

**IN THE COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY
COMMONWEALTH OF PENNSYLVANIA
CRIMINAL DIVISION - LAW**

IN RE: ADMINISTRATIVE ORDER 2020-28 | **No.: C-48-AD-87-2020**

Pa.R.J.A. 1952 – JUDICIAL EMERGENCY

2020 JUN -8 PM 12:41
CLERK OF COMMON PLEAS
CRIMINAL DIVISION
NORTHAMPTON COUNTY, PA

FILED

ADMINISTRATIVE ORDER

AND NOW, this 8th day of June, 2020, pursuant to (1) the Pennsylvania Supreme Court's Order dated May 27, 2020 authorizing the President Judge of a Judicial District to declare a judicial emergency; (2) this Court's Declaration of a judicial emergency in the Third Judicial District from June 1, 2020 through September 30, 2020; and (3) Pennsylvania Rule of Judicial Administration 1952, it is hereby **ORDERED** as follows:

I.

In order to balance the public's compelling interest in securing access to judicial services and the mandate of Pennsylvania Rule of Judicial Administration 1952(B)(2) to "take necessary action to provide for the . . . safety of court personnel, court users and the public . . .," the following proceedings are suspended through July 3, 2020:

1. Jury duty for criminal trials (June 15-17, 2020 and June 22-24, 2020); and

2. Criminal jury and non-jury trials (June 15-17, 2020 and June 22-24, 2020). With respect to all cases which remain listed on the criminal list for June 15-17, 2020 and June 22-24, 2020, attorneys and parties shall appear at the call of the list for a status conference.

Pennsylvania Rule of Criminal Procedure 600(c) is suspended from June 1, 2020 through July 3, 2020, and the period from June 1, 2020 through July 3, 2020 shall be excluded from the time calculation under Rule 600(c). All criminal cases which are continued because of the judicial emergency shall be considered to be continued by the Court. Therefore, any continuance due to the judicial emergency shall constitute excludable time for purposes of the application of Rule of Criminal Procedure 600. See Pa.R.Crim.P. 600(C)(1) ("[P]eriods of delay at any stage of the proceedings caused by the Commonwealth when the Commonwealth has failed to exercise due diligence shall be included in the computation of the time within which trial must commence. Any other periods of delay shall be excluded from the computation."); Pa.R.Crim.P. 600 cmt. ("Delay in the time for trial that is attributable to the judiciary may be excluded from the computation of time."); *Commonwealth v. Mills*, 162 A.2d 323, 325 (Pa. 2017) (dictum) ("[W]here a trial-ready prosecutor must wait several months due to a court calendar, the time should be treated as 'delay' for which the Commonwealth is not accountable."); *Commonwealth v. Bradford*, 46 A.3d 693, 705 (Pa.

2012) (finding that the Commonwealth did not violate Rule 600 where the delay was caused by the Magisterial District Judge's failure to forward the file to the Court of Common Pleas as required by Pa.R.Crim.P. 547(B), resulting in the Court's failure to generate a docket number and, in turn, failure to trigger the District Attorney's internal tracking system; "[T]he Commonwealth exercised due diligence and the delay resulted from judicial delay beyond the Commonwealth's control.").¹

II.

1. With the exception of criminal and civil jury trials, once a case is assigned to a Judge of the Court of Common Pleas for disposition, the assigned judge may conduct the trial, hearing or conference **either** in-person or via two-way simultaneous audio-visual communication by using Polycom video conferencing or Skype for Business video conferencing. Jury trials may only be conducted in-person. Members of the press may view the proceedings by using

¹ In an effort to proceed with a time-sensitive criminal case that was scheduled to be tried during the week of June 15, 2020, the Court sent out hundreds of juror summonses. The Court Administrator worked with the attorneys and the trial judge to overcome the numerous logistical challenges they would have faced in conducting *voir dire* and trial while also complying with the Court's safety precautions concerning social distancing, the wearing of masks, and exclusion of symptomatic and exposed individuals from Court facilities. However, despite the Court's efforts, both the Commonwealth and the defense ultimately requested a continuance of the trial on the ground that the jury would be unable to assess witness credibility if the witnesses were wearing masks. Both the trial judge and the President Judge became concerned that any criminal trial in which the witnesses were required to wear masks might have to be retried. Accordingly, in this Administrative Order, the Court has suspended criminal trials and Rule 600 for the period from June 1, 2020 through July 3, 2020.

the Polycom RealPresence app for Android or Apple devices or by using Skype for Business video conferencing.

2. Magisterial District Judges may conduct preliminary hearings of incarcerated defendants **either** in-person or via two-way simultaneous audio-visual communication with the Magisterial District Court by using Polycom video conferencing or Skype for Business video conferencing. Members of the press may view the proceedings by using the Polycom RealPresence app for Android or Apple devices or by using Skype for Business video conferencing.
3. Settlement masters, custody masters, divorce masters, and domestic relations conference officers may conduct conferences **either** in-person or by telephone, or via two-way simultaneous audio-visual communication by using Polycom video conferencing, Skype for Business video conferencing, or Zoom.
4. Hearings pursuant to the Mental Health Procedures Act, 50 P.S. § 7101, may be conducted **either** in-person or by telephone, or via two-way simultaneous audio-visual communication by using Polycom video conferencing, or Skype for Business video conferencing, or Zoom.
5. In lieu of a civil non-jury call on June 19, 2020, attorneys and parties shall send an email to the Office of Court Administration (jgreene@nccpa.org) by June 15, 2020, stating whether the matter

is ready for trial and the approximate length of such trial. If the required email is not received by June 15, 2020, the matter will be stricken from the trial list.

