20200032593 RECORDED IN PUBLIC RECORDS LEON COUNTY FL BK: 5453 PG: 1778, 06/12/2020 at 03:35 PM, GWEN MARSHALL, CLERK OF COURTS

IN THE SECOND JUDICIAL CIRCUIT OF FLORIDA

OFFICE OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER 2020-13

IN RE: OPERATIONAL PLAN FOR TRANSITION TO PHASE 2

Florida Supreme Court Administrative Orders AOSC20-23, Amendment 3, and AOSC20-32 established a four-phase plan for the Judicial Branch to respond to the COVID-19 pandemic.

The Second Judicial Circuit (2d Circuit or the court) is currently in Phase 1. In-person court proceedings by lawyers, litigants and witnesses is not permitted. 2d Circuit AO 2020-05, In Re: Remote Proceedings Required for Essential Proceedings. The 2d Circuit is conducting court proceedings solely remotely by audio and video technology.

The 2d Circuit implemented additional measures to mitigate the effects of the public health emergency and protect litigants, counsel, witnesses, jurors, clerks, officers of the court, court staff, judges, and other individuals entering courthouses through 2d Circuit Administrative Orders 2020-03, In Re: Close Non-Essential and Non-Critical Court Operations, 2020-04, In Re: Closure Procedures in Response to the COVID-19 Pandemic, 2020-06, In Re: Juvenile Dependency Visitation in the Time of COVID-19, and 2020-07, In Re: Emergency Temporary Standing Order Regarding Parenting in Domestic Relations Cases.

Many important court proceedings cannot be conducted or may be less effective if conducted remotely, including plea and sentencing hearings, grand jury proceedings, evidentiary hearings and trials. Many proceedings have been delayed by Phase 1 pandemic court restrictions.

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Florida Supreme Court AOSC20-23, Amendment 3, authorizes limited in-person contact for specific purposes using protective measures. Florida Supreme Court AOSC 20-32 adopted the Continuity of Court Operations and Proceedings During and After COVID-19 Workgroup's 'Requirements, Benchmarks, and Guidelines Governing the Transition to Limited In-Person Contact (Phase 2)', and directed circuit courts to develop an operational plan and meet specific benchmarks to transition to Phase 2.

By the authority of Rule 2.215, Florida Rules of Judicial Administration, AOSC20-23, Amendment 3, and AOSC20-32, it is therefore **ORDERED** that the operational plan of the 2d Circuit for transition to Phase 2 is as follows:

1. **Overall Guidance.**

   a. The court is legally bound to obey and implement all Supreme Court orders.

   b. The transition to Phase 2 will be careful and deliberate, one event at a time.

   c. The court will consult and coordinate with affected Constitutional officers throughout the circuit.

   d. Some counties may transition quicker than others, depending upon benchmark criteria, available resources and local conditions and priorities.

   e. After at least 30 days in Phase 2, some courts or counties may transition to Phase 3 with in-person contact more broadly authorized and protective measures relaxed.

   f. Some courts or counties may transition among Phases 1 through 4 depending upon the local situation and benchmark criteria.

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g. Remote proceedings will continue to the greatest extent feasible and as permitted Florida Supreme Court directives during the transition to more normal court proceedings.

2. Five Mandatory Benchmarks for Transition to Phase 2.

a. The following benchmark criteria must be met prior to any court transitioning from Phase 1 to Phase 2 and expanding in-person activities:

(1) No confirmed or suspected cases of COVID-19 in the court facility within a 14-day period; or if confirmed or suspected cases have occurred in the court facility, deep cleaning and disinfecting of exposed areas and applicable employee self-quarantine actions have been implemented.

(2) Rescission of local and state restrictive movement and/or stay-at-home orders.

(3) Improving COVID-19 health conditions over a 14-day period in the community, including conditions such as the number of confirmed COVID-19 cases and related deaths in relation to a community's population density, downward trajectory of positive tests as a percent of total tests, size of particularly vulnerable populations, and availability of medical facilities including emergency and intensive care capacity.

(4) Adequate testing programs in place, increased availability of COVID-19 tests, and emerging antibody testing.

(5) Consultation with other building occupants (for multi-tenant courthouses or buildings) and justice system partners (including, clerk of court, state attorney, public defender, law enforcement,

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local bar, and others necessary to certain case types, such as the Department of Children and Families).

b. Status by county for each benchmark criteria is as follows:

Benchmark	Franklin	Gadsden	Jefferson	Leon	Liberty	Wakulla
No confirmed or suspected cases of COVID-19 in a court facility within 14-day period	Yes	Yes	Yes	Yes	Yes	Yes
No county restricted movement or stay-at-home orders	Yes	Yes	Yes	Yes	Yes	Yes
Improving COVID-19 conditions for a 14-day period	Yes	No	Yes	Yes	No	Yes
COVID-19 testing available	Yes	Yes	Yes	Yes	Yes	Yes
Consultation with courthouse occupants and justice system partners	Yes	Yes	Yes	Yes	Yes	Yes

c. The court established its Criminal Courts and COVID-19 Advisory Workgroup in Leon County including circuit and county judges, the State Attorney, the Public Defender, the Leon County Sheriff, the Leon County Clerk of the Circuit Court, the local defense bar, and Leon County government. Its recommendations for Phase 2 are included in this Administrative Order and applied circuit-wide as applicable.

d. The Chief Judge or Office of Court Administration consulted and conducted outreach with justice system partners throughout the circuit, including Franklin, Gadsden, Jefferson, Liberty, and Wakulla Counties.

