# NOTICE TO THE BAR

## COVID-19 – Refinement of Court Matters that can Proceed Remotely: Supreme Court's February 22, 2021 Order and Administrative Directive #06-21

The Supreme Court in its April 20, 2020 Order reaffirmed that court operations would continue in a remote format to the greatest extent practicable, subject to narrow exceptions. That continues to be the case.

The Court in the attached February 22, 2021 Order has refined one provision of that April 20, 2020 Order. As provided in that order, certain matters with especially serious or permanent consequences or penalties still can be conducted remotely only with the consent of all parties. However, the consent of a party will not be required if the party is absent and unreachable.

Directive #06-21 ("COVID-19 – Protocol for Matters that Cannot Proceed in a Remote Format Without Consent – In Furtherance of the Supreme Court's Orders Dated April 20, 2020 and February 22, 2021"), dated February 23, 2021 and published separately, provides guidance as to matters that can proceed remotely only with the consent of the parties. The directive provides a step-by-step protocol (1) to memorialize on the record a party's objection to proceeding remotely, or the inability of counsel to ascertain a party's position; (2) to provide notice to the parties, attorneys, and other participants when a matter is scheduled for an in-person court event based on an objection to proceeding remotely; and (3) to provide an opportunity for participants to request individual adjustments and accommodations that will enable the scheduled court event to proceed. Directive #06-21 also promulgates model certifications and an exemplar Order Scheduling In-Person Hearing, for use in accordance with the Court's February 22, 2021 Order.

Questions about this notice, the Court's February 22, 2021 Order, or Directive #06-21 may be directed to the Office of the Administrative Director of the Courts at (609) 376-3000.

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

Dated: February 23, 2021

**SUPREME COURT OF NEW JERSEY**

The Supreme Court in its April 20, 2020 Order reaffirmed that nearly all court proceedings would continue to be conducted remotely, while certain matters with especially serious or permanent consequences or penalties would proceed remotely only with the consent of all parties. The Court in its November 19, 2020 Order amended the April 20, 2020 Order to provide that Family quasi-criminal (FO) matters can proceed remotely with or without consent.

Judges at all levels of the courts are continuing to conduct court events – including increasingly complex hearings and even civil jury trials – in a virtual format. More than 145,000 remote events involving more than 1,800,000 participants have been conducted in the state courts. More than 1,200,000 additional cases have been scheduled for virtual hearings in the Municipal Courts.

Overall, the Court's April 20, 2020 Order has functioned as anticipated and intended. Most court events have continued to proceed remotely. In matters with especially serious or permanent consequences or penalties as listed in paragraph 2 of the April 20, 2020 Order, parties in some cases have consented to proceed remotely. When a party has withheld consent and requested to proceed in person, courts have scheduled and conducted in-person hearings and trials.

In some situations, however, the language of paragraph 2 of the Order has prevented certain cases from moving forward when a party is unreachable and their position as to proceeding remotely cannot be ascertained. The Court has

determined to refine that language of its April 20, 2020 Order to ensure that court operations can continue as intended, with courts conducting hearings remotely or in person as appropriate.

Accordingly, it is ORDERED that paragraph 2 of the Court's April 20, 2020 Order is refined effective immediately:

1. The following matters will be conducted remotely using video and/or phone options only with the consent of all parties:
    a. Sentencing hearings in Criminal, Family Juvenile Delinquency (FJ), and Municipal matters;
    b. Juvenile delinquency adjudications;
    c. Evidentiary hearings and bench trials in Criminal matters;
    d. Evidentiary hearings and trials in Municipal matters that involve a reasonable likelihood of a jail sentence or loss or suspension of license;
    e. Termination of parental rights trials; and
    f. Hearings for an adjudication of incapacity and appointment of a permanent guardian.
2. For matters listed in paragraph 1, the consent of a party will not be required if the party is absent and unreachable. If, despite diligent efforts, an attorney cannot communicate with a client and therefore cannot advise the court of the client's position as to proceeding remotely or in person, the court will

determine whether to proceed remotely or in person. In making that determination, the court will consider all relevant factors, including the positions of other parties.

3. The Administrative Director of the Courts will provide additional guidance consistent with this Order.

For the Court,

Chief Justice

Dated: February 22, 2021