

SUPREME COURT OF NEW JERSEY

This Order addresses whether court events should be conducted in person or virtually, both now and when the COVID-19 pandemic ends. For the past 18 months, judges have conducted more than 260,000 virtual court events involving more than 2.7 million participants, and municipal courts have conducted more than 3 million events. Based on that experience, as well as input from judges, attorneys, and members of the public, this Order outlines a framework for the future of court operations.

Attorneys, parties, and judges have praised the reduced time and cost associated with virtual proceedings for brief and straightforward matters. They also noted there are fewer scheduling conflicts and requests for continuances. At the same time, commenters highlighted the value of bringing parties together in person at certain critical junctures, including settlement conferences and proceedings that involve especially serious penalties or consequences. In addition to those considerations, it is important to balance consistency and predictability in court operations with the need to exercise discretion based on the facts and circumstances of individual cases.

The following framework establishes a series of general principles with those concerns in mind. It contemplates a transition from almost all in-person court proceedings before the pandemic to a future that uses technology to

provide expanded options for access, participation, timeliness, and justice. Particularly in light of the evolving nature of court operations, the provisions of this Order are subject to ongoing review.

Accordingly, it is ORDERED that effective immediately and pending further court order:

1. Judges shall have discretion to determine whether to conduct court proceedings virtually or in person, subject to the provisions of this Order.
2. The following matters shall proceed in person as described:
 - a. Criminal jury trials shall proceed in person;
 - b. The following matters shall generally proceed in person but may proceed virtually with the consent of all parties; consent of a party will not be required if that party is absent and unreachable:
 - i. Sentencing hearings in Criminal, Family, and Municipal matters, and dispositional hearings in all Juvenile Delinquency (FJ) matters;
 - ii. Juvenile delinquency adjudications, including plea hearings and bench trials in the Family Division;
 - iii. Evidentiary hearings and bench trials in Criminal matters;

Final Extreme Risk Protective Order (FERPO) hearings;
and Megan's Law hearings;

- iv. Trials in Municipal matters that involve a reasonable likelihood of a jail sentence or loss or suspension of license, and evidentiary hearings;
- v. All evidentiary hearings conducted in regard to a juvenile delinquency matter, including waiver proceedings and violation hearings;
- vi. Termination of parental rights trials and other hearings in which constitutional interests are at stake; and
- vii. Hearings for an adjudication of incapacity and appointment of a permanent guardian.

3. The following matters, among others, shall also generally proceed in person: oral arguments before the Supreme Court and the Appellate Division; settlement conferences in the trial divisions of the Superior Court; certain criminal court proceedings that involve defendants not in custody (e.g., post-indictment arraignments; pretrial conferences at which the court intends to set a trial date pursuant to Rule 3:9-1(f); and motions to revoke pretrial release); trials on Final Restraining Orders and Final Protective Orders; and non-routine conferences in all

courts, such as pretrial conferences in Municipal Court in which the in-person appearance of a defendant is appropriate to resolve code enforcement, public nuisance, and other matters that affect public health and safety.

4. In matters that may be conducted virtually, judges may determine to proceed in person when the participants have demonstrated an inability to proceed in a virtual format, or based on other persuasive reasons in an individual case.
5. In matters that are conducted in person, judges may permit one or more participants to participate virtually based on the individual facts and circumstances of the case.
6. In matters that are conducted in a virtual format, judges may accommodate a participant who appears and requests to participate in person.
7. The following matters in general will proceed in a virtual format, absent an individualized reason to proceed in person based on the facts and circumstances of the case:
 - a. Routine motion arguments and case management conferences in all trial divisions of the Superior Court and in the Municipal Courts, subject to judicial discretion to schedule matters in person,

- including to effectively manage proceedings that involve numerous attorneys and parties;
- b. **CRIMINAL:** Central Judicial Processing / First Appearances on defendants in custody; most proceedings that involve state prisoners; detention hearings; and certain other ancillary matters, including but not limited to municipal appeals, expungements, and gun permit application hearings;
 - c. **CIVIL:** landlord tenant proceedings; Special Civil (DC) and Small Claims (SC) trials; mediations; and actions in lieu of prerogative writs;
 - d. **GENERAL EQUITY:** uncontested guardianships of persons alleged to be incapacitated, with the consent of all parties; most probate matters; and foreclosure mediation;
 - e. **FAMILY:** uncontested divorces; uncontested adoptions; hearings to establish or modify child support; applications for a temporary restraining order (TRO) and initial conferences; initial applications for protection pursuant to the Sexual Assault Survivor Protection Act (SASPA); parent education conferences; and mediations, except for Intensive Settlement Conferences;
 - f. **MUNICIPAL:** hearings and trials, except for (i) certain matters

with especially serious penalties (e.g., those with a reasonable likelihood of a jail term or license suspension upon conviction, such as DWI); (ii) trials that involve multiple witnesses or interpreting services or complex evidence; and (iii) matters in which the defendant has failed to appear for two or more virtual proceedings and in which a warrant or license suspension cannot be ordered;

g. TAX COURT: routine motion arguments; case management conferences; and settlement conferences; and

h. Intensive Supervision Program (ISP) hearings.

8. After getting additional input from informed stakeholders, the Court will provide further guidance at a later time about how to conduct the following events: Krol hearings; involuntary civil commitment proceedings; Sexually Violent Predator Act hearings; Not Guilty by Reason of Insanity hearings; civil arbitrations; matrimonial early settlement panels (MESPs); jury selections; and some civil jury trials.

For now, those matters will continue to be conducted virtually, for the most part, in light of current COVID-19 trends.

For the Court,

A handwritten signature in blue ink, appearing to read "Stuart Rosenberg". The signature is fluid and cursive, with a large initial "S" and "R".

Chief Justice

Dated: November 18, 2021