3. General Considerations for the Transition to Phase 2.

a. Prioritize in-person, essential and non-essential proceedings as specifically ordered by the Chief Judge, when authorized by Florida Supreme Court Administrative Orders AOSC20-15, AOSC20-23, Amendment 3, and AOSC 20-32.

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b. Assuming pandemic benchmarks continue to be met, Franklin and Leon Counties implement Phase 2 procedures first, followed by Jefferson and Wakulla Counties next, and finally Gadsden and Liberty Counties last.

c. Prioritize essential court proceedings before non-essential court proceedings, with criminal court generally prioritized over family court, and family court generally prioritized over civil court.

d. The plan is subject to adjustment based upon local input, resources, and benchmark criteria.

4. Criteria for In-Person Attendance at Proceedings. No court proceedings other than essential proceedings and proceedings critical to the state of emergency or the public health emergency shall be conducted through in-person hearings, unless the Chief Judge, at the request of a presiding judge, has determined that the county has transitioned to Phase 2 and determines that remote conduct of the proceeding:

a. is inconsistent with the United States or Florida Constitution, a statute, or a rule of court that has not been suspended by administrative order; or

b. would be infeasible because the court, the clerk, or other participant in a proceeding lacks the technological resources necessary to conduct the proceeding or, for reasons directly related to the state of emergency or the public health emergency, lacks the staff resources necessary to conduct the proceeding.

5. Timeline for Transition to Phase 2. Franklin, Jefferson, Leon, and Wakulla Counties currently satisfy benchmark criteria for transition to Phase 2.

a. Franklin County.

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(1) Judge J. Gordon Shuler is authorized to initiate Phase 2 court proceedings with limited in-person attendance effective June 15, 2020.

(2) Subsequent to these initial court proceedings presided over by the county judge, circuit judges assigned to Franklin County may initiate court proceedings with limited in-person attendance, so long as the criteria and mandatory requirements are met.

b. Jefferson County.

(1) Judge Robert R. Plaines is authorized to initiate Phase 2 court proceedings with limited in-person attendance effective June 15, 2020.

(2) Subsequent to these initial court proceedings presided over by the county judge, circuit judges assigned to Jefferson County may initiate court proceedings with limited in-person attendance, so long as the criteria and mandatory requirements are met.

c. Leon County. Circuit Judges Frank Allman and J. Lee Marsh are authorized to conduct Phase 2 court proceedings effective June 15, 2020. The following proceedings with limited in-person attendance are authorized:

(1) June 15, 2020. Five out-of-custody defendant pleas in a morning docket and five more in an afternoon docket before Judge Allman.

(2) June 17, 2020. Five out-of-custody defendant pleas in a morning docket and five more in an afternoon docket before Judge Marsh.

(3) June 19, 2020. Five out-of-custody defendant pleas in a morning docket and five more in an afternoon docket before Judge Allman.

(4) Future court proceedings with limited in-person attendance for the Leon County Circuit Criminal Division judges are authorized at the

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discretion of the Administrative Judge, so long as the mandatory requirements below are met.

(5) Subsequent to these initial court proceedings presided over by the Circuit Criminal Division, the Administrative Judge for County Court and the Chief Judge shall coordinate court proceedings with limited in-person attendance for county criminal cases, so long as the criteria and mandatory requirements are met.

d. Wakulla County.

(1) Judge Jill C. Walker is authorized to initiate Phase 2 court proceedings with limited in-person attendance effective June 15, 2020.

(2) Subsequent to these initial court proceedings presided over by the county judge, circuit judges assigned to Wakulla County may initiate court proceedings with limited in-person attendance, so long as the criteria and mandatory requirements are met.

e. A Leon County Grand Jury will be selected July 20, 2020 in coordination with the 2d Circuit State Attorney. If successful, subsequent Grand Juries for other counties may be selected in August 2020. It is anticipated that jury trials may begin no sooner than August 2020, subject to the local situation, benchmark criteria, and Florida Supreme Court directives. The only jury trials held in Phase 2 will be serious criminal cases with speedy trial issues as authorized by the Chief Judge on a case-by-case basis, due to extraordinary staff and space requirements required to comply with mandatory pandemic precautions.

f. Limited in-person attendance at court proceedings in Gadsden and Liberty Counties will be approved by the Chief Judge on a similar basis as above, and after consultation with the assigned judge, Office of Court Administration for required resources and support staff, and other Constitutional Officers or their delegates as appropriate to ensure that the criteria and mandatory requirements are met.

