

**IN THE COURT OF COMMON PLEAS  
FOR THE STATE OF DELAWARE**

**CRIMINAL AND CIVIL CASE REOPENING SCHEDULING ORDER**

WHEREAS, the Centers for Disease Control and Prevention has determined that a novel coronavirus (“COVID-19”) presents a serious public health threat, and this threat is affecting Delaware;

WHEREAS, the escalation of the emergency requires greater measures to protect the health and safety of litigants, practitioners, court staff, and the public;

WHEREAS, the Chief Justice appointed a committee with representative from each of the Courts to develop procedures which will govern to the greatest extent possible how the Courts will reopen and establish procedures to manage case and related functions while balancing the health and safety of court staff, attorneys and litigants as it emerges from the closure;

NOW THEREFORE, it is **HEREBY OREDRED** by the members of the Court this 4<sup>th</sup> day of June, 2020 that the following administrative procedures shall govern the scheduling and management of cases in the Court of Common Pleas. If any provision herein is in conflict with the Judiciary Opening Plan, the directives set forth in the Judicial Opening Plan shall apply.

**I. Case Flow Management:**

- a. The procedure of calendaring large number of cases on a single calendar event will discontinue as of date of this order;
- b. All cases scheduled in a single proceeding shall not exceed 10 individuals. In determining the calculation of the 10 individuals the following shall not be included: the Judge, Court Clerk, Bailiff, Attorneys, and the Audio Recorder.
- c. To the extent possible, calendars which have a maximum of 10 individuals per Judicial Officer shall be schedule in intervals of 1 (one) hour. This should provide sufficient time for the Judicial Officer to address the first calendar prior to the second calendared litigants’ arrival. This schedule is subject to change based on experience and as statewide reopening measures progress.

## **II. Civil Cases and Related Civil Proceedings:**

- a. The following proceedings shall be conducted by telephonic or other electronic means unless ordered by a Judge.
  1. Civil non-dispositive motions
  2. Pre-trial conferences and/or proceedings
  3. Petition for name changes where the petitioner is not in custody

## **III. Criminal Cases and Related Proceeding**

### **a. Arraignments.**

1. In criminal cases, including traffic cases, the defendant shall be afforded an opportunity to proceed without arraignment by entering a prior pleading pursuant to CCP Crim. R. 10(c).

### **b. Pleas in Absentia.**

1. In all matters which are permitted by Criminal Rule 43c where the presence of the defendant is not required may proceed by plea in absentia upon application of the defendant with the consent of the Attorney General.

### **c. Capias Returns.**

1. The Court will resume hearing the walk-in capias calendar, subject to courtroom limitations and adhering to social distancing requirements.
  - (i) Through Phase 2, the Court will also allow the Justice of the Peace Court to continue addressing Court of Common Pleas capiases when defendants report to the Justice of the Peace Court.
  - (ii) Beginning in Phase 3, all Court of Common Pleas walk-in capiases will be returned in the Court of Common Pleas.

#### **IV. Staffing Limitations and Safety Requirements**

- a. Staffing Limitations. The Court will follow the phased staffing model:
  - Phase 1 – 25% staffing
  - Phase 2 – 50% staffing
  - Phase 3 – 75% staffing
  - Phase 4 – 100% staffing
- b. Social Distancing and Personal Protective Equipment (“PPE”). Employees shall be required to maintain social distancing and wear a face covering when not alone in their work space. Absolutely no group congregating in break rooms or public areas.
- c. Health Safety. Staff members who do not pass initial screening at the entrance of the courthouse, or feel ill, and/or exhibit symptoms consistent with COVID-19, must not enter the building and must immediately contact their immediate supervisor for further instruction.

