



New Jersey Courts

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In-Person and Virtual Court Proceedings in the Municipal Courts

January 2023

Overview

Part 1: Background on In-Person and Virtual Court Operations

Part 2: Review of Supreme Court's October 27, 2022 ("Future of Court Operations 2.0") Order

Part 3: Judge and Court Administrator Responsibility for Scheduling of Court Matters

Quick History of Virtual Proceedings

- Nearly all Municipal Court sessions were suspended from March – May 2020.
- While physical courthouses were mostly closed, the Supreme Court in its [April 20, 2020](#) and February 22, 2021 Orders established that certain matters with especially serious or permanent consequences or penalties should proceed **in person** and can proceed virtually only if all parties consent.

Quick History of Virtual Proceedings

- The Court in subsequent Orders, including its [November 18, 2021](#) (“Future of Court Operations 1.0”) Order, reaffirmed the requirement for such serious matters generally to be in person.
- The Court also provided for less serious matters, including first appearances and routine case management conferences, to be conducted **virtually**.

Considerations of Principle & Practice

- For more than 2.5 years, the Court has maintained the importance of in-person appearances for matters involving serious consequences.
- The Court has also acknowledged the need for some discretion, including based on the practical challenges associated with virtual formats for certain proceedings.



Future of Court Operations 2.0

Supreme Court Order Issued October 27, 2022

Note: Supersedes the November 18, 2021 Supreme Court Order



In-Person Appearance

The following matters will generally proceed **in-person** but may proceed **virtually** with the consent of all parties:

- DWI and Refusal;
- Disorderly Persons Offenses;
- Domestic Violence; and
- Other matters involving a reasonable likelihood of a Jail sentence or Loss of License



In-Person Appearance

The following matters should also generally proceed **in person** but may be conducted **virtually** at the judge's discretion:

- Matters impacting Health and Safety;
- Cases involving numerous Attorneys or Parties (e.g., cross complaints);
- Matters that include substantial Documentary Evidence;
- Cases requiring On-Site Interpreting; and
- Where defendant has Failed to Appear at one or more prior court events.

Note: Consent by all parties is not required to proceed virtually in these matters.



In-Person Appearance (cont.)

The following matters should also generally proceed in-person but may be conducted virtually at the judge's discretion:

- Where defendant shows s/he is unable to participate virtually (i.e., has experienced technical challenges);
- Where defendant did not respect the solemnity of a prior virtual hearing; and
- Status Conferences where a previous virtual session did not help advance the resolution of the case.

Note: Consent by all parties is not required to proceed virtually



Virtual Appearance

Absent an individualized reason to proceed **in person**, the following matters are to be conducted **virtually**:

- Routine Status Conferences and Motion Arguments
- Cases not involving a reasonable likelihood of Jail or Loss of License (or otherwise not required to be scheduled in-person)
- Straightforward matters including but not limited to:
 - First Appearances not expected to be scheduled in-person
 - Routine Status Conferences
 - Uncontested Proceedings



Court Calendars

(Virtual and In-Person Events)

To ensure court users are not waiting an unreasonably long period of time for their matter to be heard, courts shall:

- Maintain a reasonable calendar size
- Stagger their calendar if defendant would be required to wait too long (see R. 7:14-3(b))

Note: To aid in defendants not waiting an unduly long time for their court event, courts should make regular use of the calendar functionality that allows staff to email defendants and attorneys when their case is ready to be heard.



Judicial Discretion

- In individualized cases, judges will continue to have discretion to grant an attorney or party's reasonable request to participate in-person at a virtual proceeding or virtually at an in-person proceeding.
 - This requires a case-by-case determination, following a reasonable request by one or more of the parties.
 - Importantly, this discretion is not intended to authorize a blanket policy in a court, which otherwise might be inconsistent with the provisions of the Order.
- Assignment Judges have the discretion to determine the format for handling mediation sessions. To the extent possible, this local discretion should include input from the mediators.

Takeaways

- The responsibility of the Municipal Court Judge and Municipal Court Administrator to schedule court matters includes the determination of format (virtual or in-person) for each individual case.
- Especially in light of the refinements made in the Court's October 27, 2022 Order, judges must provide clear direction to Municipal Court staff so that matters are scheduled appropriately.

Takeaways

- Judges should exercise discretion within the framework of the Court's October 27, 2022 Order.
- This means that certain matters reasonably might be handled differently depending on circumstances.
- Questions about which matters should be scheduled virtually vs. in person should be raised promptly to the Presiding Judge for clarification and guidance.