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6. Mandatory Requirements for Phase 2.

a. Judges shall continue to conduct all court proceedings remotely if possible. Judges may begin conducting limited proceedings in-person, as authorized in the criteria and timeline above.

b. Judges shall make reasonable accommodations for vulnerable individuals scheduled to appear in-person. The court shall make reasonable accommodations for employees who are vulnerable individuals.

c. Judges and court employees shall check themselves for symptoms and remain home if any are detected.

d. Health workers, volunteers, bailiffs, or other staff shall screen all visitors to court proceedings, denying entrance to anyone with a temperature at 100.4 or above or who answers "yes" to any of five questions:

(1) Question 1: Do you have any of the following symptoms, excluding those due to a known medical reason?

- Cough
- Shortness of breath or difficulty breathing
- Chills
- Muscle pain
- Sore throat
- New loss of taste or smell

(2) Question 2: Are you currently awaiting the results of a test to determine if you have COVID-19?

(3) Question 3: Are you under instructions to self-isolate or quarantine due to COVID-19?

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(4) Question 4: Have you had close contact with someone with a COVID-19 diagnosis or who is awaiting test results for COVID-19?

(5) Question 5: Have you travelled to an area with a notably high concentration of COVID-19 cases?

e. Everyone inside courthouses waiting for or participating in court proceedings must wear masks and use social distancing required by Florida Supreme Court directives. Masks must be worn properly by covering the nose and mouth.

f. The court and county shall clearly mark waiting and seating areas to promote safer separation distance.

g. The court shall make face masks, hand sanitizer, and disinfecting wipes available to all court employees and visitors to court proceedings.

h. Bailiffs shall enforce social distancing and wearing of masks for visitors to court proceedings, as directed by the chief judge or designee.

i. Counties will clean or disinfect high traffic areas and shared surfaces frequently.

7. Recommended Guidelines for Phase 2.

a. The Chief Judge may limit inmate transportation.

b. Judges may conduct hybrid hearings, with attendance by participants both in-person and remotely.

c. Judges may require paperless filings in advance of proceedings to reduce paper handling.

d. Judges may establish a policy for protecting participants with a face mask in court proceedings where facial expressions or features must be observed or where there is difficulty in making a record.

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e. Judges may limit those physically permitted in the courtroom to parties, attorneys, victims, witnesses, court reporter, court interpreter and other persons whose presence is essential.

f. Court staff in routine close contact with others may use gloves and face shields.

8. Courthouses.

a. Many courthouses in the 2d Circuit are public buildings subject to the authority of both the Chief Judge and local authorities. Local authorities may open facilities within their authority in a courthouse, since they have individual Constitutional and statutory responsibilities to the public.

b. If courthouses are opened by local authorities, the Chief Judge suggests guidelines based upon the Center for Disease Control, Governor Ron DeSantis, or Florida Supreme Court guidance:

(1) Using guidance applied to other public venues, indoor occupancy should be limited to 50 percent of building occupancy while keeping a minimum of six feet between parties.

(2) Most routine business transactions should be conducted remotely.

c. If local authorities decide not to open courthouses, then the public entrances to these courthouses will only be open during specific court proceedings authorized for in-person attendance.

d. Regardless of decisions by local authorities on opening courthouses, individuals attending court proceedings will follow Florida Supreme Court directives, including wearing masks, screening, and social distancing. Other visitors to courthouses should follow the directives of the offices they are visiting.

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e. Courthouses opened for in-person attendance at court proceedings will be modified for transition to Phase 2 by installing dividers to block every other row in the courtrooms with seats marked in six foot increments to ensure social distancing. Signage will be placed throughout courthouses to inform court visitors that the wearing of masks is required and the health benefits of wearing masks. Barriers and/or tape markings will be placed throughout courthouses to ensure that visitors know where to stand for appropriate social distancing. The status of these modifications is as follows:

(1) Both courtrooms in Franklin County were modified June 8, 2020.

(2) All three courtrooms in Gadsden County will be modified the week of June 15, 2020.

(3) The courtroom in Jefferson County was modified June 9, 2020.

(4) Nine of 19 courtrooms in Leon County have been modified accordingly. The remainder will be modified prior to any in-person court proceedings being conducted in those courtrooms.

(5) The courtroom in Liberty County will be modified the week of June 22, 2020.

(6) Both courtrooms in Wakulla County will be modified the week of June 15, 2020.

9. **Media Access.** The court shall provide media access to proceedings in Phase 2 through remote means or in-person attendance. Media representatives should contact the Office of Court Administration for access to specific proceedings. In-person attendance by media representatives are subject to the same mandatory requirements as litigants, attorneys, and other court visitors.

10. **Effective Date.** *This order shall take effect immediately and shall remain in* effect until modified by subsequent order.

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11. **Inconsistent Provisions Rescinded**. This order rescinds all provisions of previous Administrative Orders that are inconsistent with these new provisions.

DONE and ORDERED in chambers in Tallahassee, Leon County, Florida, this 12th day of June, 2020.

JONATHAN SJOSTROM
Chief Judge

Copies furnished to:
All Circuit and County Judges, 2d Circuit
State Attorney, 2d Circuit
Public Defender, 2d Circuit
All Clerks of the Circuit Court, 2d Circuit
All Sheriffs, 2d Circuit
Office of Court Administration, 2d Circuit

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