#### **V. Public Access**

- a. Social Distancing and PPE. All participants in Court of Common Pleas events are required to wear a face covering at all times, and must adhere to social distancing requirements and follow all posted directions and instructions. Water will not be provided in the courthouse.
- b. Health Safety. All Court of Common Pleas participants who do not pass initial screening at the entrance of the courthouse, or feel ill, and/or exhibit symptoms consistent with COVID-19, must not enter the building and must immediately contact the Court Administrator or Deputy Court Administrator as follows:

Stephanie Fitzgerald, Court Administrator: (302) 255-0864  
Tamara Burton, Deputy Court Administrator: (302) 255-2207

## **PHASE 1 – SOFT REOPENING JUNE 8<sup>TH</sup> – 13<sup>TH</sup>**

- “Soft” reopening to allow scheduling procedures to be tested.
- Allowed Entry:
  - Attorneys
  - Bail Bondsmen
  - Private Individuals Posting Bond
  - Data Miners
  - Media
- Social distancing and face coverings required.
- The Court will continue to conduct only video events with incarcerated individuals through Skype on Monday, Wednesday and Friday in criminal proceedings.
- The Court will begin civil zoom proceedings in this phase.
- 25% staffing will resume and managers will be required to submit a staffing schedule for Phase 1.
- Employees will be required to maintain social distancing and wear a face covering when not alone in their office or cubicle.
- Absolutely no group congregating in break rooms or public areas

**PHASE 2 – INITIAL PUBLIC OPENING**

- The courthouse will be open to the public while continuing to employ measures to mitigate potential virus exposure.
- Courtroom proceedings may resume but will be limited to 10 participants at one time per courtroom.
- Podiums may not be utilized.
- Litigants must wear protective face coverings and obey posted social distancing markers and guidelines.
- The following will be the general scheduling matrix for Phase 2.

Monday	Tuesday	Wednesday	Thursday	Friday
Skype criminal and Zoom – No in-person events	In-person Events Max. 10 per courtroom	Skype criminal and Zoom – No in-person events	In-person Events Max. 10 per courtroom	Skype/Zoom until noon – limited in-person afternoon
*Walk-in capiases as they appear	*Walk-in capiases as they appear	*Walk-in capiases as they appear	*Walk-in capiases as they appear	*Walk-in capiases as they appear

- Proceedings may resume involving non-incarcerated defendants on the in-person days with the exception of trials.
- Incarcerated defendants will continue to be done by video.
- No Jury trials will be conducted during this phase.
- Arraignment notices will be sent with the 10(c) form and the Court will allow electronic filing of 10(c) forms through the designated mailbox; individuals will be encouraged to file 10(c) in lieu of appearing for arraignment.
- All fines-only cases payment plans will be pushed out and contempt calendars will be suspended until Phase 4.
- 50% of employees will be recalled to work, managers will be required to provide a Phase 2 Schedule.
- Employees will be required to maintain social distancing and wear a face covering when not alone in their office or cubicle.
- Absolutely no group congregating in break rooms or public areas.

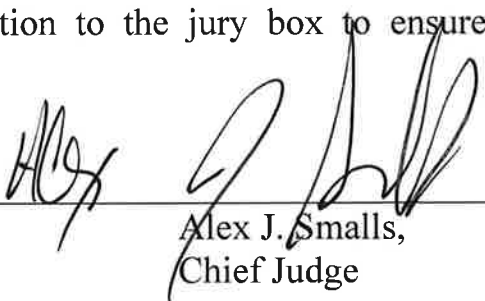
**PHASE 3 – EXPANSION OF PUBLIC ADMISSION AND COURT OF COMMON PLEAS EVENTS**

- The courthouse will be open to the public while continuing to employ measures to mitigate potential virus exposure.
- Courtroom proceedings will be increased to a maximum capacity of 50 individuals, subject to social distancing requirements.
- Litigants must wear protective face coverings and obey posted social distancing markers and guidelines.
- Criminal Non-Jury trial and civil trial events may be resumed with courtroom capacity numbers and social distancing observed.
- The Court will continue to perform events remotely where practicable.
- The Court will return to 75% staffing and the managers will be required to provide a Phase 3 Schedule.
- Employees will be required to maintain social distancing and wear a face covering when not alone in their office or cubicle.
- Absolutely no group congregating in break rooms or public areas.

