

IN THE JUSTICE OF THE PEACE COURT FOR THE STATE OF DELAWARE STANDING  
ORDER NO. 7 CONCERNING LIFTING OF COVID-19 JUDICIAL EMERGENCY

This 15<sup>th</sup> day of July, 2021, it appears to the Delaware Justice of the Peace Court that:

WHEREAS, the Centers for Disease Control and Prevention determined that a novel coronavirus (COVID-19) presents a serious public health threat;

WHEREAS, under his authority set forth in 20 Del. C. ch. 31, Governor John C. Carney, on March 12, 2020, declared a State of Emergency for the State of Delaware due to the public health threat caused by COVID-19, and extended the State of Emergency on April 10, 2020, May 8, 2020, June 6, 2020, July 6, 2020, August 5, 2020, September 3, 2020, October 2, 2020, October 30, 2020, November 25, 2020, December 24, 2020, January 25, 2021, February 19, 2021, March 19, 2021, April 16, 2021, May 14, 2021, and June 13, 2021;

WHEREAS, under 10 *Del. C.* § 2004, the Chief Justice, in consultation with other members of the Supreme Court, declared a judicial emergency that went into effect on March 16, 2020 at 8:00 a.m., and extended the judicial emergency on April 14, 2020, May 14, 2020, June 5, 2020, July 6, 2020, August 5, 2020, September 4, 2020, October 2, 2020, November 2, 2020, and December 2, 2020, December 30, 2020, January 28, 2021, March 3, 2021, March 31, 2021, April 30, 2021, and May 26, 2021;

WHEREAS, on May 26, 2020, the Courts Reopening Committee established by the Chief Justice submitted an interim report recommending a four-phase approach to reopening the courthouses to additional employees and the public;

WHEREAS, in an order dated June 5, 2020 (“Administrative Order No. 7”), the Chief Justice accepted the recommendations of the Courts Reopening Committee and the Justice of the Peace Court for reopening;

WHEREAS, Phase 1 of the Reopening Plan commenced on June 8, 2020, Phase 2 of the Reopening Plan commenced on June 15, 2020, and Phase 3 of the Reopening Plan commenced on October 5, 2020, as modified in Administrative Order No. 10;

WHEREAS, on November 16, 2020, in light of the deterioration of COVID19 conditions in the State, the Chief Justice ordered the courts to postpone jury trials and transition back to Phase 2 of the Reopening Plan (“Administrative Order No. 13”);

WHEREAS, in an order dated May 20, 2021 (“Administrative Order No. 20”), the Chief Justice modified the requirements for face masks or coverings in court facilities;

WHEREAS, in an order dated May 26, 2021, the Chief Justice extended the judicial emergency and modified Phase 3 of the Reopening Plan to authorize courts to increase judicial branch staffing to 100% on July 6, 2021;

WHEREAS, on December 10, 2020, Governor John C. Carney issued the Fourth Revision to the Twenty-Seventh Modification of the Declaration of a State of Emergency for the State of Delaware Due to a Public Health Threat announcing additional restrictions to confront the winter surge of COVID-19 hospitalizations in the State;

WHEREAS, on March 12, 2021, the Chief Justice announced that if the downward trend in COVID-19 cases continued and vaccines became more widely available, the Delaware Courts anticipated returning to Phase 3 in June;

WHEREAS, in an order dated April 30, 2021, the Chief Justice directed that Phase 3 of the Reopening Plan, as modified in that order, would commence on June 1, 2021;

WHEREAS, in an order dated May 20, 2021 (“Administrative Order No. 20”), the Chief Justice modified the requirements for face masks or coverings in court facilities;

WHEREAS, in an order dated May 26, 2021 (“Administrative Order No. 21”) the Chief Justice extended the judicial emergency for all State courts and their facilities in Delaware for another 30 days effective June 3, 2021, ordered that Phase 3 of the Reopening Plan would commence on June 1, 2021, and authorized courts to increase judicial branch staffing to 100%;

WHEREAS, on June 15, 2021, Governor John C. Carney announced that the State of Emergency for the State of Delaware would be lifted on July 13, 2021.

WHEREAS in an order dated June 29, 2021 (“Administrative Order No. 22”) the Chief Justice, in consultation with the other members of the Supreme Court, the presiding judges, and health experts, determined that the judicial emergency would be lifted on July 13, 2021, but that certain precautions to prevent the spread of COVID-19 should remain in effect.

