

Apr 05 2021

United States District Court
Northern District of Ohio
General Order

AMENDED GENERAL ORDER NO. 2020-08

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO**

In Re:

CORONAVIRUS (COVID-19)
PHASED-IN RECOVERY PLAN

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ORDER NO. 2020-08-7

This Court previously issued General Order No. 2020-05, Amended General Order No. 2020-05-1, and Amended General Order No. 2020-05-2 In Re: CORONAVIRUS (COVID-19) PUBLIC EMERGENCY. These Orders were in response to the exponential spread of COVID-19 and the declaring of a public emergency by the President of the United States and the Governor of the State of Ohio.

The Centers for Disease Control and Prevention and other public health authorities have continued to advise the taking of precautions to reduce the possibility of exposure to the virus and slow the spread of the disease, including the implementation of multi-phase business recovery plans to gradually resume operations. In response, the Court issued General Order No. 2020-08, Amended General Order No. 2020-08-1, Amended General Order No. 2020-08-2, Amended General Order No. 2020-08-3, Amended General Order No. 2020-08-4, Amended General Order No. 2020-08-5, and Amended General Order No. 2020-08-6 In Re: CORONAVIRUS (COVID-19) PHASED-IN RECOVERY PLAN.

The Court's recovery plan continues to follow a multi-phase approach. The pace and progression of recovery through each phase are based on health and business recovery guidance from the Administrative Office of the United States Courts and the State of Ohio.

Throughout all phases of recovery, to the extent possible, the Court will protect the vulnerable: 1) people 65 years or older; and 2) people of all ages with underlying medical conditions identified by the Centers for Disease Control and Prevention.

Reasonable accommodations will be provided wherever possible for individuals and employees who: 1) are vulnerable individuals; 2) are caring for vulnerable individuals in their households; 3) rely solely on public transportation; and 4) have child care issues due to COVID-19.

Jury trials during the pandemic present unique challenges. The Court recognizes that jury selection in this District involves large jury venire pools. These pools often consist of many individuals in the categories identified by the Centers for Disease Control and Prevention as being particularly at risk, individuals involved in essential public functions, and individuals responsible for children unable to attend school or daycare due to the pandemic. Further, it will be a challenge to provide for jury trials while abiding by necessary precautions to reduce the possibility of exposure to the disease, not only to jurors but to other trial participants as well. Jury trials particularly present a challenge to attorneys who must continuously communicate with clients during the course of a trial.

NOW, THEREFORE, given the present state of the pandemic in the State of Ohio and in order to continue to protect the health and safety of the public, court personnel, counsel, litigants, jurors, and all other case participants; in order to implement a multi-phase recovery plan to gradually resume court operations; in order to reduce the size of public gatherings necessarily attendant to jury selection and reduce unnecessary travel; and in order to permit effective trial preparation of counsel and effective communication with clients during trial, the United States District Court for the Northern District of Ohio hereby issues the following Order:

FACILITIES:

1. All courthouses of the United States District Court for the Northern District of Ohio are closed to the public, unless an individual is attending a scheduled public proceeding. Otherwise, only persons having official business authorized by this General Order or by the Chief Judge or a Presiding Judge may enter courthouse property. This applies to all divisional locations.

Akron

John F. Seiberling Federal
Building & U.S. Courthouse
2 South Main Street
Akron, OH 44308

Cleveland

Carl B. Stokes U.S. Court House
801 West Superior Avenue
Cleveland, OH 44113

Howard M. Metzenbaum
U.S. Courthouse
201 Superior Avenue, East
Cleveland, OH 44114

Toledo

James M. Ashley and
Thomas W.L. Ashley U.S.
Courthouse
1716 Spielbusch Avenue
Toledo, OH 43604

Youngstown

Thomas D. Lambros Federal
Building & U.S. Courthouse
125 Market Street
Youngstown, OH 44503

2. Health screening (temperature checking and COVID-19 screening questions) may take place for admittance to a courthouse. Individuals will be denied entrance if they have a temperature of 100.4 degrees or higher or respond affirmatively to any COVID-19 screening question. Visitors denied entrance should contact by telephone the office to be visited in order to explore alternatives to entering the courthouse.
3. All mass public gatherings are suspended, including, but not limited to, group tours and visits, moot courts and mock trials, and bar group meetings and seminars.
4. The use of face masks or cloth face coverings is required for all individuals in a courthouse, unless otherwise directed by the Court or a courthouse official. The face covering must completely conceal the wearer's nose and mouth at all times. Visitors seeking entrance to a courthouse without a face covering will be asked to contact by telephone the office to be visited to explore alternatives to entering the courthouse.
5. Common areas where employees or the public congregate to interact (e.g., cafeterias, break rooms) will be closed. Physical distancing will be enforced in other public or common areas such as jury assembly, court entrances, intake, lobbies and reception areas by visible means to demark six-foot distances where practical.

