

COURT OPERATIONS AND ACCESS DURING
COVID-19 PANDEMIC

GENERAL ORDER

COVID-19 Pandemic

WHEREAS, the Centers for Disease Control (“CDC”) has advised people to take precautions in light of the Coronavirus Disease 2019 (“COVID-19”) outbreak and noted that the best way to prevent illness is to avoid being exposed to this virus;

WHEREAS, as of the date of this Order, over 2 million people in the United States have contracted COVID-19 and over 115,000 people in the United States have died;

WHEREAS, as of the date of this Order, over 383,000 people in New York have contracted COVID-19, and over 30,000 people in New York have died;

WHEREAS, in response to the COVID-19 Pandemic Event, the President of the United States, the Governor of the State of New York, the County Executives for the Counties of Monroe and Erie and the surrounding counties, and the Mayors of the Cities of Rochester and Buffalo have declared states of emergency;

WHEREAS, some businesses are being allowed to open based upon a phased reopening plan but individuals are requested to wear masks or face coverings when not social distancing in public and there are limits to the number of persons who may congregate in one place at a given time;

WHEREAS, the Bureau of Prisons and New York State’s Department of Corrections and Community Supervision have restricted visits—including attorney visits—to their facilities, and the Federal Public Defender’s Office for the Western District of New York has sought to limit in-person meetings with their clients, all of which is impacting the ability of attorneys to properly prepare for criminal proceedings;

WHEREAS, the Court's Jury Administrator has received a significant number of communications from potential jurors expressing their reluctance or inability to serve on jury duty due to the COVID-19 Pandemic Event;

WHEREAS, the United States Attorney for the Western District of New York has reported that his office has had difficulty at times securing a quorum of grand jurors to preside over grand jury matters even after reassuring them that their safety is a priority;

WHEREAS, the circumstances surrounding the COVID-19 Pandemic Event remain a serious concern in the Western District of New York, New York State, and the United States;

The Court's Response

WHEREAS, the Court has implemented measures to reduce the number of people and level of interaction at proceedings conducted in the courthouses of the United States District Court for the Western District of New York (the "District"), including limiting the number of courtrooms being utilized in each courthouse to help with social distancing and permitting and requiring attorneys and other personnel to participate by video or telephone, when appropriate;

WHEREAS, on March 12, 2020, the Court issued a General Order restricting entry to the courthouses of the United States District Court for the Western District of New York in certain circumstances due to the COVID-19 Pandemic Event;

WHEREAS, on March 13, 2020, the Court issued a General Order detailing Court Operations during the COVID-19 Pandemic Event and continuing civil jury trials, grand jury selections, and naturalization ceremonies for a period of sixty (60) days;

WHEREAS, the Court's March 13, 2020 General Order encouraged judges to reduce personal appearances in both civil and criminal proceedings as much as practicable;

WHEREAS, on March 16, 2020, the Court issued a General Order permitting Mediators to adjourn mediation sessions and extending mediation deadlines in all cases for a period of sixty (60) days;

WHEREAS, on March 18, 2020, the Court issued a General Order continuing criminal jury trials for a period of sixty (60) days;

WHEREAS, on March 19, 2020, the Court issued a General Order permitting judges to reschedule or hold attorney admissions ceremonies virtually;

WHEREAS, on March 20, 2020, the Court issued a General Order regarding financial deposits;

WHEREAS, on March 27, 2020, the Court issued a General Order permitting attorneys on the CJA Panel to submit interim vouchers in certain circumstances;

WHEREAS, on March 30, 2020, the Court issued a General Order permitting judges, with the consent of the defendant, to conduct certain criminal proceedings by videoconference, or, where videoconference is not reasonably available, by teleconference;

WHEREAS, on April 17, 2020, the Court issued a General Order explaining how members of the public and the press can attend court proceedings by teleconference or videoconference;

WHEREAS, on April 23, 2020, the Court issued a General Order requiring entrants to the courthouses to, among other things, wear a mask or other face covering when entering and moving about the courthouses;

WHEREAS, on May 13, 2020, the Court issued a General Order extending the above General Orders to June 15, 2020.