WHEREAS, the Justice of the Peace Court serves in a continuous capacity during times of emergency in order to ensure that emergency and essential functions of the judicial system may continue;

NOW, THEREFORE, IT IS ORDERED that:

- 1) In accordance with the Chief Justice’s June 29, 2021 Order that the Courts return to normal court rules and procedures including amended speedy trial guidelines that had been placed on hold during the pandemic, all criminal locations shall immediately resume the scheduling of in-person proceedings but shall continue to adhere to the minimal social distancing measures that still remain in place. These measures include a limit on lobby capacity as set forth in Exhibit 2 to this Order which will necessarily limit court calendars. The standards set forth in the Policy on Speedy Trial Guidelines attached hereto as Exhibit 1 shall be effective immediately. Criminal locations are encouraged to continue to employ alternatives to in-person appearances, such as virtual appearances, for the sake of convenience, efficiency, to assist in clearing the backlog of cases, and to meet the mandates set forth within the Speedy Trial Guidelines.
- 2) All civil locations shall resume the scheduling of in-person proceedings for non-landlord/tenant cases effective immediately but shall continue to adhere to the minimal social distancing measures that still remain in place. These measures include a limit on lobby capacity as set

forth in Exhibit 2 to this Order which will necessarily limit court calendars. Civil locations are encouraged to continue to employ alternatives to in-person appearances, such as virtual appearances, for the sake of convenience, efficiency and to assist in clearing the backlog of cases.

- 3) Although some delays may still be experienced due to personnel availability and large caseloads, all civil processes shall revert to the timeliness standards set forth in statutes and court rules as soon as possible. This includes, but is not limited to, eviction processes.
- 4) Failure to Pay Capiases remain stayed until further notice.
- 5) Plexiglass barriers that were installed during the pandemic shall remain in place. Any temporary plastic barriers that are still in place may be removed immediately.
- 6) In accordance with the Chief Justice's Administrative Order No. 22, unvaccinated individuals must continue to wear face masks or coverings.
- 7) The Chief Justice's Administrative Order No. 3 regarding the suspension of any requirements for sworn declarations, verifications, certificates, statements, oaths, or affidavits in court filings expired on July 13, 2021. All documents must now be executed in accordance with Court rules. Notwithstanding the foregoing, the Court may continue to obtain signatures for virtual proceedings in accordance with the Court's Zoom protocols.
- 8) Any drop boxes installed for the purpose of accepting filings shall be removed. Filing by email may be permitted on a case-by-case basis upon the request of a party. Email shall be permitted for the filing of exhibits for virtual proceedings.
- 9) Beginning August 2, 2021, the plea drop-off practice for the Police Prosecution Process will end, and police liaisons must appear in person at all court locations.
- 10) (a) The "interest of justice" standard set forth in the Governor's Twenty Third Modification of the Declaration of a State of Emergency on June 30, 2020, which was used to assess landlord-tenant claims for a writ of possession terminated on July 13, 2021. Accordingly, evictions which are not prohibited by the CDC's Eviction Moratorium may proceed without consideration of the "interest of justice" standard.
  - (i) For a Writ that was approved, but then stayed on March 13, 2020, due to the Judicial Emergency, the plaintiff/landlord must file a request with the Court to revive the Writ within thirty (30) days from the date of this Order.
  - (ii) For a Writ requested between March 13, 2020 and April 1, 2020, where no Motion in the Interest of Justice has yet been filed, the plaintiff/landlord should file a request with the Court to revive the Writ within thirty (30) days from the date of this Order.

(iii) In cases where a judgment was issued awarding possession, but a Writ has not yet been requested, the plaintiff/landlord must file for the Writ of Possession within 30 days from the date of this Order. The Writ would then proceed in the customary manner.

(b) The prohibition against the accrual of late fees and interest in landlord-tenant cases, which resulted from the Governor's Twenty-Third Modification of the Declaration of a State of Emergency on June 30, 2020, expired on July 13, 2021. Late fees and interest may accrue and be awarded beginning July 14, 2021, if available pursuant to statute, court rules, and the lease.