**PHASE 4 - NEW NORMAL**

- All proceedings return to the courthouses, but the restrictions on large calendars continue.
- The Court will continue to perform events remotely where practicable.
- Staffing returns to 100% with social distancing requirements and compliance with all recommendations of the Delaware Department of Public Health and Directives from the Chief Justice.

Jury trials may resume with modification to the jury box to ensure social distancing.

  
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Alex J. Smalls,  
Chief Judge

## APPENDIX A

### PROPOSED NEW CASTLE COUNTY SCHEDULING MATRIX BEGINNING PHASE 2- JUNE 15

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
<b>Morning</b>	Skype – Criminal DOC	In-person – Criminal	Skype – Criminal DOC	In-person – Criminal	Skype – Criminal DOC
<b>Afternoon</b>	Zoom – Civil • Name Changes • Pre-trials • Motions  Zoom – Criminal • Motions (except suppression)	In-person – Criminal • Suppression Motions	Zoom – Criminal • Pleas in Absentia • Case Review  Zoom – Drug Diversion Termination	In-person – Criminal • Arraignment  Zoom – DUI Treatment Court Status	In-person – Criminal • VOPs

\* Walk-in capiases will be addressed daily as they appear

*Schedule to be expanded and adjusted by the Court as needed*

### PROPOSED KENT COUNTY SCHEDULING MATRIX BEGINNING PHASE 2- JUNE 15

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
<b>Morning</b>	Skype – Criminal DOC	In- In-person – TBD	Skype – Criminal DOC	In-person	
<b>Afternoon</b>	Zoom	In-person	Zoom	In-person	

\* Walk-in capiases will be addressed daily as they appear

*Schedule to be expanded and adjusted by the Court as needed*

### PROPOSED SUSSEX COUNTY SCHEDULING MATRIX BEGINNING PHASE 2- JUNE 15

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
<b>Morning</b>	Skype – Criminal DOC	In- In-person – TBD	Skype – Criminal DOC	In-person	
<b>Afternoon</b>	Zoom	In-person	Zoom	In-person	

\* Walk-in capiases will be addressed daily as they appear

*Schedule to be expanded and adjusted by the Court as needed*

- No scheduling of in-person events until the week of June 23, 2020
- The initial part of in-person scheduling for Phase 2 will consist of one or two courtrooms running a preliminary hearing calendar and the remaining of the courtrooms conducting case review/status calendars where the witnesses will not be noticed to participate.

## APPENDIX B

### Additional Actions the Court Has Taken to Reduce Potential Exposure

- Modified the Arraignment Notice to include the Prior Plea Form 10(c) and encourage defendants to complete a Prior Plea of Not Guilty to forgo in-person appearance for arraignment
  - The Court has created a fillable PDF Prior Plea form, available on the Court's website: <https://courts.delaware.gov/Forms/Download.aspx?id=14718>
  - The Court has instituted criminal and civil filing inboxes and is permitting attorneys and individuals to file certain documents such as the Prior Plea form electronically
- Modified the Plea in Absentia policy to allow for greater utilization of the Plea in Absentia, and created a fillable PDF Plea in Absentia Form, available on the Court's website: <https://courts.delaware.gov/Forms/Download.aspx?id=23968>
- Modified the Continuance Request form, and created a fillable PDF Continuance Request form, available on the Court's website: <https://courts.delaware.gov/Forms/Download.aspx?id=121318>
- The Court purchased multiple ZOOM licenses and is scheduling all civil non-trial events for a ZOOM appearance beginning in Phase 1.
- The Court has allowed attorneys to electronically file motions and is ruling on motions on the papers
- Name change petitions may be filed electronically, and the Court will issue rulings on the papers unless the petitioner is in custody or if special circumstances warrant appearance before the Court.
- The Court created a generic rescheduling notice for criminal events, which will initially be sent out manually as needed.
  - The generic notice will only notify the party that the case has been rescheduled but will not provide a new date
  - The generic notice includes a Prior Plea Form to be utilized for arraignment events
  - The generic notice is currently being adapted to be system generated through JIC