6. In lieu of a civil non-jury call on August 5, 2020, attorneys and parties shall send an email to the Office of Court Administration (jgreene@nccpa.org) by August 3, 2020, stating whether the matter is ready for trial and the approximate length of such trial. If the required email is not received by August 3, 2020, the matter will be stricken from the trial list.
7. In lieu of a civil non-jury call on September 2, 2020, attorneys and parties shall send an email to the Office of Court Administration (jgreene@nccpa.org) by August 31, 2020, stating whether the matter is ready for trial and the approximate length of such trial. If the required email is not received by August 31, 2020, the matter will be stricken from the trial list.
8. In lieu of a call of the list for miscellaneous hearings for June 12, 2020, June 19, 2020, July 2, 2020, July 10, 2020, July 17, 2020, July 31, 2020, August 7, 2020, August 21, 2020, August 28, 2020, September 2, 2020, September 16, 2020, September 23, 2020, and September 30, 2020, the President Judge will pre-assign the cases to judges. At the scheduled time of the hearing, attorneys and parties shall report directly to the assigned judge's courtroom.

III.

It is further **ORDERED** that:

1. In accordance with the Order issued on April 15, 2020 by the Secretary of the Pennsylvania Department of Health,² and the mandate of Pennsylvania Rule of Judicial Administration 1952(B)(2) to "take necessary action to provide for the . . . safety of court personnel, court users and the public . . .," all court employees who are under the supervision and authority of the President Judge, and all individuals who enter any courtroom or court facility under the supervision and authority of the President Judge, including all Magisterial District Courts, the Office of Court Administration, the Domestic Relations Building, the Juvenile Justice Center, and the offices of Adult Probation and Pretrial Services, shall wear a mask which covers the mouth and nose and shall maintain a distance of at least six feet from any other individual while in the courtroom or court facility. The masks shall be made and worn in accordance with CDC guidelines found at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html> and attached hereto as Exhibit A. Notwithstanding the foregoing, masks shall not be required for

² Notwithstanding that the Secretary's Order does not apply to government entities, including the Courts, we voluntarily adopt certain requirements of the Secretary's Order which we believe to be best practices.

individuals who cannot wear a mask due to a medical condition (including children under the age of two) or for employees who are using break time to eat or drink.

2. The following individuals will be prohibited from entering any courtroom or court facility under the supervision and authority of the President Judge, including all Magisterial District Courts, the Office of Court Administration, the Domestic Relations Building, the Juvenile Justice Center, and the offices of Adult Probation and Pretrial Services:

- Have been directed to quarantine, isolate or self-monitor at home for the coronavirus by any doctor, hospital or health agency; or
- Have been diagnosed with, or have had close contact with anyone diagnosed with, COVID-19; or
- Have flulike symptoms; or
- Are not wearing a mask in accordance with Section II(1) above.

3. A distance of at least six feet should be maintained between all individuals in any courtroom which is under the supervision and authority of the President Judge, including all Magisterial District Courts.

4. Signs shall be posted in all courtrooms directing individuals to maintain minimum social distancing requirements.
5. Because of the importance of social distancing requirements and the need to maintain six feet between individuals in all courtrooms, signs shall be posted at the entry of each courtroom (a) indicating the maximum number of occupants; and (b) directing individuals to sit only in the designated seating areas.

IV.

The Court's operations and procedures are governed by this Order and other Administrative Orders of the Pennsylvania Supreme Court and the President Judge of the Third Judicial District and not by any unauthorized statements issued by other parties. See Pa.R.J.A. 1952. Northampton County Magisterial District Judge Alan R. Mege recently published statements, both to the press and on his personal website, without the authority of the President Judge, in which he (1) criticized previously-issued Court Orders as "inconsistent"; (2) announced that he had reduced his Magisterial District Court's normal business hours, in violation of a previous Administrative Order of the President Judge of the Third Judicial District; and (3) announced that he had suspended all hearings until June 5, 2020, in violation of previous Administrative Orders of both the Pennsylvania Supreme Court and the President Judge of the Third Judicial District. This is the second time in three months that Magisterial District Judge Mege has

defied the authority of the President Judge of this Court. Accordingly, we now find it necessary to set forth the law governing the Court's operations and procedures and to address any potential confusion that may have arisen from Magisterial District Judge Mege's unauthorized public statements.

The Courts in Pennsylvania are part of a unified judicial system. See Pa. Const. Art. V, § 1; 42 Pa.C.S.A. § 301.

The judicial power of the Commonwealth shall be vested in a unified judicial system consisting of the:

- (1) Supreme Court.
- (2) Superior Court.
- (3) Commonwealth Court.
- (4) Courts of common pleas.
- (5) Community courts.
- (6) Philadelphia Municipal Court.
- (7) Pittsburgh Magistrates Court.
- (8) Traffic Court of Philadelphia.
- (9) Magisterial district judges.

All courts and magisterial district judges and their jurisdiction shall be in this unified judicial system.

42 Pa.C.S.A. § 301.

"The Supreme Court's 'general supervisory and administrative authority over all the courts' was . . . set out explicitly in Article V, Section 10(a) of the 1968 Constitution." *In re Avellino*, 690 A.2d 1138, 1141 (Pa.

1997) ("*Avellino I*"). "[The Pennsylvania Supreme Court] bears the ultimate responsibility for the proper administration of the judicial system." *Id.* at 1144 n.7.

The President Judge of a Court of Common Pleas is the executive and administrative head of the Court. See 42 Pa.C.S.A. § 325(e).

Powers of president judge.--Except as otherwise provided or prescribed by this title, by general rule or by order of the governing authority, the president judge of a court shall:

(1) Be the executive and administrative head of the court, supervise the judicial business of the court, promulgate all administrative rules and regulations, make all judicial assignments, and assign and reassign among the personnel of the court available chambers and other physical facilities.

(2) Exercise the powers of the court under section 2301(a)(2) (relating to appointment of personnel).

