

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

CIVIL DIVISION

IN RE: 27TH JUDICIAL DISTRICT)
 DECLARATION OF JUDICIAL) Nos. 2020-1
 EMERGENCY) 24 W.M. 2020

ADMINISTRATIVE ORDER

AND NOW, this 28th day of May, 2021, the Court having declared a judicial emergency in the 27th Judicial District of Pennsylvania, effective March 16, 2020, and having extended the local judicial emergency until July 2, 2021, to safeguard the health and safety of court personnel, court users, and members of the public during the COVID-19 pandemic, through the exercise of emergency powers under Pennsylvania Rule of Judicial Administration 1952(B)(2), it is hereby **ORDERED, ADJUDGED, and DECREED** that the following actions be taken in the 27th Judicial District:

I. Public Access to Court Facilities

- a. All judicial facilities will be open to the public for matters as specified below in this Order.
 - i. Capacity in any courtroom (including staff) and magisterial district courts should not exceed fifty (50%) while maintaining social distance between participants, unless receiving prior approval. Individuals shall comply with any social distancing guidelines, as well as any signage posted in or on judicial facilities or instructions from a judge, judicial officer, the district court administrator, deputy sheriff, constable at a magisterial district court, or court employee.

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- ii. Allowance for participation by the media shall be made by the presiding judicial officer.
- b. Face coverings shall be worn in compliance with the current order of the Secretary of the Pennsylvania Department of Health dated May 13, 2021, unless an individual is fully vaccinated.¹ Judicial officers or designated staff may inquire as to an individual's vaccination status, or require proof of vaccination, in order to enforce this Order. All judges and department heads are permitted to impose more restrictive rules concerning face coverings if necessary to properly manage their office, courtroom, or the interactions of their employees with the public;
 - i. For individuals who are not fully vaccinated and wearing a face covering:
 - 1. Absent extraordinary circumstances, judicial officers should not require a person to remove his or her mask when that person would prefer not to do so;
 - 2. Face shields are strongly discouraged for use in court proceedings or as an alternative to masks; and
 - 3. Judicial officers should only permit the removal of a mask for audibility or demeanor concerns in highly individualized circumstances and when truly necessary.²
- c. Any person excluded or removed for health concerns shall be provided with information (telephone number or email address) to enable them to initiate,

¹ Pursuant to Centers for Disease Control guidance issued on May 13, 2021, an individual is fully vaccinated two weeks after the individual's second dose in a two-dose series for COVID-19, such as the Pfizer or Moderna vaccines, or two weeks after a single-dose vaccine, such as Johnson & Johnson's Janssen vaccine.

² Authority in support of requiring face coverings and social distancing in court proceedings, including jury trials, can be found in *Commonwealth v. Delmonico*, 2021 PA Super 85 (Pa. Superior Ct. May 4, 2021).

participate in, or complete necessary essential court business/functions during the judicial emergency.

II. Jury Trial Protocols.

- i. The capacity limitations noted above shall be maintained for jury trials. If the number of participants or spectators exceed the capacity limitation for a courtroom, or otherwise, in the judgment of the judicial officer, pose a health/safety risk, or violate physical distancing requirements, the judicial officer may bar individuals from the courtroom and shall arrange for an alternative method to access the proceedings with the District Court Administrator. The interest for public access is greater for jury trials than many other proceedings; therefore, efforts will be made to accommodate public access.
- ii. Witnesses should be present in the courtroom for testimony only unless their presence is necessary to the conduction of the case, and be excused immediately after testifying.
- iii. Protocols for face coverings and masks as set forth above apply to trials too. Judicial officers may exercise their discretion in deciding to deviate from those protocols and the general guidance provided by the Administrative Office of Pennsylvania Courts.

III. Methods for Conducting Proceedings

- a. Statewide rules that restrict, directly or indirectly, the use of **ADVANCED COMMUNICATIONS TECHNOLOGY** (“ACT”), such as Microsoft Teams,

Polycom, or audio device, are **SUSPENDED** for the duration of the judicial emergency.

- b. Individual common pleas judges are vested with the discretion to determine the necessity of conducting a proceeding in-person, unless noted to the contrary below. If a non-essential matter can be held utilizing ACT, judges are encouraged to do so, and avoid having in-person proceedings.
- c. Proceedings before quasi-judicial officers (*e.g.*, conference officers, hearing officers, and masters) are to be conducted utilizing ACT, unless the circumstances of the case, such as the complexity or necessity for in-person testimony or participation for a juvenile, require otherwise.
- d. When it is determined that conducting court proceedings through ACT is not appropriate or feasible, court proceedings shall be held utilizing protocols and policies relating to the use of masks or other personal protective equipment, social distancing, and other guidance specified in Section I of this Order.
 - i. For in-person proceedings, court appearances and hearing times shall be staggered to ensure compliance with Section I of this Order.
 - ii. Judges and other court officials shall make reasonable allowances for individuals that are suffering from health-related conditions that produce risk for COVID-19, including individuals that are immunocompromised or otherwise unable to be vaccinated.
- e. Remote matters, held using ACT, shall be conducted with the same decorum as in-person matters.

