

RE: GUIDELINES FOR COURT PROCEEDINGS FOR THE HOUSTON SUPERIOR AND STATE COURTS

(In compliance with the Second Order Extending Declaration Of Statewide Judicial Emergency)

As with everything else, the coronavirus has significantly disrupted the judicial system. By order of the Chief Justice of the Supreme Court, court functions have all but ceased for the better part of three months. A Second Order Extending Declaration Of Statewide Judicial Emergency has now been issued. That Order extends the prohibition of any jury trials at least until Friday, June 12, 2020 at 11:59pm. While it does allow for the resumption of some non-jury court functions, the restrictions and limitations do not allow anything approaching what we once knew as “normal.” Please refer to that Order for information as to the parameters for operation of the courts.

To comply with Section Four of the Chief Justice’s Order, this memorandum will serve as the written guidelines for proceedings in the Houston Superior and State Courts. The operative term is “guidelines.” Each judge and each court will necessarily have the leeway to vary the guidelines as particular circumstances dictate.

Access: Anyone coming to the courthouse to attend any court proceeding will be required to submit to a screening at the entrance to the courthouse. The particular area for the screening will be determined by security. This screening will include questions as to whether the person is experiencing fever, shortness of breath, persistent cough or sore throat, or any other symptoms of respiratory infection. The visitor will also be asked questions concerning their travel and possible exposure to COVID-19 within the last fourteen days. As the availability of equipment permits, each person’s temperature will be taken using a no-touch thermometer. Should concerns be raised as a result of this screening, the Court will immediately be notified and a decision will be made as to whether that person will be allowed in the building. If they are not permitted entry, the particular Court/Judge presiding in their proceeding is to be contacted so that the matter can be heard by alternative means, e.g., Zoom, etc.

Social Distancing: For all court proceedings, social distancing will be required. Within

the courtrooms, there must be a ten foot space between every person. For example, a litigant must sit at one end of the table and his/her counsel at the other end. Members of the public attending the proceeding must sit ten feet apart in the gallery; the courtroom will be considered “full” when that distancing has reached its capacity. In the hallway outside of the courtrooms the floor has been marked at ten foot intervals; those in the hallway will be required to abide by this distancing. When capacity has been reached in the hallway, security will help others to a location outside the building to wait until space is available.

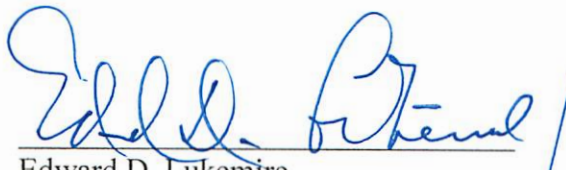
Personal Protective Equipment (PPE): All participants in litigation will be required to wear protective masks in the courtrooms and while on the second floor. This includes counsel, parties and witnesses. Members of the public attending the proceedings are strongly urged to wear masks; if a sufficient number of masks are available to security or to the court, then members of the public will be provided same and required to wear them at all times when in a courtroom or in the hallway.

Remote Judicial Proceedings: All judges in the Superior and State courts will continue to use technology to provide an alternative to in person proceedings. Our preferred method is Zoom; it is the most user friendly and flexible product we have found. Whether to use this platform in a pending matter will be within the sole discretion of the judge presiding in that case. Should the decision be made to use this alternative, litigants, lawyers, witnesses and other essential personnel must comply with this decision (See Section Three of the Chief Justice’s Order). Of course, to the extent possible, in person proceedings are preferred by all participants; however, the circumstances of a case may not allow this luxury. Finally, no proceeding - whether in person or remote - will be conducted if doing so would violate a constitutional right of a litigant.

Types of Proceedings: While the most recent Order from the Chief Justice allows in court proceedings, whether to conduct those proceedings - and how - depends on the nature of the event. For example, some hearings involve only the parties and counsel; these are more

amenable to being held in person (domestic rules, motions for new trial, pre-trial motions, etc.). Other proceedings traditionally involving a large number of people will - if held in person - be subject to more modifications and restrictions (arraignments, child support, calendar calls, etc.). Each judge will determine whether or not to hold these proceedings in person, and if so, whether to limit the number of hearings, whether to stagger the times for appearance, etc. Questions as to whether and how a proceeding will be conducted are to be addressed to the judge for that proceeding.

These guidelines will remain in effect at least as long as any Judicial Emergency Order exists. The length and degree of restriction may also depend on what is deemed necessary in the Houston Judicial Circuit and allowed by statute (See O.C.G.A. §§ 38-3-61 and 38-3-62). It is not the intention of any judge in the State or Superior Courts of this circuit to impose any restriction for any period of time beyond what is absolutely necessary to ensure the safety of all who enter our courthouses. As do you, we look forward to the day when the administration of justice returns to its normal course. Until then, we will work with all who have business before the court to find a way to provide access and a fair hearing for their concerns.


Edward D. Lukemire
Chief Judge, Houston Judicial Circuit

5/11/2020