STATE OF MAINE JUDICIAL BRANCH
PANDEMIC MANAGEMENT ORDER
Order Issued July 29, 2020
(revised September 4, 2020)
(revised November 3, 2020)

Order Regarding Trial Court Remote Proceedings and Public Access

On March 14, 2020, the Supreme Judicial Court issued an Emergency Order reducing the number of people coming into state courthouses in light of the serious health risks posed by the novel coronavirus (COVID-19) pandemic. Thereafter, the Supreme Judicial Court issued a series of Pandemic Management Orders to address court proceedings during the pandemic and a Phased Management Plan ("the Plan"), which was issued on May 27, 2020. The Plan, which has since been amended, created a five-phase process for reopening Maine courts and established guidelines that were required to be met for each phase, including necessary staffing and the availability of technology.

Given the Court's ongoing concerns for the health of both Judicial Branch employees and members of the public, the Supreme Judicial Court has determined that almost all trial court proceedings must be conducted remotely—through video or telephonic formats—while the Plan is in effect. Therefore, effective immediately and until further Order of the Court, it is hereby ordered as follows:

PMO-SJC-7(A). PRESUMED FORMATS FOR COURT PROCEEDINGS

1. *Presumed remote court proceedings.* All proceedings not listed in section A(2) shall be held remotely, unless otherwise ordered by a court under section B.

2. *Presumed in-person court proceedings.* The following hearings and proceedings shall be held in person, unless otherwise ordered by the court under section B:

    a. criminal jury trials;

    b. criminal arraignments or first appearances and motions for matters involving defendants not in custody;

    c. Title 22 protective custody hearings concerning jeopardy and termination of parental rights;

    d. protection from abuse hearings;

e. protection from harassment hearings;

f. motions for contempt in family cases;

g. juvenile adjudication and dispositional hearings; and

h. forcible entry and detainer final hearings.

PMO-SJC-7(B). REQUEST OR COURT ORDER FOR ALTERNATIVE FORMAT FOR COURT PROCEEDINGS

1. *At the request of a party.* If a party asserts that special circumstances warrant conducting a proceeding in a format other than that which is presumed under section A, the party may file a motion for an alternative format court proceeding. Any such motion must explain with specificity the special circumstances asserted. Except as provided below, the motion must (1) provide the email address of the moving party and the responding party, if known; and (2) be filed and served on the other party or parties no later than fourteen days before the scheduled hearing date, unless otherwise ordered by the court. If a party objects to the motion, the objecting party must file a written opposition no later than seven days after the motion is filed, unless otherwise ordered by the court.

   a. *Email addresses in protection from abuse or protection from harassment cases*. A motion for an alternative format court proceeding in a protection from abuse or protection from harassment case must provide the email address of the moving party and the responding party, if known, unless the party filing the motion for remote proceeding believes that the health, safety, or liberty of the party or a minor child would be jeopardized by disclosure of identifying information. In that case, the party may provide the email address to the court, without providing that information to the other party, and file an Affidavit for Confidential Address (PA-015) to request that the party's email address be sealed by the court pursuant to 19-A M.R.S. § 4008.

   b. *Timing of request in protection from abuse or protection from harassment cases*. A motion for an alternative format court proceeding must be filed and served on the other party or parties no later than ten days before the scheduled hearing date, unless otherwise ordered by the court. If a party objects to the motion, the objecting party must file a written opposition no later than five days after the motion is filed, unless otherwise ordered by the court.

2. *On the order of a court.* A trial court may, in its discretion, order that any court proceeding be held in person.

3. *Standard.* The standard for granting a motion for an alternative format court proceeding is good cause shown.

   a. *Factors for consideration.* Before granting a motion or issuing an order for an alternative format court proceeding, the court must consider the health and safety of the court staff, parties, and witnesses; the ability of parties to participate remotely; and the effect its decision will have on the availability to other parties of limited Judicial Branch resources, including courtroom space, technology assistance, and clerical assistance.

   b. *Presumption against hybrid hearings*. The court shall not grant a motion for an alternative format court proceeding that would require the combining or coordination of separate, independent video platforms or technology except in extraordinary circumstances.