Id. The President Judge's role as executive and administrative head of the Court includes supervision of the Magisterial District Judges in that judicial district. See Pa.R.J.A. 605(A) ("The president judge of the court of common pleas of a judicial district shall exercise general supervision and administrative authority over magisterial district courts within the judicial district.").

When a judicial emergency is declared in a Judicial District, only the Pennsylvania Supreme Court and the President Judge of that Judicial District have the power to determine the operations of the Courts in that Judicial District. See Pa.R.J.A. 1952.

(A) Role of Supreme Court.

(1) In the event of an emergency that affects court operations in the Commonwealth or in one or more judicial districts, the Supreme Court shall have the authority to declare a judicial emergency generally or in any judicial district affected by the emergency.

(2) By the declaration of a judicial emergency, the Supreme Court may:

(a) suspend or modify statewide or local procedural or administrative court rules;

(b) suspend time calculations for the purposes of time computation relevant to court cases or other judicial business;

(c) direct a court to sit in a location other than its normal place of operations, including outside of its judicial district;

(d) assign judges or court personnel from outside the affected judicial district;

(e) authorize additional uses of advanced communication technology to conduct court proceedings;

(f) take any action listed in Rule 1952(B)(2)(a)-(r) for an individual or multiple judicial districts; and

(g) take any other necessary administrative action regarding judicial staff, court facilities and operations.

Note: See also Pa.R.J.A. No. 1952(B)(2) for actions a president judge may take once a judicial emergency has been declared.

See Pa.R.Crim.P. 103 for the definition of advanced communication technology.

See Pa.R.Crim.P. 118 and 119 for general rules governing the use of two-way simultaneous audio-visual communications in criminal proceedings.

(B) Role of the President Judge.

(1) In the event of an emergency, the president judge may request authorization from the Supreme Court to declare a judicial emergency in the judicial district. Such declaration shall remain in effect until such time as it is amended, rescinded, modified or superseded by order of the Supreme Court.

(2) If the Supreme Court authorizes the president judge to declare a judicial emergency in the judicial district, and unless limited by the Supreme Court, the president judge shall have the authority to:

(a) order the closure of court facilities until safe operations of the court and its offices can be restored;

(b) order the evacuation of court facilities;

Note: Ordering the evacuation of court facilities, when practical under the circumstances, should occur after consultation with members of the local standing court security committee, established under Rule of Judicial Administration No. 1954(A), and relevant law enforcement agencies.

(c) direct the relocation of court operations to safe locations;

(d) take necessary action to provide for (i) the safety of court personnel, court users and the public, and (ii) the security of court facilities, financial and cash operations, equipment and records;

(e) establish a telephone hotline or website to provide the bench, bar and the public with court and emergency information;

(f) reassign judges or court personnel within the judicial district as needed to ensure the continuation of operations;

Note: See also Rule of Judicial Administration No. 1953 for requests for additional judges from within the Emergency Regional Administrative Unit.

(g) expand the duties and work hours of staff to handle emergency matters;

(h) cancel or modify court calendars, subpoenas or other court orders;

(i) cancel or suspend jury and non-jury trials;

(j) cancel or suspend jury duty;

(k) suspend or modify local rules of court and administrative rules or procedures, including personnel policies;

(l) suspend or modify the time requirements and limitations established by local rule;

(m) make application to the Supreme Court to temporarily suspend or modify statewide court rules as applied to any case or cases in the judicial district;

(n) provide for alternative signing, delivery and service of court documents and orders;

(o) extend the duration of any emergency or temporary order (for example, protection from abuse order) issued by a judge or magisterial district judge in the judicial district;

(p) assign custodial responsibility for court funds;

(q) ensure compliance with any Federal, State or local emergency declarations;

(r) order the full or partial implementation of the continuity of operations plan established pursuant to Rule of Judicial Administration No. 1951; and

(s) request additional emergency judicial orders from the Supreme Court as the needs of justice require.

(3) The president judge shall immediately notify the Court Administrator of any emergency occurring within his or her court or judicial district that causes the closure of court facilities, causes the temporary suspension of court operations or causes the full or partial implementation of the court's continuity of operations plan.

(4) Requests for emergency judicial orders pursuant to Rule 1952(B)(1) or 1952(B)(2)(s) shall be made to the Court Administrator on a form substantially similar to the one appended to this Rule. Upon receiving a request for an emergency judicial order, the Court Administrator shall immediately transmit said request to (1) the Chief Justice of Pennsylvania or another Justice designated by the Chief Justice and (2) to the Supreme Court Prothonotary. Emergency judicial orders may be signed by the Chief Justice or another Justice designated by the Chief Justice to handle emergency applications for relief. Facsimile signatures may be used in lieu of original signatures on emergency judicial orders. Objections to emergency judicial orders from the Supreme Court shall be transmitted to the Supreme Court Prothonotary in a manner prescribed by the Supreme Court.

(5) During an emergency, the provisions of any statewide procedural rules that require submission of local rules, including administrative orders, to the Supreme Court, the Administrative Office of Pennsylvania Courts, a statewide procedural rules committee, or the Legislative Reference Bureau for publication in the Pennsylvania Bulletin, shall not apply to any local rules or administrative orders issued in response to the emergency. The president judge of the affected judicial district shall inform the Supreme Court of any local rule or administrative order issued under this paragraph as soon as practicable.

Id.

The foregoing authorities make clear that the operations and procedures of a Judicial District are to be determined only by the Pennsylvania Supreme Court and the President Judge of that Judicial District and not by any directives that may be issued by the Governor of Pennsylvania or any individual Judge or Magisterial District Judge. *See id.* These rules ensure that members of the public will be able to rely on a uniform series of published Orders for direction on how to access the Courts. As Rule 1952 recognizes, this is especially important during a state of

emergency, such as the recent global pandemic, when danger is present, circumstances change rapidly, and there may be widespread uncertainty and apprehension. As the Pennsylvania Supreme Court has stated: "The suggestion that each judge may in the first instance determine unilaterally the appropriateness of complying with an administrative order invites chaos and is simply untenable." *In re Avellino*, 690 A.2d 1138, 1144 n.7 (Pa. 1997) ("*Avellino I*").