IV. Motions Court and Argument Court

- a. Individual common pleas judges are permitted to hold Motions Court either in-person or through ACT.
- b. All judges shall provide procedures for acceptance of motions by means other than in-person (*e.g.*, postal mail or electronic mail) for publication on the Courts' website and in the Washington County Reports.
- c. For the duration of the judicial emergency or until further Order of Court, argument court for civil cases may be conducted either in-person or through ACT at the discretion of the presiding judge.

V. Formal Arraignments

- a. In-person formal arraignments pursuant to Pennsylvania Rule of Criminal Procedure 571 are **SUSPENDED**.
- b. The District Attorney's Office shall mail formal arraignment packets to defendants, or counsel if an appearance is entered (electronic mail is an acceptable alternative if agreed to by defense counsel) on the docket. Packets are to be mailed by the date that an in-person arraignment would have been scheduled.
- c. The formal arraignment packet shall provide for a process to confer about the case with the defendant, or counsel if represented, using ACT prior to any scheduled plea.
 - i. The requirement to confer shall not be applicable to DUI cases, "fast track" cases, or cases involving incarcerated defendants.

VI. Jury Trials and Arbitration Hearings

- a. Jury trials resumed on March 15, 2021, in a limited capacity because of health and safety concerns from the COVID-19 pandemic. Priority for jury trials was provided

to criminal cases. The normal trial calendar shall resume beginning June 1, 2021, subject to change if a backlog of cases should compel further action.

- b. Arbitration hearings shall be conducted utilizing ACT via Microsoft Teams. The District Court Administrator is authorized to amend the notice of arbitration hearing to reflect that proceedings will be conducted remotely and detailing deadlines for the submission of exhibits. Failure to follow the requirements set forth in the notification may bar the presentation of exhibits or other documents at an arbitration proceeding.

VII. Criminal Rule of Procedure 600

Statewide rules pertaining to the rule-based right of criminal defendants to a prompt trial continue to be suspended for the duration of the judicial emergency due to the limited availability of jury trials during the COVID-19 pandemic. Said delays shall be considered court delays and shall constitute excludable time for purposes of the application of Rule 600, subject to constitutional limitations.

VIII. Transportation of Incarcerated Individuals

- a. Except for jury and non-jury trials, proceedings involving incarcerated individuals will be scheduled using ACT to avoid transportation by a deputy sheriff or constable. The Court finds that this action is necessary because of COVID-19 safety protocols that have been instituted in the Washington County Correctional Facility and other correctional institutions.
- b. Where the presence of a juvenile is required at a court hearing, ACT shall be considered before issuing an order to transport. Any juvenile that is transported shall wear a mask at all times.

- c. The Sheriff, or his deputies, or any other transporting agency, may refuse to transport an individual who is visibly ill, exhibiting symptoms of COVID-19 or the flu, or who refuses to wear a mask, and shall immediately notify the assigned judge.

IX. Magisterial District Courts

- a. All magisterial district courts are open for designated court proceedings as set forth in this Order.
- b. Preliminary hearings with incarcerated defendants shall be conducted through ACT for the reasons set forth in Section VIII(a). Counsel, other parties, witnesses, spectators, and affiants may participate in hearings in-person, subject to the restrictions contained in this Order. Witnesses are to be excused immediately after testifying, and must leave the facility.
- c. Other proceedings may be held remotely using ACT at the discretion of the magisterial district judge.
- d. Magisterial District Judges shall ensure that in-person proceedings are staggered and avoid any use of bulk scheduling.
- e. Any rules of procedure setting forth specific time parameters for the listing of summary non-traffic and/or certain traffic citations or civil cases are **SUSPENDED**.
- f. Under no circumstances are non-employees (*e.g.*, representatives of outside agencies, municipal or police agencies) to be in staff areas, or to otherwise remain and/or loiter about the magisterial district court facility.
- g. Magisterial District Courts may use a constable to provide security and conduct activities related to protocols for COVID-19. It is preferred, but not necessary, that

the constable be certified to carry a firearm by the Pennsylvania Commission on Crime and Delinquency. The District Court Administrator is authorized to set the rate of pay for constables providing security and COVID-19 screening services.

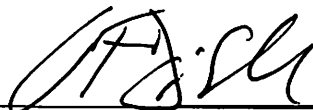
X. Filing Offices

- a. In-person filings are to be accepted within the filing offices, absent exigent circumstances as are presented to the District Court Administrator and approved by the Court.
- b. Filings are to be accepted according to applicable statewide and local rules of procedure. Any previous deviation from such rules because of the judicial emergency is hereby **RESCINDED**.

XI. Enforcement and Publication

- a. The Sheriff of Washington County, or his designee, is authorized to enforce this Order.
- b. The District Court Administrator is directed to post a copy of this Order on all entry doors of the Washington County Courthouse and all magisterial district courts, and to post a copy on the Court's website at www.washingtoncourts.us. A copy of this Order shall also be transmitted to the Washington County Bar Association for distribution to its members. Notification by email may satisfy the requirements of this Order.

BY THE COURT:


_____, P.J.
John F. DiSalle, President Judge