

A stylized sun graphic on the left side of the slide. It features a solid yellow circle at the bottom, with several yellow dashed lines of varying lengths radiating upwards and to the right, suggesting rays of light. The background is a gradient from orange at the top to white at the bottom, with a large white semi-circle on the right side.

Reconstituting Bankruptcy Court Operations: Phase 1

June 16, 2020

Chief Judge Christopher S. Sontchi

Previous Orders

- March 13, 2020: Hand Deliveries Order
 - Prohibited the hand delivery of documents to the Bankruptcy Court and modified certain Local Rules and Chambers' Procedures to provide for electronic delivery of documents.
- March 16, 2020: General Order
 - All Court Hearings that were not time sensitive were continued to a date to be determined on or after April 15, 2020, and Court Hearings were limited to being held (i) telephonically, or (ii) by a combination of telephonic and video conference.
 - Court implemented remote working for all employees.

Previous Orders cont.

- March 31, 2020 Amended Order
 - All Court Hearings that were not time sensitive were continued to a date to be determined by the presiding judge on or after May 1, 2020, and Court Hearings were limited to being held (i) telephonically, or (ii) by a combination of telephonic and video conference.
- April 20, 2020 Second Amended Order
 - All Court Hearings that were not time sensitive were continued to a date to be determined by the presiding judge on or after May 18, 2020, and Court Hearings were limited to being held (i) telephonically, or (ii) by a combination of telephonic and video conference.

Previous Orders cont.

- May 11, 2020 Third Amended Order
 - Hand Deliveries Order remained in effect, provided, however, that any judge was authorized, but not directed, to annul or to modify any of the provisions of the Hand Deliveries Order, on a case by case basis, solely as it applies to said judge.
 - Termination of continuance of non-time sensitive matters, effective May 18, 2020.
 - Court Hearings that are held prior to June 1, 2020 were limited to being held telephonically, or by a combination of telephonic and video conference.
- May 26, 2020 Fourth Amended Order
 - Court Hearings that are held prior to July 1, 2020 were limited to being held telephonically, or by a combination of telephonic and video conference.

Federal Guidelines

- AO Guidelines
 - Administrative Office of the United States Courts issued Federal Judiciary COVID-19 Recovery Guidelines (“AO Guidelines”) in which it recommended a phased approach to reconstituting operations.
 - The AO Guidelines recommend that a threshold requirement to beginning the process of reconstituting operations is “sustained downward trending average of cumulative daily COVID-19 case counts over a 14-day period.”
 - According to data released by the Delaware Division of Public Health, the 14-day average of cumulative daily COVID-19 case counts in Delaware, as well as the (i) number of hospitalizations, (ii) number of new hospital admissions, and (iii) percentage of persons who have tested positive have sustained a level or downward trend since early May, 2020.

Federal Guidelines cont.

- District Court Guidelines
 - Implements a phased approach and largely follows AO Guidelines with some provisions narrowly tailored to the unique circumstances of our District Court and Bankruptcy Court.

Delaware State Orders and Guidelines

- March 13, 2020 State of Emergency Declaration
 - The operation of the Bankruptcy Court is not prohibited under the State of Emergency Declaration.
- 7th Modification of the State of Emergency Declaration entered on March 29, 2020 - “[a]ny individual who enters Delaware from another state, and who is not merely passing through, must immediately self-quarantine for fourteen (14) days.”
 - On June 1, 2020, Governor Carney lifted the quarantine requirement of the 7th Modification to the State of Emergency Declaration.
 - Thus, there is no prohibition on persons travelling from outside Delaware attending on-site Court Hearings in the Bankruptcy Court.

Delaware State Orders and Guidelines cont.

