and conclusions of law at the time of filing the Pretrial Statement. If the case is to be tried before a jury, any parties represented by counsel must also file proposed *voir dire* questions, a proposed jury charge, and a proposed verdict form at the time of filing the Pretrial Statement. At the time of filing, a represented party should e-mail these documents to the Court ([Furman\\_NYSDChambers@nysd.uscourts.gov](mailto:Furman_NYSDChambers@nysd.uscourts.gov)), in both .pdf and Microsoft Word formats. The *pro se* party may file such documents, but is not required to do so and need not submit them by e-mail.

## 7. Pro Se Clinic

In 2016, a *Pro Se* Law Clinic opened in this District to assist non-incarcerated people who are parties in civil cases and do not have lawyers. The Clinic may be able to provide a non-incarcerated *pro se* litigant with advice in connection with his or her case. The *Pro Se* Law Clinic is run by a private organization called the New York Legal Assistance Group; it is not part of, or run by, the Court (and, among other things, therefore cannot accept filings on behalf of the Court, which must still be made by any unrepresented party through the *Pro Se* Intake Unit). The Clinic is located in the Thurgood Marshall United States Courthouse, 40 Centre Street, New York, New York, in Room LL22, which is just inside the Pearl Street entrance to that Courthouse. The Clinic is open on weekdays from 10 a.m. to 4 p.m., except on days when the Court is closed. An unrepresented party can make an appointment in person or by calling (212) 659-6190.