Operations and procedures established by the President Judge of the Third Judicial District may be provided to the public only through (1) Court Orders issued by the President Judge; (2) directives issued by the District Court Administrator of the Northampton County Court of Common Pleas, who operates under the direction of the President Judge; and (3) published announcements on the official website of the Northampton County Court of Common Pleas, www.nccpa.com. There is no statute or rule that permits a Magisterial District Judge to speak for the President Judge or override a decision of the President Judge.

As more fully set forth below, during the recent COVID-19 public health emergency, we have issued a series of comprehensive Administrative Orders governing all aspects of Court operations and procedure. These Administrative Orders were issued on March 17, 2020, March 19, 2020, March 30, 2020, April 1, 2020, April 17, 2020, May 4, 2020, and June 8, 2020. When Magisterial District Judge Mege issued his own unauthorized

press release and posted unauthorized statements on his personal Facebook page, both of which publications contained inaccurate information, he violated the Administrative Orders of the Pennsylvania Supreme Court and the President Judge of the Third Judicial District and confused the public.

On April 17, 2020, we issued Administrative Order 2020-17 (1) closing all courts in the Third Judicial District until May 31, 2020; (2) designating certain categories of cases as essential matters that would continue to be heard during the shutdown; (3) permitting those essential matters to be heard by audio/video conference; and (4) mandating safety precautions such as social distancing, wearing of masks, and exclusion of symptomatic and exposed individuals from Court facilities. See Administrative Order 2020-17, No. C-48-AD-62-2020 (C.P. Northampton Co. Apr. 17, 2020).

On April 28, 2020, the Pennsylvania Supreme Court issued an order stating:

In the absence of a certification as provided in Part III of this Order, no proceeding should be delayed solely on account of the present public health crisis that could reasonably be conducted using available advanced communication technologies in a manner that is consistent with constitutional requirements.

In re General Statewide Judicial Emergency, Nos. 531 and 532, Judicial Administration Docket (Pa. Apr. 28, 2020). The referenced "Part Three" of the April 28, 2020 Supreme Court Order permitted parties and attorneys to seek relief from the Order upon filing of a certification detailing why they believed that participation in a proceeding would pose a significant danger to

the health of one or more persons or that participation would be unreasonable or impossible in light of restrictions arising out of the Governor's prevailing orders and directives. *See id.* section III.

On May 7, 2020, the statewide stay-at-home order previously issued by Pennsylvania Governor Tom Wolf was extended to June 4, 2020.

However, as noted in footnote 2 *supra*, the Governor's Order, by its terms, did not apply to the Courts.

On May 27, 2020, the Pennsylvania Supreme Court issued an Order providing that (1) the previously-declared statewide judicial emergency "SHALL CEASE" on June 1, 2020; and (2) each President Judge, in his or her discretion, was authorized to declare a continuing judicial emergency in that President Judge's Judicial District. *See In re General Statewide Judicial Emergency*, Docket Nos. 531 and 532, Judicial Administration Docket (Pa. May 27, 2020) (emphasis in original). The Supreme Court's May 27, 2020 Order stated:

Pennsylvania attorneys have an obligation under our Rules of Professional Conduct to promptly, competently, and diligently represent their clients. To that end, attorneys and staff must be able to, and therefore may, access their physical offices at least to the extent the attorneys reasonably believe doing so is necessary to satisfy their professional obligations, provided they take appropriate measures to protect the safety of their employees and the public.

Id. at 3-4.

Also on May 27, 2020, as authorized by the Pennsylvania Supreme Court's Order of the same day, this Court declared a judicial emergency in the Third Judicial District from June 1, 2020 through September 30, 2020. See Declaration, No. 35 MM 2020 (C.P. Northampton Co. May 27, 2020).

The Pennsylvania Supreme Court's Order of May 27, 2020 enumerated the various types of emergency orders that a President Judge would be entitled to issue after declaring a judicial emergency in his or her Judicial District, pursuant to Pennsylvania Rule of Judicial Administration 1952. See *In re General Statewide Judicial Emergency*, Docket Nos. 531 and 532, Judicial Administration Docket (Pa. May 27, 2020).

Under any administrative order issued by an intermediate court or local emergency declaration, a President Judge IS HEREBY SPECIFICALLY EMPOWERED, subject to state and federal constitutional requirements, to do any or all of the following:

- (1) Limit in-person access and proceedings in order to safeguard the health and safety of court personnel, court users, and members of the public;
- (2) Suspend statewide rules that restrict, directly or indirectly, the use of advanced communication technologies;
- (3) Suspend statewide rules that impede local provision for court filings by means other than in-person delivery;
- (4) Suspend statewide rules pertaining to the rule-based right of criminal defendants to a prompt trial; and
- (5) Suspend jury trials until such time that they can be conducted consistent with prevailing health and safety norms.

Id. (emphasis in original). However, despite the Pennsylvania Supreme Court's Order expressly authorizing us to issue emergency Orders, we did not issue any new emergency Orders at that time.

This Court's previous Order of April 17, 2020, which had closed the Courts in the Third Judicial District, had expressly provided that the shutdown would be lifted on May 31, 2020. See Administrative Order 2020-17 at 29, No. C-48-AD-62-2020 (C.P. Northampton Co. Apr. 17, 2020). The Order stated:

This Order shall become effective on April 20, 2020 at 8:30 a.m. and shall expire on May 31, 2020 at 4:30 p.m. unless extended by further Order of Court. The requirements set forth in Sections IV(4) and (5) of this Order [the precautions concerning social distancing, wearing of masks, and exclusion of symptomatic and exposed individuals] shall remain in effect until further Order of Court.