CIVIL CASES:

1. In-person civil jury trials will commence on May 3, 2021 under the following conditions: 1) the judge, plaintiff, plaintiff's counsel, defendant, and defendant's counsel all must consent on the record to the commencement of the jury trial; 2) only one jury trial at a time, civil or criminal, will be conducted in each courthouse, except for the Carl B. Stokes U.S. Court House, where no more than two jury trials may be conducted at a time; and 3) each jury trial will be scheduled for no more than five trial days. If a participant does not consent, it must be for a reasonable, articulable COVID-19 related reason, the validity of which will be determined by the presiding judge on a case-by-case basis.
2. The use of videoconference and teleconference in non-trial civil proceedings will continue. If necessary, in-person court proceedings and in-person

chambers proceedings will be limited to the number of people which permits the observance of the physical distancing requirement of six feet in all instances.

CRIMINAL CASES:

To accommodate trials and the effect of public health recommendations on the trials, the time period of the continuances implemented by the General Order will be excluded under Speedy Trial Act, as the Court specifically finds that the ends of justice served by ordering the continuances outweigh the interest of the public and any defendant's right to a speedy trial pursuant to 18 U.S.C. Section 3161(h)(7)(A).

Accordingly,

1. Jury trials will commence on May 3, 2021 under the following conditions:
1) the judge, assistant U.S. attorney, defendant, and defendant's counsel all must consent on the record to the commencement of the jury trial; 2) only one jury trial at a time, civil or criminal, will be conducted in each courthouse, except for the Carl B. Stokes U.S. Court House, where no more than two jury trials may be conducted at a time; and 3) each jury trial will be scheduled for no more than five trial days. If a participant does not consent, it must be for a reasonable, articulable COVID-19 related reason, the validity of which will be determined by the presiding judge on a case-by-case basis.
2. The use of videoconference and teleconference as permitted by law for criminal proceedings will continue. If necessary, in-person court proceedings and in-person chambers proceedings will be limited to the number of people which permits the observance of the physical distancing requirement of six feet in all instances.
3. The use of videoconference and teleconference for change of plea hearings will proceed as permitted by law. Otherwise, to the extent possible and with the agreement of the defendant, after filing a notice to enter an open guilty plea or plea agreement signed by the defendant and/or defense counsel, the taking of the plea of guilty and the sentencing shall be consolidated for a date after the presentence report has been prepared.
4. Grand jury matters will proceed after consultation with the Chief Judge, being mindful of the status of the pandemic and public health recommendations.
5. All in-person reentry court sessions will be conducted via videoconference or teleconference, unless an alternative location and safety plan have been agreed upon by all the reentry court participating agencies.
6. All petty offense (CVB) proceedings are suspended until further notice.

7. All detainees, upon arrival at a courthouse and before appearance in court, will undergo screening for fever and other symptoms of COVID-19 contamination. Defendants on bond will be subject to health screening (temperature check and COVID-19 screening questions) upon arrival at the courthouse. Such screening will be administered by and/or at the direction of the United States Marshals Service (USMS) or its agencies or designees. The presiding judge must be notified if the detainee or on-bond defendant exhibits risk factors and will have the discretion to order the detainee returned to the facility from which they came or the on-bond defendant to be denied entrance to the courthouse.

EMPLOYEES:

1. All employees of the District Court will continue to telework until such time as they are required to report to the courthouse to perform essential functions. It is the goal that telework will be gradually reduced.
2. Employees required to report to a courthouse will self-monitor for indicative COVID-19 symptoms before reporting to the workplace. If COVID-19 symptoms are present, the employee will stay home and contact their healthcare provider for medical care and guidance regarding when it is safe to return to the workplace.
3. While in the workplace, employees will follow current guidance from the Centers for Disease Control and the Ohio Department of Health including frequent hand washing, maintaining social distancing of six feet with others, refraining from touching nose and face with unwashed hands, and sanitizing personal workspace.
4. The use of face masks or cloth face coverings is required for all employees in a courthouse. Face coverings must completely conceal the wearer's nose and mouth at all times. Employees may temporarily remove face coverings when alone in a private office or workspace which permits at least six feet of physical distance from other persons.
5. Business travel required to perform essential functions is permitted.

OTHER:

1. The Clerk's Office intake windows will be closed. Electronic filings may still be made through the CM/ECF system. For those without access to CM/ECF, documents may be submitted by mail, or in the event of an emergency, may be submitted by email to: EmergencyFiling@ohnd.uscourts.gov. All emergency filings must include an email address and phone number where the filer may be reached. Filings submitted by mail and email will be processed each business day. Mail will be received and processed each

business day. Clerk's Office staff will be available by telephone from 9:00 a.m. to 4:00 p.m. each business day as follows:

Akron: (330) 252-6020
Cleveland: (216) 357-7011
Toledo: (419) 213-5521
Youngstown: (330) 884-7420

Payments by attorneys using the CM/ECF system will be processed via credit card utilizing Pay.gov. Payments by check or money order will be accepted by mail and will be processed when received.

Cash payments will not be accepted during this period. Any *pro se* litigant filing a case via email who cannot secure a check or money order should submit his or her filing by mail, and the Clerk's Office will send a notice directing payment be submitted after courthouses reopen.

2. All Pretrial Services & Probation Offices will operate on skeleton crew. For information or assistance, a duty officer will be available at 216-357-7300.

This General Order supersedes Amended General Order No. 2020-08-6 which is hereby vacated.

The Court will regularly review this Amended General Order No. 2020-08-7.

IT IS SO ORDERED.

FOR THE COURT



Patricia A. Gaughan
Chief Judge