      Nothing in this presumption against hybrid hearings shall be construed as prohibiting or discouraging participation by telephone or a single video connection, as has historically been permitted, at the discretion of the court. During the COVID era, for witnesses and parties who are 60 years of age or older, or who are at particular risk for COVID-19 complications, permission to participate by telephone or single video connection will be liberally granted and flexibility will be exercised in applying the deadlines for requesting such.

PMO-SJC-7(C). CONDUCTING REMOTE PROCEEDINGS

1. The trial court will initiate all video or telephone proceedings and will provide information and instructions to all parties for how to access the conference or hearing.

2. Invitations to video or telephonic conferences or hearings will be sent to the parties by the clerk's office. To ensure that the invitations are received, each party is required to provide to the court an email address for official court communications.

3. The official audio recording of a remote proceeding shall be created by the Judicial Branch's electronic recording system, For the Record ("FTR").

4. No later than seven days before any remote hearing, except hearings concerning protection from abuse or protection from harassment cases as stated in section C(8) below, any party intending to offer any exhibits during the hearing must mark, copy, and exchange those exhibits with the other party or parties. The offering party must also file paper copies of those exhibits with the court no later than seven days before the trial, unless the court orders a different time period. During a remote video hearing, the court may permit rebuttal exhibits to be uploaded electronically to the video conference platform. Electronically filed exhibits must be in a standard, non-proprietary format: MP4 for video; MP3 or MP4A for audio; PDF for documents; JPG for photographs. Exhibits in other electronic formats may be filed only with leave of the court. A paper copy of any exhibit offered in rebuttal, if not previously filed with the court, must be filed within 5 days after the final hearing.

5. Self-represented litigants are held to the same standards as represented parties. A litigant will not be afforded any special consideration because of self-represented status. All court rules of procedure and process, including the rules of evidence, apply during remote hearings and conferences.

6. All parties are required to comport themselves as though the hearing or conference were occurring in person. Standards, including decorum, demeanor, and dress code, still apply. Those participating shall behave as if they were inside the courthouse.

7. Each witness must be alone in a quiet room while testifying, may not use a virtual background, and is ordered, subject to contempt of court, to turn off all electronic devices except for the device enabling participation in the hearing and to refrain from exchanging any electronic messages with anyone while testifying.

8. Unless otherwise noted above, all of the requirements in section C apply for remote hearings in protection from abuse or protection from harassment cases. The following processes shall also apply to remote hearings in those cases:

    a. *Exchanging and filing of exhibits.* In protection from abuse or protection from harassment cases, all of the requirements regarding the exchange and filing of exhibits in section C(4) apply, but the deadline for exchanging and filing exhibits is two days before a remote hearing, unless the court orders a different time period.

    b. *Service, distribution, and enforcement of final orders and extensions of temporary orders.*

i. If the defendant participates in the hearing remotely, and the court extends a temporary order or issues a final order, the court shall (1) review the contents of the order with the defendant on the record; (2) email the order to the defendant at the email address provided to the court by the defendant; and (3) order a law enforcement agency to personally serve the defendant with the order. For purposes of 19-A M.R.S. § 4011, any defendant who participates remotely and is instructed about the contents of the order by the court is deemed to have prior actual notice of the order, and the order is enforceable and effective upon signature by the court, even before service by law enforcement.

ii. If the plaintiff participates in the hearing remotely, and the court extends a temporary order or issues a final order, the court shall (1) email the order to the plaintiff at the email address provided to the court by the plaintiff; and (2) mail a certified copy of the order to the plaintiff.

PMO-SJC-7(D). PUBLIC ACCESS TO IN-PERSON COURT PROCEEDINGS

1. Courtrooms in use for non-confidential proceedings shall remain open to the public during hours of operation. Any member of the public or media wishing to attend a non-confidential court proceeding may do so in person and subject to the required conditions set forth in the Plan.