Id. Thus, despite our extension of the judicial emergency in the Third Judicial District to September 30, 2020, pursuant to the express terms of our Order of April 17, 2020, all Courts in the Third Judicial District, including all Magisterial District Courts, were required to reopen to the public on June 1, 2020 and to resume in-person court proceedings in accordance with prior applicable rules and procedures, subject to the continuing requirements of Sections IV(4) and (5) of the April 17, 2020 Order, *i.e.*, precautions on social distancing, wearing of masks, and exclusion of symptomatic and exposed individuals from Court facilities. See *id.*

On June 1, 2020, in accordance with our Order, all Courts in the Third Judicial District reopened to the public, and all in-person Court proceedings resumed. Throughout the week, subject to the above-described precautions concerning social distancing, wearing of masks, and exclusion of symptomatic and exposed individuals, all of the Judges of the Northampton County Court of Common Pleas presided over a full schedule of in-person non-jury trials, Protection from Abuse hearings, and criminal matters. Motions Court was open and functioning every day of the week.

Notwithstanding this Court's Order of April 17, 2020 stating that the emergency shutdown of the Courts would end on May 31, 2020, and notwithstanding that the Northampton County Court of Common Pleas timely reopened to the public on June 1, 2020 in accordance with that Order, on June 3, 2020, Magisterial District Judge Mege, who sits in Magisterial District Court No. 03-2-04 in Lower Saucon Township and serves as President of the Northampton County Magisterial District Judge Association, issued a press release to local news website Saucon Source stating that (1) he would be largely continuing the shutdown of his Magisterial District Court for one more week, suspending all hearings until June 5, 2020, after the lifting of the Governor's stay-at-home order; and (2) he had shortened the regular business hours of his Magisterial District Court in order to facilitate daily cleaning. See New Safety Procedures Added As District Courts Reopen, Saucon Source, www.sauconsource.com (June 3, 2020) (attached hereto as

Exhibit B). He went on to criticize the Courts for issuing "inconsistent" orders. See *id.* His announcement stated:

There are various court orders with dates that are not consistent, and we have been receiving inquiries regarding the same. . . . The district court is open to the public effective as of June 1, 2020. Governor Wolf's stay-at-home red phase order is in effect until June 5, 2020. In order to avoid any confusion and avoid any unnecessary worry about having to appear at a hearing despite the stay-at-home order in effect, hearings will not commence until June 5, 2020. . . . [W]e will be closing our doors at 4 p.m. every day to allow time for disinfecting via UVC lamps and sprays/wipes.

Id. On the same day, he posted the same announcement on his personal Facebook page, which featured a photograph of himself and the caption "MEGE" in large block capital letters followed by a second line reading "MAGISTERIAL DISTRICT JUDGE," also in all capital letters. See Facebook Post, www.facebook.com/AlanMegeMDJ (June 3, 2020) (attached hereto as Exhibit C).

By issuing a press release that was not authorized by the President Judge and posting information contrary to the Orders issued by the President Judge and the Pennsylvania Supreme Court to his personal Facebook page, which had the appearance of an official Court website, Magisterial District Judge Mege defied the authority of both the Pennsylvania Supreme Court and the President Judge of the Third Judicial District.

There was nothing "inconsistent" in the "court orders." The May 7, 2020 order issued by the Secretary of the Pennsylvania Department of Health extending the Governor's previous statewide stay-at-home order to

June 4, 2020 was not a Court Order and did not bind the Courts. The Pennsylvania Supreme Court's May 27, 2020 Order terminating the statewide judicial emergency expressly left it to each individual President Judge (not the Magisterial District Judges) to determine, in the President Judge's discretion, whether and for how long any judicial emergency would continue in that President Judge's Judicial District and what, if any, further emergency orders would be issued suspending otherwise applicable rules in that Judicial District. This Court's May 27, 2020 Order extended the judicial emergency in the Third Judicial District to September 30, 2020, empowering the President Judge to issue further emergency orders as and when they might become necessary, but contained no new emergency provisions itself. Pursuant to this Court's previous Order of April 17, 2020, the emergency shutdown of the Courts in the Third Judicial District "expired" on May 31, 2020, and it was not extended by subsequent Order of Court. "Expired" means "ended." See Black's Law Dictionary (2d ed., online version, accessed on June 4, 2020). As noted above, the Northampton County Court of Common Pleas reopened to the public on June 1, 2020 and resumed in-person Court proceedings in accordance with all prior applicable rules and procedures, subject to Sections IV(4) and (5) of the April 17, 2020 Order, the only provisions of that Order that remained in force, *i.e.*, the precautions concerning social distancing, wearing of masks, and exclusion of

symptomatic and exposed individuals. Thus, there was nothing "inconsistent" in the Court's Orders.

Magisterial District Judge Mege simply disagreed with the decisions of the Pennsylvania Supreme Court and the President Judge of the Third Judicial District that the Courts were to reopen before lifting of the Governor's stay-at-home order. Magisterial District Judge Mege decided that reopening the Courts before the lifting of the Governor's stay-at-home order might cause "confusion" or "worry." Accordingly, he announced that he was overriding the decisions of the Pennsylvania Supreme Court and the President Judge of the Third Judicial District and that he would be suspending all hearings until after the lifting of the Governor's stay-at-home order. He also announced that he would be reducing the business hours of the Magisterial District Court. Presumably, he believes that if the Governor's stay-at-home order should be reinstated in the future, he will then have the power to once again suspend all hearings and shorten the business hours of his Magisterial District Court in defiance of Orders from the Pennsylvania Supreme Court and the President Judge of the Third Judicial District.

