IN THE JUSTICE OF THE PEACE COURT FOR THE STATE OF DELAWARE STANDING ORDER NO. 6 CONCERNING COVID-19 PRECAUTIONARY MEASURES AND SCHEDULING OF CASES

This 14th day of December, 2020, 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, and November 25, 2020;

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;

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, and Phase 2 of the Reopening Plan commenced on June 15, 2020;

WHEREAS, the Courts Reopening Committee submitted to the Chief Justice, in August 2020, a plan for resuming jury trials ("Jury Management Plan") attached as Exhibit 1 to an order dated September 4, 2020 ("Administrative Order No. 10");

WHEREAS, on September 4, 2020, the Chief Justice accepted the Jury Management Plan, and, subject to further review if COVID-19 conditions deteriorated, determined that Phase 3 of the Reopening Plan, as set forth in Administrative Order No. 10, would commence on October 5, 2020;

WHEREAS, on October 5, 2020, Phase 3 of the Reopening Plan, as modified in Administrative Order No. 10 commenced;

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, COVID-19 continues to pose a serious risk to public health and safety of Delawareans, requiring the courts to continue taking steps to reduce the risk that COVID-19 poses to jurors, parties, witnesses, lawyers, judges, court staff, and the public who enter judicial facilities; and

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, 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 Governor's December 10, 2020, instruction to tighten social distancing measures, all criminal locations shall restrict the scheduling of in-person proceedings except for emergency proceedings or by approval of a judicial officer. The available calendars for appearances will be reduced in accordance with social distancing and building capacity limitations as directed by the Governor, Chief Justice, and Chief Magistrate. Criminal locations will continue to employ alternatives to in-person appearances, such as virtual appearances, whenever possible. Upon receiving notice of an action, Defendants should contact the Court to receive instructions for proceeding virtually.

(a) All forthwith criminal proceedings should continue to be conducted virtually unless the police or other detaining agency requests an in-person proceeding, can articulate a specific reason to bring the defendant in person, and permission to do so is granted by the Court.

(b) Administrative Order 4, issued by the Delaware Supreme Court on April 14, 2020 and extended through Administrative Orders 5-14, provides that periods for bringing an arrested person before a magistrate pursuant to 11 *Del. C.* § 1909 and for bringing a prisoner before a judge pursuant to 10 *Del. C.* § 6907 are extended not more than 7 days under § 2007(c). The time for taking a juvenile charged with a delinquent act before a court is extended not more than 2 days under § 2007(c). Although these time frames have been extended, the Justice of the Peace Court shall continue to hear these matters forthwith unless exceptional circumstances exist and require otherwise;

(c) All proceedings involving individuals in custody for the scheduled proceedings, and emergency reviews of bail shall proceed as scheduled and be conducted virtually;.

(d) Case-by-case exceptions may be ordered at the discretion of the Court and with proper notice to all parties. Individual defendants who appear at court because of lack of notice of the change of scheduling, or because they are attempting to resolve an emergency issue, such as the clearance of a capias, shall be heard by the Court as necessary.

2) All civil locations resumed the scheduling of in-person proceedings for non-landlord/tenant cases beginning June, 15, 2020. As of December 2, 2020, in-person civil proceedings are hereby suspended in favor of virtual proceedings. In-person proceedings may be held for emergency proceedings as set forth in 25 *Del. C.* §5115, or for cases where a judicial officer decides: i. there is a technical barrier to virtual participation; and ii. that a party has demonstrated to the judicial officer's satisfaction that an unpled, extraordinary factor necessitates that an in-person hearing date be maintained; and iii. that holding an in-person proceeding will not present a significant health risk to parties or court staff.

3) Pursuant to the Governor's Twenty Third Modification of the Declaration of a State of Emergency, issued on June 30, 2020, all civil locations resumed the acceptance of filings related to landlord/tenant matters on July 1, 2020. In compliance with the Governor's Order, the Justice of the Peace Court shall:

(a) Require parties filing actions to provide any available contact information for the defendant(s) to facilitate the scheduling of alternatives to in-person proceedings;

(b) Determine whether each summary possession action is suitable for a court-supervised alternative dispute resolution process (ADR);

(c) Schedule appropriate cases for ADR. The Court may also direct parties to engage in attempted resolution through an Online Dispute Resolution (ODR) platform, as appropriate. The ADR or ODR process may include appropriate housing support services, as determined by the Delaware State Housing Authority, if requested by either party or by the Court;

(d) Stay any execution of eviction orders while the Governor's Order remains in effect, except in the instance of a forthwith summons properly sought and adjudicated, or otherwise in the interests of justice in accordance with the Governor's Order;

(e) Conduct any properly ordered evictions in a manner that preserves the health and safety of Court Constables, the parties subject to eviction, and the public;

(f) Award no late fees or interest with respect to any past due balance for a residential rental unit that would otherwise have accrued during the COVID-19 State of Emergency.

4) Access to any Justice of the Peace Court locations will continue to be restricted based upon the social distancing requirements needed at each location. All individuals at all times must wear face coverings and maintain 6-feet of social distance from individuals outside of their household.

5) All Justice of the Peace Court staff and any other person entering a court location through a non-public entrance shall engage in a health screening pursuant to guidelines established by the Delaware Division of Public Health. Access to the court location may be denied if an individual does not pass the health screening.

6) The Court has designated personnel who shall continue to report to their scheduled work locations. The remainder of the Court's personnel shall work remotely as directed by supervisory staff, and shall be subject to recall for on-site work at Court locations as necessary to continue essential services.

7) Any Court document generally requiring the signature of a person that is noted with the language "COVID-19 procedure" shall be presumed to have been signed or assented to by the appropriate party, and the Court shall make all reasonable efforts to create a record of that event.

8) Effective November 30, 2020, in order to increase social distancing and thus protect the health of the public and Court staff, the Justice of the Peace Court implemented new procedures and a new option for filing a Certificate of Representation for an Artificial Entity or Public Body, more commonly known as the Form 50:

a) Form 50 filers shall comply with an affirmation requirement punishable under penalty of perjury and/or termination of representation privileges;

b) Form 50 should be submitted to the Court via email to the Chief Magistrate's office at ChiefMagistrateOffice@Delaware.gov. Payment must be made by credit card using the Form 50 Credit Card Processing Form (Misc Form 43). This completed form must be included/attached when submitting the Form 50 request;

c) Filers will receive the processed Form 50 via email sent to the email address the filer listed on the Form 50;

d) Form 50s will also be accepted in person at the Chief Magistrate's office, 5 East Pine Street, Georgetown, DE 19947 on Mondays and Wednesdays ONLY. The office is closed for lunch from 12:00-1:00 p.m;

e) Although Form 50s will continue to be accepted via mail, and in person, the preferred method of submission is via email.

f) Updated forms and information can be found at https://courts.delaware.gov/jpcourt/ .

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

The Court will reassess this order as necessary. The Court will continue to explore alternative means of conducting court business utilizing available technology and best practices. As such, this order is subject to change if, and when, alternative means of conducting proceedings become available.

Alan G. Davis

Chief Magistrate