Visitor Restrictions

IT IS HEREBY ORDERED that the following persons shall not enter any United States courthouse in the Western District of New York:

1. Persons not wearing a mask or face covering;
2. Persons who have been asked to self-quarantine by any doctor, hospital or health agency;
3. Persons who have been diagnosed with COVID-19 who are not fully recovered;

4. Persons who have had contact with anyone who has been diagnosed with COVID-19 in the preceding fourteen (14) days; or
5. Persons with fever, cough, or shortness of breath;

IT IS FURTHER ORDERED that court security staff shall inquire of all persons seeking entry to any courthouse whether they meet any of the above criteria for restricting visitors, and if so, deny their entry;

IT IS FURTHER ORDERED that the United States Marshals Service may also deny entry to the courthouse to any person considered a risk to carry COVID-19;

IT IS FURTHER ORDERED that persons shall wear a mask or face covering while in public spaces of the courthouse unless otherwise directed by the Court and any person failing to do so may be removed from the courthouse by court security staff or the United States Marshals Service;

Criminal Jury Trials

IT IS FURTHER ORDERED that all criminal jury trials scheduled to commence through July 15, 2020 before any district or magistrate judge in any courthouse in the District are hereby CONTINUED;

IT IS FURTHER ORDERED that, due to the Court's reduced ability to obtain an adequate spectrum of jurors; the effect of the above circumstances and public health recommendations on the availability of counsel, court staff, and defendants to be present in the courtroom; the fact that federal, state, and local correctional facilities continue to restrict visitors, making it difficult for defense counsel to consult with their clients in preparation for proceedings, hearings, or trials; and the limitations on the number of individuals who can gather at any given time remains limited; and based upon the advice of an infectious disease specialist engaged by the Court as a consultant that physical modifications—such as the instillation of plexiglass dividers and rearranging furniture to accommodate social distancing—need to be made to courtrooms to make them safe for use, the

time period of the continuances implemented by this General Order will be EXCLUDED under the Speedy Trial Act, as the Court specifically finds that the ends of justice served by ordering the continuances outweigh the best interests of the public and each defendant in a speedy trial, pursuant to 18 U.S.C. § 3161(h)(7);

Grand Jury Selection

IT IS FURTHER ORDERED that, based upon the circumstances articulated in the above paragraph, all grand jury selections in this District are CONTINUED until July 15, 2020;

Other Criminal Matters

IT IS FURTHER ORDERED that certain criminal matters and proceedings shall take place in person, by videoconference, or by telephone conference, as set forth in the Court's General Order dated March 30, 2020 and if consented to by the defendant;

IT IS FURTHER ORDERED that, based upon the pandemic situation as described above, all criminal proceedings may be adjourned until July 15, 2020 and the time between the date the adjournment is granted and July 15, 2020 will be EXCLUDED under the Speedy Trial Act, as the Court specifically finds that the ends of justice served by ordering the continuances outweigh the best interests of the public and any defendant's right to a speedy trial, pursuant to 18 U.S.C. § 3161(h)(7);

IT IS FURTHER ORDERED that Grand Jury returns may take place by video teleconference pursuant to Federal Rule of Criminal Procedure 6;

IT IS FURTHER ORDERED that this Order does not affect the Court's consideration of criminal motions that can be resolved without oral argument or personal appearances;

Civil Jury Trials

IT IS FURTHER ORDERED that all civil jury trials in this District may be CONTINUED until July 15, 2020, at the discretion of the individual judge;

IT IS FURTHER ORDERED that this Order does not affect the Court's consideration of civil motions that can be resolved without oral argument or personal appearances;

Naturalization Proceedings

IT IS FURTHER ORDERED that no naturalization proceedings will be conducted in the Courthouses of this District or by a judge of this District in any location until July 15, 2020;

IT IS FURTHER ORDERED that the Court hereby grants the office of the United States Citizenship and Immigration Services the authority to perform administrative naturalization ceremonies under 8 U.S.C. § 1421 until July 15, 2020;