There can be no argument that Magisterial District Judge Mege misinterpreted the Court's Orders or that he believed that the discrepancy between the President Judge's Order and the Governor's stay-at-home order was an oversight. On May 19, 2020, Northampton County Deputy Court Administrator Debra C. French forwarded to all of the Magisterial District

Judges, including Magisterial District Judge Mege, an email from District Court Administrator J. Jermaine Greene, Sr., and Associate Court Administrator Ruth Vega-Velez, which stated:

Please be advised that pursuant to President Judge Koury's April 17, 2020 Emergency Order, all court staff is expected to be back to their respective worksites on June 1, 2020. Court employees are subject to the mandates of the Supreme Court of Pennsylvania and our President Judge's Order, and not the Governor's Order.

Email from Deputy Court Administrator Debra C. French to Magisterial District Judges (May 19, 2020) (emphasis added) (attached hereto as Exhibit D).

On Monday, June 1, 2020, the day the Courts reopened pursuant to the President Judge's April 17, 2020 Order, Magisterial District Judge Mege sent an email to Ms. French in which he asked: "Several MDJs have Preliminary Hearings for incarcerated Defendants coming up later this week. Are we permitted to do these via Skype until we receive a new Admin Order clarifying the procedure going forward through September 30?" Email from Magisterial District Judge Alan R. Mege to Deputy Court Administrator Debra C. French (June 1, 2020) (attached hereto as Exhibit E). Ms. French forwarded his email to President Judge Koury. The following day, June 2, 2020, Ms. French forwarded to Magisterial District Judge Mege the email response she had received from President Judge Koury, which stated: "With respect to question 1, the answer is yes." Email from Deputy Court Administrator Debra C. French to Magisterial District Judge Alan R. Mege

(June 2, 2020) (forwarding email from President Judge Michael J. Koury, Jr. to Ms. French (June 1, 2020)) (attached hereto as Exhibit F). Thus, Magisterial District Judge Mege's decision to suspend all hearings until June 5, 2020, in violation of the President Judge's Order of April 17, 2020, was deliberate and willful.

Magisterial District Judge Mege's decision to shorten his business hours was a willful violation of Court Rules. Included in the President Judge's power is the power to set office hours for the Magisterial District Judges. See Pa.R.J.A. 605(B)(5) ("In consultation with the magisterial district judges, the president judge may designate the ordinary hours of magisterial district courts in the judicial district in accordance with Rule 103 of the Rules and Standards with Respect to Offices of Magisterial District Judges and the efficient administration of justice."). Pursuant to this authority, on July 5, 2007, the Honorable Robert A. Freedberg, then-President Judge of the Third Judicial District, issued an Administrative Order establishing that the regular business hours for Magisterial District Judges would be Monday through Friday from 8:30 a.m. until 4:30 p.m. See Administrative Order 2007-3, (C.P. Northampton Co. July 5, 2007) ("Normal Business Hours of Magisterial District Courts are Monday - Friday, 8:30 a.m. to 4:30 p.m., except on state court holidays."). In addition, Magisterial District Judges are required to conduct hearings for emergency petitions for protection from abuse between the hours of 2:30 p.m. to 4:30 p.m. See Administrative Order 1994-4, (C.P.

Northampton Co. June 9, 1994). Thus, Magisterial District Judge Mege was well aware that his office hours had been established by the President Judge and that he had no power to change them. He also knew that even if he had the authority to extend the lockdown of the Courts beyond May 31, 2020, which he did not, according to the above-quoted provision of Administrative Orders 2020-10 and 1994-4, he still would have been required to keep his Magisterial District Court open until 4:30 p.m. to the public for the filing of emergency petitions for protection from abuse, and to law enforcement officers for the filing of criminal cases, arrest warrants, and search warrants. By failing to do so, he may have endangered members of the public who needed to present emergency petitions for protection from abuse but were unable to do so because Magisterial District Mege closed his office at 4:00 p.m. rather than 4:30 p.m.

By reducing his business hours and suspending all hearings until June 5, 2020, when the Governor's stay-at-home order was to be lifted, Magisterial District Judge Mege not only violated Court rules subordinating him to the authority of the President Judge, he also directly violated the following: (1) the Pennsylvania Supreme Court's April 28, 2020 Order providing that no proceeding should be delayed solely on account of the public health crisis that could reasonably be conducted using advanced communication technologies; (2) the Pennsylvania Supreme Court's May 27, 2020 Order ending the statewide judicial emergency and leaving it to the

individual President Judges whether to declare local judicial emergencies and whether to issue orders suspending otherwise applicable rules and deadlines; (3) this Court's April 17, 2020 Administrative Order declaring that the emergency shutdown of the Northampton County Courts would end on May 31, 2020; and (4) the May 19, 2020 directive he received from the District Court Administrator advising him that the Magisterial District Courts were to reopen on June 1, 2020 and that Courts in the Third Judicial District were subject to the mandates of the Pennsylvania Supreme Court and the President Judge, not those of the Governor. Thus, Magisterial District Judge Mege substituted his own judgment for that of the Pennsylvania Supreme Court and the President Judge and denied the public access to the courts.

This is not the first time that Magisterial District Judge Mege has willfully defied the authority of the President Judge. In October 2019, the Court requested that the Magisterial District Judges provide their cell phone information to facilitate a new procedure permitting prompt public access to night-duty case records of the Magisterial District Courts during night-duty hours. As President of the Northampton County Magisterial District Judge Association, Magisterial District Judge Mege informed the President Judge that the Magisterial District Judges would not comply with his directive. See Memorandum of Magisterial District Judge Alan R. Mege, President, Northampton County Magisterial District Judge Association, to Debra C.

French, Northampton County Deputy Court Administrator, dated Nov. 8, 2019 (attached hereto as Exhibit G).

