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From: Jesse Furman [REDACTED]
Sent: Sunday, March 15, 2020 12:03 PM
To: David Campbell [REDACTED]; Raymond Kethledge
[REDACTED]
Subject: Rules changes for the current emergency?

David and Ray:

I assume that you may already be on this, but I think it is worth thinking about whether there is anything we should be doing on an emergency basis to address the current situation. I imagine that things haven't hit where you are quite as hard as they have here, but we have effectively closed the courthouse - and I suspect that it will be officially closed in the coming days. (We just heard that Federal Defenders in our district is shutting down because someone in their office has tested positive; members of law enforcement and the USAO CSOs have now tested positive; and it is only a matter of time before court personnel do as well.) We have plans in place to do as much by telephone and video as possible (we revised our pandemic plan after Superstorm Sandy, when we realized that we needed to be prepared for this sort of thing), but - as you well know - there are limits imposed by the Rules, particularly in criminal cases. (The irony is that, as you both know, amending Rule 43 to allow for video appearances at pleas and sentencings was recently discussed and rejected by the Criminal Rules Committee - a decision I firmly agreed with at the time.)

I recognize that the rules process is slow and deliberate - and rightly so in normal circumstances. But extraordinary times call for extraordinary measures, and I wonder whether we should be thinking about (if it is even possible) there are changes that could be made, if only on a temporary/emergency basis, to facilitate the functioning of the courts in the coming weeks/months.

I would be happy to discuss if there is anything that can be done.

In the meantime, I hope you are both staying safe...

Yours,
Jesse