(c) Alternative Dispute Resolution is no longer mandatory for landlord-tenant cases, however, parties should continue to be encouraged to use the Online Dispute Resolution system. Likewise, parties should be reminded of the availability of DEHAP funding to assist tenants who were affected by the COVID-19 pandemic.

(d) The CDC's Eviction Moratorium was extended to July 31, 2021. The CDC stated that this would be the final extension of the federal moratorium. While it remains in effect landlord-tenant cases will continue to be stayed if the tenant has provided the required declarations to the landlord.

(8) Virtual hearings are still permissible and encouraged as necessary to assist in clearing case backlogs and easing current caseloads. The Court will establish guidelines outlining cases that are appropriate for virtual hearing. That list will include, but not be limited to, three-judge panels, traffic proceedings in which the defendant resides out-of-state or presents a credible reason for not appearing in person, and civil proceedings where the parties agree to a virtual hearing.

To the extent that anything in this Order conflicts with previous orders, this Order shall supersede.



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Alan G. Davis

Chief Magistrate

## **EXHIBIT 1 TO STANDING ORDER NO. 7**

### **POLICY ON SPEEDY TRIAL GUIDELINES**

(d) Justice of the Peace Court. The following standards will govern proceedings in the Justice of the Peace Court unless otherwise directed by the Supreme Court.

(i) Time. All criminal cases shall be adjudicated as to guilt or innocence or otherwise disposed of within 90 days from the date of filing of the information. The following time periods shall not be included:

(1) For all cases in which a capias was ordered, the time between the date the capias was issued and the date the capias was executed.

(2) For all cases in which a presentence investigation has been ordered by the court, the time between the ordering of the presentence investigation and sentencing.

(3) For all nolle prosequis, the time between the scheduled trial date and the filing of the nolle prosequi.

(4) For all cases in which a mental examination has been ordered by the court, the time between the date of said order and the receipt by the court of the Examination/Evaluation Report.

(5) For all cases in which a defendant has been evaluated as incompetent to stand trial, the time during which the defendant remains incompetent.

(ii) Time when presentence report has been ordered. In all cases in which a presentence report has been ordered, the sentencing shall take place within thirty (30) days of the date of the plea or verdict.

(iii) Compliance. On a monthly basis, the Justice of the Peace Court Administrator shall compile a list of cases not in compliance with these standards and shall send a copy to the Chief Justice by the middle of the following month. Cases so listed shall be given priority status on the criminal trial calendar, and cases where the defendant remains in pretrial detention status shall be given priority over all civil matters unless a judge of the Court of Common Pleas determines that specific circumstances dictate a departure from this general Rule.

(iv) For cases that were pending or for which an information was filed between March 16, 2020 and December 31, 2021, subparagraphs (i) and (iii) above shall not apply. The Justice of the Peace Court may prioritize such cases as it determines to be in the best interests of justice and of allowing for the prompt and efficient management of the caseload resulting from the COVID-19 pandemic. On or before January 15, 2022, the Justice of the Peace Court shall report to the Chief Justice the number of cases that were pending or for which an information was filed between March 16, 2020 and December 31, 2020 and remained pending as of December 31, 2021; and on or before January 15, 2023, the Justice of the Peace Court shall report to the Chief

Justice the number of cases that were pending or for which an information was filed between March 16, 2020 and December 31, 2021 and remained pending as of December 31, 2022.

(e) Continuance. Each court shall adopt a set of standards providing that continuances shall be granted only for sufficient cause and for the shortest feasible time period.

**EXHIBIT 2 TO STANDING ORDER NO. 7**

**MAX. LOBBY CAPACITIES**

**(3 Foot Distancing)**

<b>Court 9:</b>	3 patrons
<b>Court 10:</b>	2 patrons on each side
<b>Court 11:</b>	30 patrons
<b>Court 13:</b>	15 patrons
<b>Court 6:</b>	13 patrons
<b>Court 7:</b>	15 patrons
<b>Court 8:</b>	12 patrons
<b>Court 16:</b>	Depends on total building occupancy, controlled by Capitol Police Department
<b>Court 2:</b>	9 Patrons
<b>Court 4:</b>	6 patrons
<b>Court 3/17:</b>	20 patrons total
<b>Court 14:</b>	13 patrons
<b>Court 20:</b>	8 patrons