After a review of The Case Records Public Access Policy of the Unified Judicial System of PA and relevant Rules, a discussion with the solicitor for our state association, as well as a discussion among the members of our association regarding same, we are respectfully declining to provide the information requested in your Internal Correspondence of October 28, 2019.

Id. at 1. On March 3, 2020, we issued a lengthy opinion advising the Magisterial District Judges that we expected full compliance with our Order and that any defiance of the Order would result in immediate referral to the Pennsylvania Judicial Conduct Board and/or the Pennsylvania Supreme Court. *See id.*

The Court's March 3, 2020 opinion and Order were issued shortly before the onset of the current COVID-19 public health crisis. Nevertheless, only three months later, Magisterial District Judge Mege has once again defied the authority of the President Judge.

Willful refusal by a Judge or Magisterial District Judge to comply with an administrative order issued by the President Judge of the Court constitutes defiance of authority and may result in imposition of sanctions by either the Judicial Conduct Board or the Pennsylvania Supreme Court. *See, e.g., In re Avellino*, 690 A.2d 1138, 1144 (Pa. 1997) ("*Avellino I*") (holding that Common Pleas Court Judge's refusal to accept his assignment from the Administrative Judge was an "unjustified defiance of legitimate authority" and ordering the disobedient Judge to appear for a hearing "at which time

the Court will consider whether sanctions, *e.g.*, no further action by the Court, private or public reprimand, suspension with or without pay, or removal from office, should be imposed upon the [Judge]").

At a subsequent hearing to determine sanctions against the disobedient Judge in *Avellino I*, the Pennsylvania Supreme Court issued an order suspending the Judge without pay for three months and requiring him to submit weekly performance reports for six months thereafter. *See In re Avellino*, 690 A.2d 1144, 1145 (Pa. 1997) ("*Avellino II*"). The Court emphasized that repeated and willful defiance of a President Judge's or the Pennsylvania Supreme Court's Orders undermines public confidence in the judiciary and damages the unified judicial system. *See id.*

In *Avellino I*, . . . [w]e concluded that "Judge Avellino's refusal to comply with the assignment, and independently his continued refusal to comply with the assignment after having been directly and unambiguously ordered to do so by this Court, can only be characterized as unjustified defiance of legitimate authority." The parties were then afforded an opportunity to be heard on the consequences, if any, that should attach to this "affront" to the Court's "historical and constitutional powers of supervision."

The question is, quite literally, unprecedented, although we do not suppose that this is because conflicts between judges within a judicial district are unprecedented. If such conflicts have arisen before, however, their resolution has been promoted by the judicious temperament expected of those involved given the context, whereas resolution of this matter was impeded by obstinate contentiousness.

. . . .

We cannot accept the proposition advanced by Judge Avellino that the simple act of prospectively submitting to the authority of the Court is sufficient to remediate the harm occasioned by

the disobedience. The record is replete with exhibits evidencing Judge Avellino's animosity toward [the Administrative Judge]. His conduct, however, carried this personal conflict far beyond the limited sphere of these two individuals. It is true that to some extent the exhibits evidence Judge Avellino's recognition of the proper channels for addressing his complaints. Disturbingly, what is nowhere apparent is an understanding on the part of Judge Avellino of the harm to the integrity of the judicial system attendant upon his refusal to be satisfied with obtaining redress of his grievances from this Court.

Judge Avellino's actions have unquestionably undermined the public perception of the judiciary. A judge more than anyone must be aware of the need to sublimate individual impulses in the interest of orderly dispute resolution; this is the very foundation of our system of laws. A judge's refusal to comply with an assignment of an administrative judge, compounded by his refusal to obey an order of this Court, is in complete derogation of respect for the law and the integrity of the judiciary.

Id. (footnote and record citations omitted) (emphasis added); see also *In re McFalls*, 795 A.2d 367, (Pa. 2002) (suspension without pay for thirty days was appropriate sanction for Common Pleas Court Judge who refused to obey directive from the President Judge to attend a meeting to discuss the Judge's resumption of duties following administrative suspension).

If the President Judge receives a complaint about the conduct of a Magisterial District Judge, the President Judge has authority to inform the appropriate disciplinary authority. See Pa.R.J.A. 605(B)(7) ("When a complaint is received with respect to the conduct of a magisterial district judge, the president judge may . . . take any action the president judge deems appropriate to assure the efficient administration of justice including, where warranted, informing the appropriate disciplinary authority."). In

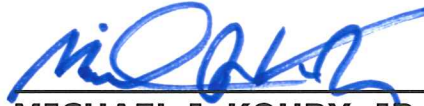
Avellino I, the Pennsylvania Supreme Court noted that it could impose sanctions on the Common Pleas Court Judge pursuant to the Supreme Court's general supervisory powers. See 690 A.2d at 1143. "We have . . . established that the assignment of [the disobedient Common Pleas Court Judge] to the felony-waiver program was made under the administrative authority of this Court delegated to the [Administrative Judge of the Trial Division of the Court of Common Pleas] and therefore review of that assignment for any reason is properly within the supervisory power of this Court." *Id.* However, the Supreme Court made clear that the President Judge's complaint against the Common Pleas Court Judge also could have been addressed by the Judicial Conduct Board and the Court of Judicial Discipline established by Article V, Section 18 of the Pennsylvania Constitution. See *id.* "Conversely, of course, action by this Court pursuant to our supervisory power in no way affects the independent authority of the Judicial Conduct Board to investigate the same conduct for purposes of disciplinary action pursuant to Article V, Section 18." *Id.* n.6.

Although we were not required to do so, on March 3, 2020, we issued an opinion advising Magisterial District Judge Mege that we expected full compliance with our Orders and that any defiance of our Orders would result in immediate referral to the Pennsylvania Judicial Conduct Board and/or the Pennsylvania Supreme Court. Magisterial District Judge Mege did not heed our warning.