- 9th Modification of the State of Emergency Declaration entered on April 1, 2020 - “[a]ll persons are prohibited from gathering in groups of ten (10) or more people.”
- On May 15, 2020, Governor Carney issued guidance regarding Delaware’s reopening of business. That guidance provides, among other things, that “Social settings of more than 10 people, where appropriate distancing may not be practical, must be avoided (e.g. receptions, trade shows).”
- On June 2, 2020, Governor Carney issued further guidance, which provides that, effective June 15, 2020, the “indoor gathering limit” is raised to 50 persons.
- The Bankruptcy Court interprets this guidance as providing that the prohibition on individuals from attending gatherings in groups of 50 or more does not apply to on-site Court Hearings, which are not “social settings.”
 - Nonetheless, the imposition of social distancing guidelines will result in no more than 50 persons being present in any courtroom.
 - Indeed, each courtroom will hold approximately 25 persons, exclusive of court personnel.

Implementing Phase 1

- **Phase 1 is effective as of June 17, 2020.**
- Bankruptcy Court will enter 5th Amended Order, implementing changes.
- Hand Deliveries Order will remain in effect, provided, however, that any judge is authorized, but not directed, to annul or to modify any of the provisions of the Hand Deliveries Order, on a case by case basis, solely as it applies to said judge.
 - Some judges, primarily Judge Shannon and Judge Silverstein, are requesting the hand delivery of binders and other documents – check with Chambers.

Implementing Phase 1 cont.

- At the discretion of the presiding judge, on a case by case basis, Court Hearings that are held on or after June 17, 2020, shall be held (i) telephonically, (ii) by a combination of telephonic and video conference, or (iii) on-site in a courtroom.
- **On-site Court Hearings shall be held at the discretion of the presiding judge, on a case by case basis, and shall be minimized and limited to critical cases only.**
 - Persons are allowed and encouraged to attend on-site Court Hearings via telephone whenever possible.
 - The presiding judge will promptly consider any request to change a Court Hearing from being held on-site in a courtroom to being held telephonically or by a combination of telephonic and video conference.

Accessing Bankruptcy Court Premises

- Bankruptcy Court premises will be reopened to the public, solely for the purpose of conducting on-site Court Hearings, subject to the following conditions:
 - Standing Order re Use of Face Mask/Coverings in Public Areas of the District and Bankruptcy Courts issued April 28, 2020, which provides, in pertinent part, that “[v]isitors to the ... Bankruptcy Court – including vendors, contractors, litigants, attorneys, and other members of the public – are required to wear a mask or face covering when interacting with Court staff and in the common or public areas of Court facilities,” remains in effect.

Accessing Bankruptcy Court Premises cont.

- Conditions of entry cont.
 - In order to limit crowding at the security checkpoints on the 5th and 6th floors, you may be asked by a Court Security Officer to wait in the lobby until you are cleared to enter an elevator.
 - Pursuant to building regulations, no more than three persons may occupy an elevator.
 - ARRIVE EARLY to allow extra time to go through security.
 - Court Hearings will be staggered to avoid crowding at the security checkpoints.
 - Judges will only schedule one on-site hearing per hour and each judge will be assigned a separate time to begin his or her on-site hearings:

:00 Judge Dorsey (5)	:10 Judge Owens (6)
:20 Judge Walrath (5)	:30 Judge Silverstein (6)
:40 Judge Sontchi (5)	:50 Judge Shannon (6)

Accessing Bankruptcy Court Premises cont.

- Conditions of Entry cont.
 - Persons must satisfactorily complete a specified wellness questionnaire **prior to your arrival** to ensure efficient processing through security.
 - This can be accessed by navigating to the following link: <https://www.apple.com/covid19/>
 - Please note, this is also available as an IOS application for Apple devices.
 - Once there, you will be asked to complete a brief survey consisting of approximately 10 wellness questions.
 - **These results will be date and time stamped on your screen and must be presented to the Court Security Officers for review prior to entry.**

Accessing Bankruptcy Court Premises cont.