2. Upon notice that public interest in a proceeding exceeds the capacity of the courtroom established in the Plan, the trial court may provide access by video streaming the proceeding to an additional location. **Before providing such access, however, the trial court must submit a request for any additional technical or facility resources necessary for the provision of remote streaming services to the Chief Justice or Chief Judge of that court. All such decisions by the Chief Justice or Chief Judge of the court to approve additional technical or facility services shall be made based on the availability of limited Judicial Branch resources, including courtroom space, technology assistance, security staff, and clerical assistance.**

PMO-SJC-7(E). PUBLIC ACCESS TO REMOTE COURT PROCEEDINGS

1. JB-05-15 shall apply to media coverage of remote court proceedings during a pandemic. The Media Notification – Requested Coverage of Court Proceeding form, found on the Judicial Branch website at

https://www.courts.maine.gov/rules_adminorders/adminorders/JB-05-15.html

shall be the means for requests by members of the media for

a. Direct access to cover a public but remote court proceeding being conducted solely by video or telephone; and

b. Access to or recording of a live audio stream of a court proceeding.

2. The trial court retains discretion to approve, approve on conditions, or deny media coverage requests made pursuant to section E(1) above, or to allow access and coverage of remote court proceedings on its own or at the request of a party.

3. Members of the public who wish to observe or listen to remote court proceedings should contact the clerk of the court where the hearing is being held. A list of addresses and telephone numbers for each clerk's office is attached to this order.

4. Members of the media and public who wish to observe or listen to remote court proceedings in protection from abuse or harassment cases must go to the courthouse. Remote access to these proceedings will not be available to members of the media and public.

Dated: November 3, 2020

For the Court:

/s/
Andrew M. Mead
Acting Chief Justice

ATTACHMENT: Clerk's Office Addresses and Telephone Numbers

SUPERIOR COURTS
(For all Courts: TTY 711 Maine Relay)

ANDROSCOGGIN County Superior Court
330-7500

AROOSTOOK County Superior Court
498-8125

CUMBERLAND County Superior Court
822-4204

FRANKLIN County Superior Court
778-3346

HANCOCK County Superior Court
667-7176

KENNEBEC County Superior Court
Capital Judicial Center
213-2800

KNOX County Superior Court
594-2576

LINCOLN County Superior Court
882-7517

OXFORD County Superior Court
743-8936

PENOBSCOT County Superior Court
Penobscot Judicial Center
561-2300

PISCATAQUIS County Superior Court
Piscataquis Judicial Center
564-2240

SAGADAHOC County Superior Court
443-9733

SOMERSET County Superior Court
474-5161

WALDO County Superior Court
Waldo Judicial Center
338-3107

WASHINGTON County Superior Court
255-3326

YORK County Superior Court
324-5122

DISTRICT COURTS

AUGUSTA DISTRICT COURT
Capital Judicial Center
213-2800

BANGOR DISTRICT COURT
Penobscot Judicial Center
561-2300

BELFAST DISTRICT COURT
338-3107

BIDDEFORD DISTRICT COURT
283-1147

BRIDGTON DISTRICT COURT
647-3535

CALAIS DISTRICT COURT
454-2055

CARIBOU DISTRICT COURT
493-3144

DOVER-FOXCROFT DISTRICT COURT
Piscataquis Judicial Center 564-2240

ELLSWORTH DISTRICT COURT 667-7141

FARMINGTON DISTRICT COURT 778-2119

FORT KENT DISTRICT COURT 834-5003

HOULTON DISTRICT COURT 532-2147

LEWISTON DISTRICT COURT 795-4800

LINCOLN DISTRICT COURT 794-8512

MACHIAS DISTRICT COURT 255-3044

MADAWASKA DISTRICT COURT 728-4700 or 834-5003

MILLINOCKET DISTRICT COURT 723-4786 or 794-8512

NEWPORT DISTRICT COURT 368-5778

PORTLAND DISTRICT COURT 822-4200

PRESQUE ISLE DISTRICT COURT 764-2055

ROCKLAND DISTRICT COURT 596-2240

RUMFORD DISTRICT COURT 364-7171