UNITED STATES DISTRICT COURT

DISTRICT OF MAINE

Protocols Concerning In-Person Court Proceedings during COVID-19 Pandemic

Updated April 20, 2021

These protocols apply to all in-person court proceedings conducted by the United States District Court for the District of Maine. These protocols do not apply to trial proceedings, which are outlined in the Court's Plan for Resuming Trials.

1. Building Access

All persons seeking entry into the District Court's facilities must comply with General Order 2020-13 (attached hereto as Appendix A).

2. Courtroom Preparation

Routine cleaning lowers the risk of spreading COVID-19 infection by killing germs on surfaces. The Court has arranged for frequently-touched surfaces to be disinfected pursuant to the Guidance for Cleaning and Disinfecting provided by the Centers for Disease Control and Prevention. In addition:

(a) Hand sanitizer, disinfectant wipes, and nitrile gloves will be made available; and a face mask will be provided to anyone without one.

(b) Plexiglass barriers have been installed at counsel tables, given the proximity of seating.

(c) Plexiglass barriers have been installed at each witness box. If more than one witness testifies during a hearing, the witness-stand and microphone will be cleaned by the case manager before a new witness takes the stand.

(d) Air purifiers have been installed at witness stands, counsel tables and the Judge's bench.

(e) Disposable microphone covers will be used and replaced after each proceeding or a change in witness.

(f) Conversations with the Court that are ordinarily conducted at sidebar will be conducted using headsets that will allow everyone to remain in their seats. The sidebar system will also permit counsel and the parties to speak with one another confidentially.

(g) The Court will provide bottled water for witnesses, counsel and the parties seated inside the well of the courtroom. No other food or beverage is permitted in the courtrooms.

(h) Seating in the gallery is limited to specific seats that have been preselected to facilitate appropriate social distancing.

(i) If more than one proceeding is to be held in a day, the Clerk's Office will clean all frequently used surfaces after each proceeding. Examples of frequently touched surfaces and objects include tables, keyboards, screens, chairs, tabletops, and gallery seating.

(j) Signs have been placed at the entrances to courtrooms and attorney conference rooms listing the maximum number of occupants per room.

3. Persons in Custody

The U.S. Marshals Service can transport and hold up to three defendants in their cell blocks each day. The three defendants must originate from the same jail or prison. Counsel must notify the Clerk's Office when a proceeding involves multiple parties or witnesses in custody.

4. Counsel's Duty to Notify the Court

Counsel are to appear in court at least fifteen (15) minutes prior to a hearing for instructions about the in-person COVID-19 protocols. See General Order 2020-13 regarding courthouse entrance protocols. Counsel must notify the Court no less than five (5) business days prior to any scheduled hearing when any person is unable to comply with the requirements of Governor Janet T. Mills' *Moving Maine Forward Plan*.

5. Exchange of Documents and Evidence Presentation

a. Plea Documents

1. The prosecution version should be filed in CM/ECF at least five (5) business days prior to the scheduled hearing.

2. The Waiver of Indictment form will not be used in proceedings in which a defendant has the right to waive indictment. The Court will make a comprehensive inquiry as to the defendant's decision to waive the right to indictment.

3. In a case with a plea agreement, counsel must send an advance copy of the plea agreement, signed or unsigned, to the Clerk's Office for the Judge to review prior to the proceeding with copies to counsel and the U.S. Probation Office. At the conclusion of the proceeding, counsel should give the clerk the original signed plea agreement.

4. Any necessary modification of a previously filed document such as a plea agreement to make a date correction, spelling, etc. will be verbally noted on the record during the hearing. The written change will be noted by counsel and endorsed with counsels' initials at the conclusion of the hearing and submitted to the Clerk for docketing.

b. Exhibits and Documents for Sentencing and Evidentiary Hearings

1. All exhibits must be marked for identification prior to any scheduled hearing and submitted to the court five business days prior to the hearing.

2. When providing exhibits to the Court, counsel must also provide the exhibits to opposing counsel and the U.S. Probation Office, if appropriate.

3. Counsel may present evidence from the Court's fixed audio-visual presentation cart or from counsel table.

4. Unless otherwise ordered by the Court, all exhibits offered in evidence, whether admitted or excluded, shall be held in the custody of the Clerk. Pursuant to Local Rule 123, exhibits will be maintained by the Clerk during the pendency of the proceedings, except that exhibits, which because of their size or nature require special handling, shall remain in the possession of the party introducing them. Exhibits retained by counsel shall be preserved in the form in which they were offered until the proceeding is finally concluded.

5. In the event of an appeal, the Clerk will provide paper copies of the documents upon request by counsel or the Court of Appeals.

6. Courtroom Occupancy

(a) The number of persons permitted in each courtroom depends on specific occupancy calculated using social-distancing requirements. When the courtroom has reached capacity, the Court may create an overflow room where proceedings will be broadcast.

(b) Counsel should notify the Court in advance of a proceeding when they know that there will be significant public interest that would require overflow seating.

(c) Six-foot social distancing must be maintained at all times.

7. Attorney Conference Rooms

(a) Attorney conference rooms are available. Conference rooms will be given to specific parties, and the number of persons allowed in each room is limited based on the size of the room and six-foot social distancing requirements.

(b) Hand sanitizer, disinfectant, masks, and nitrile gloves are available in all conference rooms.

8. U.S. Marshal Service's Attorney/Client Visitation Rooms

(a) Attorney/Client Visitation Rooms located in the U.S. Marshals Office are available for brief meetings between a detained person and their lawyer.

(b) A plexiglass barrier has been installed in front of the communication screen.

(c) Each room is also provisioned with an air purifier.

(d) The detained person and lawyer must maintain no less than six-foot social distancing and wear masks at all times.

9. Remote Access to Court Proceedings

In general, the Court will not provide remote video or audio access to in-person proceedings. However, the presiding Judge may, at the Judge's own initiative or in response to a written request seeking remote access, order the Clerk's Office to arrange for remote access.

10. Technical Requirements for Using the Court's Evidence Presentation System

(a) The Court will provide training to any attorney who needs to present documents and evidence electronically in the courtroom. Counsel should make arrangements with the Clerk's Office for training at least five (5) business days prior to the scheduled hearing.

(b) Devices which are to be used for digital evidence presentation must have the following features:

- HDMI or VGA ports.
- To play audio, a 3.5mm headphone port is required.
- If the device is an iPad, the appropriate HDMI adapter must be supplied

Any questions regarding device compatibility can be directed to the I.T. Department at 207-274-5117

11. Effectiveness

(a) These protocols may be adjusted at the discretion of the presiding Judge.

(b) These protocols take effect on April 20, 2021 and will remain in effect until further notice.