

SUPREME COURT OF NEW JERSEY

In response to the ongoing COVID-19 public health emergency, the Supreme Court has authorized various adjustments to court operations so as to protect the health and safety of all court users. Based on improved COVID-19 trends, the Court today authorizes the resumption of certain in-person jury proceedings on or after June 15, 2021 as set forth in this Order.

The Judiciary throughout the COVID-19 pandemic has been guided by the recommendations of public health authorities, including the New Jersey Department of Health (NJ DOH). Today, based on positive trends statewide, key public health indicators regarding COVID-19 in New Jersey are encouraging. New cases, hospitalizations, and deaths have been decreasing for several weeks and continue to decline. In all regions of the state, the COVID-19 Activity Level Index (CALI) is moderate or better. Subject to continued appropriate precautions, including face masks and social distancing, the data supports the resumption of in-person jury trials throughout New Jersey.

Although COVID-19 trends today are substantially improved, the pandemic is still affecting many aspects of court operations. Public health authorities including the Centers for Disease Control and Prevention (CDC) continue to caution against large gatherings for all people and against even moderate gatherings for individuals who are not fully vaccinated against the COVID-19 virus. Accordingly, the resumption of certain in-person jury trials will remain at a

limited capacity, both statewide and vicinage by vicinage, as compared to pre-pandemic operations.

The provisions of this Order for the most part align with the Court's July 22, 2020 Order and appended Plan (as updated August 14, 2020), and replicate to the extent practicable pre-COVID-19 jury processes. Criminal jury trials will be conducted in person and will be the priority, with cases that involve detained defendants continuing to receive the highest priority. In addition to those important and urgent criminal trials, the Judiciary also can sustain civil jury trials, which in general will continue to be conducted in a virtual format. This blended approach – with some jury trials conducted in person and others remotely – will support case resolution and ongoing adherence to social distancing and other precautions that remain critical to protect against the COVID-19 virus.

Accordingly, it is ORDERED that the following provisions are effective immediately except as otherwise stated herein:

(1) JURY SELECTION

- a. Jury selection for criminal and civil trials will begin in a virtual format.
- b. The juror summons will inform prospective jurors that (1) the jury selection process will begin in a virtual format; and (2) their service may continue virtually or may involve reporting in person to a courthouse with safety precautions.

- c. Judiciary staff will communicate with qualified jurors about their technological capacity to participate in virtual selection.
- d. Jurors can participate in virtual selection using a laptop, tablet, smartphone, or other comparable device with a reliable Internet connection and a functioning web camera.
- e. When a juror is otherwise able to participate in virtual selection but requires technological support, the Judiciary will continue to provide such jurors with restricted-use devices and related supports (including, as necessary, broadband capacity), which will be configured and administered solely by the Judiciary.
- f. Before starting virtual jury selection, Judiciary staff will provide initial Zoom testing and onboarding for qualified jurors.
- g. The Judiciary will continue to advise jurors of COVID-19 protocols, including the requirement that individuals who are subject to isolation or quarantine must not report to the courthouse. During virtual selection, the judge will invite jurors to raise any specific questions about their ability to report in person (if proceeding to an in-person trial) during sidebar, in the presence of the attorneys and parties.

(2) CRIMINAL JURY TRIALS

- a. Jury selection for criminal trials will begin virtually and then proceed to a final in-person phase. The in-person phase of selection will be conducted in compliance with all applicable current public health precautions.
 - i. All case-specific questioning of jurors will be conducted during the virtual *voir dire* process in the presence of the judge, attorneys, and parties. Jurors will be excused for cause based on that questioning.
 - ii. After virtual questioning and for-cause excusals, the remaining small number of jurors will be directed to report in person to the courthouse in small groups for the final phase of selection, including the exercise of peremptory challenges.
- b. Cases involving detained defendants will continue to be the top priority. Consistent with existing Judiciary policy, selection of trials will focus on detained defendants who are approaching the end of excludable time. The extensions of preindictment and post-indictment excludable time will conclude as set forth in the Court's April 9, 2021 Order.

(3) CIVIL JURY TRIALS

- a. Jury selection for civil trials will be conducted in an entirely virtual format, consistent with the provisions of the Court's January 7, 2021 and February 1, 2021 Orders.
- b. Most civil jury trials will continue to be conducted in a virtual format, consistent with the provisions of the Court's January 7, 2021 and February 1, 2021 Orders. Track I and Track II trials will proceed virtually absent compelling circumstances as determined by the Assignment Judge.
- c. Civil cases that are especially urgent, including those that involve a plaintiff whom doctors have determined has a limited life expectancy, will be prioritized for in-person trials.
- d. Assignment Judges may authorize additional in-person civil jury trials based on local resources, so long as those in-person civil jury trials do not reduce the Judiciary's capacity to conduct other urgent court events, including in-person criminal trials involving detained defendants.

(4) PUBLIC ACCESS TO JURY PROCEEDINGS

- a. To avoid inadvertent broadcast of juror images, jury selection in both criminal jury trials and civil jury trials will not be live broadcast.
- b. To the greatest extent practicable, public access to all phases of jury selection (in both civil and criminal trials) and virtual civil jury trials,

will be provided by permitting limited numbers of observers to be physically present in the courtroom or other courthouse location, consistent with social distancing and other requirements. Assignment Judges may permit remote options for observation based on individual circumstances.

- c. Socially distanced in-person jury trials may be live broadcast. In general, instead of live broadcast, public access will be provided by permitting individuals to be physically present in the courtroom, consistent with social distancing and other requirements. As necessary, individualized remote access also may be permitted.

(5) OPERATIONAL GUIDANCE

The Administrative Director of the Courts is authorized to promulgate additional protocols on jury operation relating to this resumption of in-person jury proceedings during the ongoing COVID-19 pandemic.

For the Court,



Chief Justice

Dated: May 11, 2021