Public and Media Access to Proceedings

IT IS FURTHER ORDERED that civil and criminal hearings may be conducted on a videoconference line or, where one is not reasonably available, a toll-free teleconference line. That line will be available to members of the public and the media, to the extent practicable. A note will appear on each case's individual docket on PACER and dial-in instructions can be obtained by calling the judge's Chambers directly. Further instructions can be found on the court's website or by calling the Clerk's Office. Members of the public and media may listen to the proceedings but may not participate in them. Members of the public and media are strictly prohibited from recording or broadcasting any hearing, in whole or in part, in any fashion. *See* Local R. Civ. P. 83.5. Failure to comply with the above restriction on recording or broadcasting may result in a contempt finding. Further restrictions are set forth on the court's website and may change from time to time;

IT IS FURTHER ORDERED that courtrooms will only be able to accommodate a limited number of people in order to maintain social distancing. The judge has the final, discretionary authority to grant or deny any specific request to appear in person, and to limit the number of persons entering the courtroom;

Attorney Admissions

IT IS HEREBY ORDERED that, at the discretion of the judge performing the attorney admission, the judge may:

1. Waive the personal appearance by the applicant and sponsor when provided the necessary documents including a Certificate of Good Standing;
2. Perform the admission ceremonies through any available communication technology, such as but not limited to: video conferencing, teleconferencing, Skype or Facetime;
3. Reschedule the applicant's date of admission. This may include rescheduling of case deadlines to accommodate the new date of admission;

Mediation

IT IS FURTHER ORDERED that the Court's ADR Program remains open, subject to the limitations set forth below:

1. All ADR deadlines previously extended by a total of ninety (90) days shall be extended by an additional thirty (30) days unless otherwise determined by the presiding or referral judge;
2. The Mediator in any case may elect to adjourn mediation sessions until July 15, 2020;
3. Notwithstanding the above, no in-person mediation sessions will be conducted in the Courthouses of the Western District of New York until July 15, 2020, unless approved by the presiding or referral judge;
4. If a mediation is adjourned, the Mediator shall prepare a Mediation Certification confirming to the Court that the mediation session has been adjourned, including the new date for the mediation session as agreed upon by the Mediator and the parties, and send it to "adrprogram@nywd.uscourts.gov" for filing;

5. This Order shall apply to all Case Management/Scheduling Orders with ADR deadlines issued until July 15, 2020;

IT IS FURTHER ORDERED that electronic ADR filings including Stipulations selecting a Mediator and Mediation Certifications may still be made through the CM/ECF system and ADR Program;

CJA Interim Voucher Payments

IT IS FURTHER ORDERED that until July 15, 2020, CJA Panel Attorneys may submit interim vouchers for compensation, without prior Court approval, so long as the voucher exceeds \$500 and is not submitted within two months of a prior interim voucher in the same criminal matter;

Financial Deposits

IT IS FURTHER ORDERED that treasury deposits will be reduced to once per week each Thursday in order to further limit staffing;

Courthouses Remain Open

IT IS FURTHER ORDERED that the Western District of New York courthouses remain open, subject to the limitations contained above;

IT IS FURTHER ORDERED that filings will continue to be processed in civil and criminal cases via the CM/ECF electronic system and by mail. Paper documents may be received in the drop box located just inside the courthouses;

Superseding of Previous General Orders

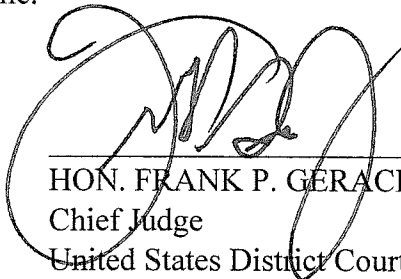
IT IS FURTHER ORDERED that this General Order supersedes this Court's General Orders issued on March 12, 2020; March 13, 2020; March 16, 2020; March 18, 2020; March 19, 2020; March 20, 2020; March 27, 2020; April 12, 2020; April 23, 2020; and May 13, 2020;

Termination of General Order

IT IS FURTHER ORDERED that this General Order shall remain in effect until July 15, 2020, unless otherwise ordered by the Court. The Court reserves the right to amend, modify, terminate, or extend this General Order at any time.

IT IS SO ORDERED.

Dated: June 15, 2020
Rochester, New York



HON. FRANK P. GERACI, JR.
Chief Judge
United States District Court