NOTICE TO THE BAR

COVID-19 – PROTOCOLS FOR SIDEBAR COMMUNICATIONS AND CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATIONS DURING IN-PERSON COURT EVENTS

The New Jersey courts currently are conducting limited on-site court proceedings, with in-person socially distanced jury trials scheduled to begin in late September 2020. Consistent adherence to public health requirements remains critical to supporting the health and safety of all court users. At the same time, attorneys and clients must have appropriate methods to communicate with the judge and privately during in-person court proceedings. To that end, this notice provides a list of approved options for sidebar communications and confidential attorney-client communications during jury trials and other on-site proceedings. Additional options may be considered on a case-by-case basis, with court approval, taking into consideration facilities and individual participant needs (including language access services and ADA accommodations).

Sidebar Communications

- For conversations of 10 minutes or less, sidebar communications can be conducted in the courtroom closer than six feet with barriers separating the judge (on the bench) from the attorneys, and separating the attorneys, all of whom should be wearing masks.

- For matters over 10 minutes, sidebar communications can be conducted with the judge, attorneys, and parties remaining in the courtroom and other participants, including jurors, vacating the courtroom (for an approved break).

    - This option would require staff (or sheriff's officers) to escort jurors in leaving the courtroom and going to designated restrooms or breakrooms.

- Alternatively, the judge, attorneys, and parties can relocate to a second courtroom (or other court location) reserved for the trial.

    - If the judge's chambers are large enough to maintain social distancing, the judge and attorneys could relocate to chambers instead of a second courtroom (with the parties listening to the sidebar using the standard headphones).

Attorney-Client Communications

- Attorneys and clients can use walkie-talkie style headsets configured with earpieces that do not insert inside the ear and that can be wiped down and sanitized after use.

- This option provides the best support for spoken language interpreting services because the multipack units can be allocated with several on the same channel, meaning that the interpreter can be included as part of the communication.

- Attorneys and clients can pass handwritten notes, which would be removed by the attorney when leaving the courtroom (and destroyed).

- Attorneys and clients can use restricted-use phones that cannot initiate outgoing calls (e.g., two phone extensions on counsel table, each of which communicates only to the other phone) without keypads or the ability to make outgoing calls.

    - Especially in criminal trials, attorneys and parties should not use regular, unrestricted phones because of the security risks associated with enabling outgoing phone calls or text messages during a court proceeding.

- Attorneys and clients wearing masks (particularly for brief communications) can speak quietly to each other while separated by a plexiglass barrier.

- In limited circumstances, attorneys and clients (with a sheriff's officer) could relocate to a designated room for private conversations.

For both sidebars and attorney-client communications, equipment will be provided and installed by the Judiciary subject to availability. While multiple alternatives will be offered, there is no guarantee that a certain option will be available for any proceeding. However, in all cases, the court will work with the attorneys and parties to support appropriate options for communications during in-person events.

The Judiciary will continue to provide information about current court operations, including on its public website njcourts.gov. Questions about this notice should be directed to the Office of the Administrative Director of the Courts at (609) 376-3000.

Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: September 11, 2020