


**GLENN A. GRANT**  
Administrative Director of the Courts

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**TO:** Assignment Judges  
Trial Court Administrators

**FROM:** Glenn A. Grant, Administrative Director 

**SUBJ:** Supporting Consistent Implementation of the Supreme Court's Framework for Virtual and In-Person Court Events

**DATE:** May 9, 2023

The Judicial Council at its March 30, 2023 meeting approved internal protocols to support consistency in implementation of the Supreme Court's [October 27, 2022](#) "Future of Court Operations 2.0" Order with regard to the format of court proceedings in the trial courts. These protocols are designed (1) to enable attorneys and other court users more reliably to predict whether a court event will be conducted virtually or in person; (2) to maintain judicial discretion to adjust the format of court proceedings in individual matters, with reasonable advance notice to participants; and (3) to encourage accommodations or adjournments when advance notice is not possible and the court determines to proceed in person in a particular matter that otherwise would proceed virtually.

**Statewide Protocols**

1. In general, courts will continue to schedule routine case management conferences and routine motion arguments in a virtual format, consistent with paragraph 4(a) of the Court's October 27, 2022 Order.
2. For matters in the Municipal Courts that do not involve a reasonable likelihood of a jail sentence or loss or suspension of license, courts in general will continue to schedule all proceedings in a virtual format.

3. In general, the following straightforward matters also will be scheduled in a virtual format:
- Initial applications (and note that in the Municipal Courts all initial appearances are to be scheduled in a virtual format, as will be clarified in an upcoming notice to the bar);
  - Routine status conferences, not including conferences in criminal matters as provided in paragraph 3(c) of the Court's Order, or civil settlement conferences as provided in paragraph 3(d); and
  - Uncontested proceedings, including but not limited to uncontested divorces, uncontested adoptions, and uncontested guardianships.
4. The court will provide as much advance notice as possible if the court determines that any of the above or comparable matters are to be conducted in person. To the extent practicable, the court will inform attorneys and parties at least 5 days before the scheduled court event. When possible, written notices as used in the Family Division, are encouraged as a way to advise participants in advance of the format of a scheduled court proceeding.
5. If 5 days advance notice is not practicable, the court will either accommodate a request by an attorney or party to participate in the in-person matter virtually or will reschedule the matter to proceed in person on a future date.
6. To the extent practicable, judges will provide relevant information in advance about the nature of a court event – e.g., that a conference is for settlement purposes or that a routine event involves so many participants that an in-person format is preferable – to support understanding of why it is scheduled to proceed in person.

### **Context and Rationale**

Attorneys and advocates have expressed concern that not all courts are following the provisions of the Court's October 27, 2022 Order. A particular concern that has been raised is that some judges are requiring in-person appearances for court events that the attorneys reasonably expected to be conducted virtually based on paragraphs 4 and 5 of the Court's Order. Stakeholders have provided examples in which courts required the parties and counsel to appear in person for extremely brief case management conferences, uncontested divorce proceedings, and motion arguments. Attorneys have reported being required to appear for an in-person motion and waiting an hour or more for a 30-second conversation on the motion.

Additionally, attorneys have reported that some judges are not determining and communicating to the parties as to the format of a court event sufficiently in advance to enable scheduling adjustments. For example, an attorney with multiple motion arguments scheduled for a Friday morning is unable to confirm during the week whether a motion before a particular judge will be conducted virtually or in person and then is informed at the end of the day on Thursday afternoon that the motion will be heard in person, thus creating a last-minute scheduling conflict with other scheduled matters that would have been avoided if the judge had advised with enough notice that the motion would be conducted in person.

As always, the judge, not the parties, determines the format of court proceedings. The fact that a conference or motion argument concludes quickly does not in itself mean that the proceeding was routine or that it would have been as effective if conducted virtually. In addition, judges may have valid reasons in specific cases to require an in-person appearance even when attorneys and parties would prefer based on convenience and reduced cost that such events proceed virtually. While there is no expectation that attorneys will agree with judicial determinations as to the format of court proceedings in all cases, the protocols set out in this memo should improve consistency in court operations as we continue to navigate our new hybrid processes.

Please share this memo with the judges and relevant staff in your vicinage or court.

## **Questions**

Questions on this memo should be directed to the Office of the Administrative Director of the Courts at (609) 376-3000.

cc: Chief Justice Stuart Rabner  
Presiding Judges (Civil, Criminal, Family, General Equity, Municipal)  
Steven D. Bonville, Chief of Staff  
AOC Directors and Assistant Directors  
Clerks of Court  
Special Assistants to the Administrative Director  
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