- Conditions of Entry cont.
 - Unless otherwise ordered by the presiding judge on a case by case basis, access to the Premises is solely limited to:
 - (i) debtors,
 - (ii) any pre-petition or post-petition secured lender to a debtor,
 - (iii) any official or ad hoc committee,
 - (iv) any party that is seeking relief from the Bankruptcy Court,
 - (v) any party that has filed a written objection to relief being sought from the Bankruptcy Court,
 - (vi) any party purchasing assets of a debtor,
 - (vii) any representative of the Office of the United States Trustee,
 - (viii) any witness that may be called to testify during a Court Hearing, and
 - (ix) members of the press.

Accessing Bankruptcy Court Premises cont.

- Conditions of Entry cont.
 - Unless otherwise ordered by the presiding judge on a case by case basis, access to the Premises is further limited to:
 - (i) in the event any of the persons listed above is an entity, one representative of that entity (two for the debtor(s)),
 - (ii) legal counsel to any of the persons listed above, provided, however, that no more than two attorneys may be present (three for the debtor(s)), and
 - (iii) financial advisors to any of persons listed above, provided, however, that no more than one person may be present (two for the debtor(s)).
 - Except as provided above, persons, including parties in interest, which are merely observing Court Hearings are not permitted on the Premises.
 - Persons are allowed and encouraged to attend on-site Court Hearings via telephone whenever possible.

Accessing Bankruptcy Court Premises cont.

- The Clerk's Office will remain open to the public through telephone and email access and drop boxes located in the lobby of 824 N. Market Street, but the intake counter will remain closed to in-person public access until further notice. Emergency bankruptcy petitions for self-represented individuals may be filed electronically at <https://www.deb.uscourts.gov>.
 - **FYI, do not place hand deliveries for the judges in the drop box, especially binders.**

In the Courtroom

- All persons in the courtroom are required to wear a mask or face covering, provided, however, that:
 - persons sitting at counsel table may at their preference remove their masks or face covering;
 - any person addressing the Bankruptcy Court from counsel table or the podium must remove their mask or face covering; and
 - any witness must remove their mask or face covering while testifying.

In the Courtroom cont.

- All persons on the premises must maintain responsible social distancing to the extent practicable.
 - Seating at counsel table is limited to two persons per table.
 - Only one person at a time may stand at the podium.
 - No line for the podium is allowed – wait in your seat until the person at the podium is finished. If you need to attract the attention of the judge simply stand in place.
 - Seating in the gallery is limited to three persons per pew and only every other row may be occupied.

In the Courtroom cont.

- All persons on the premises must maintain responsible social distancing to the extent practicable.
 - Unless authorized by the presiding judge, no person shall approach the Bankruptcy Court personnel (who will be masked), the witness stand, or the bench (judges may or may not be masked).
 - Paper sign-in sheets will not be used. You may leave a business card on the podium, which will be collected after the hearing, if you wish to note your appearance for the record.
 - The presiding judge in his or her discretion may amend or supplement these conditions.

In the Courtroom cont.

- The manner of submitting evidence shall be determined on a case by case basis by the presiding judge.
- The parties are encouraged to limit the use of paper.
- Prior planning and communication with Chambers is highly recommended.

WARNING!

- **Persons not complying with these requirements, posted signage or any instructions of any Court Security Officer or other Bankruptcy Court personnel will be denied access to or ejected from the premises.**

Your Safety

- These rules are designed to protect your safety and the safety of Bankruptcy Court personnel, as well as to protect the public at large from the transmission of coronavirus and COVID-19.
- Counsel table and chairs, the podium, the witness stand and chair, and microphones will be cleaned with disinfectant between hearings.
- Persons are required to maintain social distancing to the extent practicable throughout the premises, including in the courtrooms, in the hallways, in the restrooms, at the security checkpoints, in conference rooms, and in Chambers.
 - The attorney rooms will be closed until further notice.

Work in Progress

- These rules and requirements are a work in progress. They will be amended, as necessary. We welcome your feedback.
 - Send any comments to:
debml_DEB_COVID19@deb.uscourts.gov
- Any questions?
 - Please use the Raise Hand function on Zoom.