V.

Unless otherwise specified above, this Order is effective from June 1, 2020 at 8:30 a.m. until September 30, 2020 at 4:30 p.m.

BY THE COURT:



**MICHAEL J. KOURY, JR.
PRESIDENT JUDGE**

Exhibit A

Use of Cloth Face Coverings to Help Slow the Spread of COVID-19

How to Wear Cloth Face Coverings

Cloth face coverings should—

- fit snugly but comfortably against the side of the face
- be secured with ties or ear loops
- include multiple layers of fabric
- allow for breathing without restriction
- be able to be laundered and machine dried without damage or change to shape

CDC on Homemade Cloth Face Coverings

CDC recommends wearing cloth face coverings in public settings where other social distancing measures are difficult to maintain (e.g., grocery stores and pharmacies), **especially** in areas of significant community-based transmission.

CDC also advises the use of simple cloth face coverings to slow the spread of the virus and help people who may have the virus and do not know it from transmitting it to others. Cloth face coverings fashioned from household items or made at home from common materials at low cost can be used as an additional, voluntary public health measure.

Cloth face coverings should not be placed on young children under age 2, anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the cloth face covering without assistance.

The cloth face coverings recommended are not surgical masks or N-95 respirators. Those are critical supplies that must continue to be reserved for healthcare workers and other medical first responders, as recommended by current CDC guidance.

Should cloth face coverings be washed or otherwise cleaned regularly? How regularly?

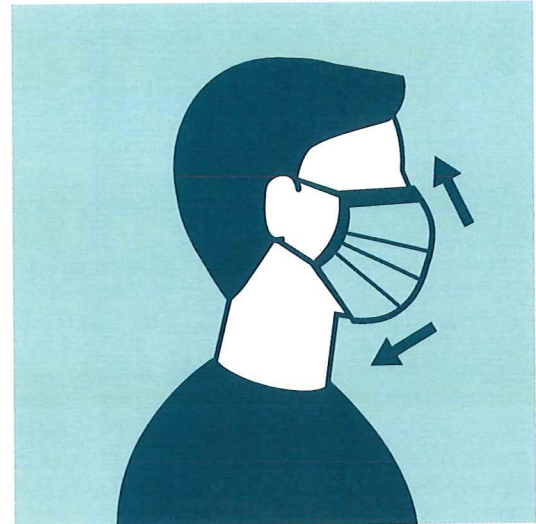
Yes. They should be routinely washed depending on the frequency of use.

How does one safely sterilize/clean a cloth face covering?

A washing machine should suffice in properly washing a cloth face covering.

How does one safely remove a used cloth face covering?

Individuals should be careful not to touch their eyes, nose, and mouth when removing their cloth face covering and wash hands immediately after removing.

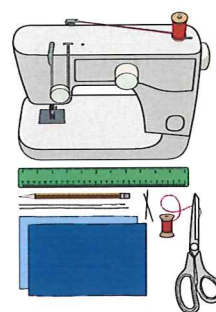


cdc.gov/coronavirus

Sewn Cloth Face Covering

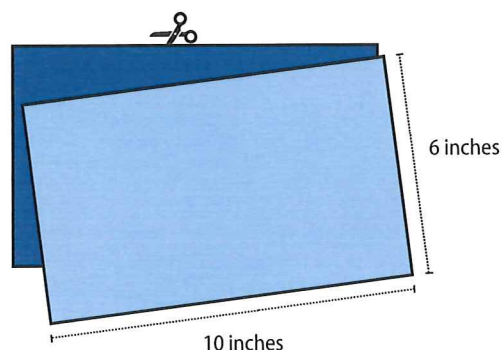
Materials

- Two 10"x6" rectangles of cotton fabric
- Two 6" pieces of elastic (or rubber bands, string, cloth strips, or hair ties)
- Needle and thread (or bobby pin)
- Scissors
- Sewing machine

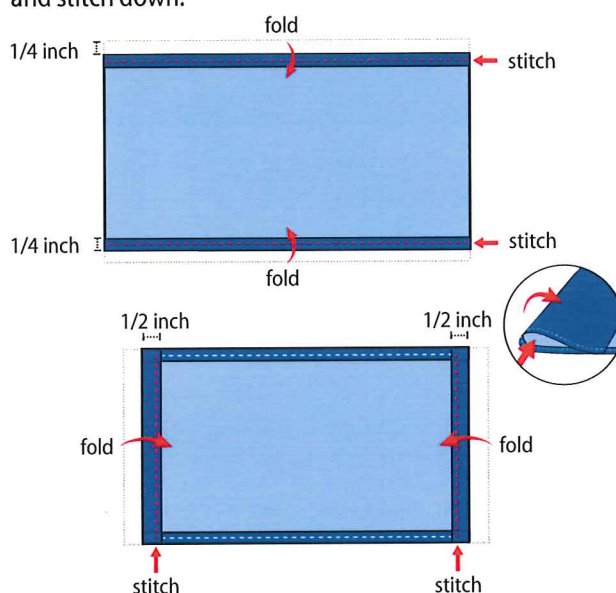


Tutorial

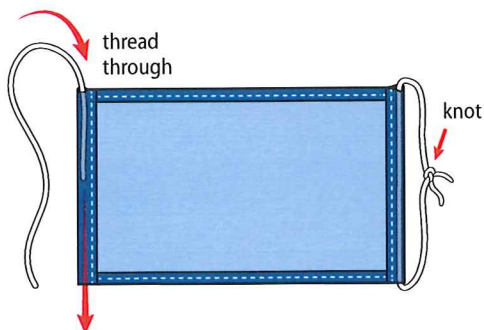
1. Cut out two 10-by-6-inch rectangles of cotton fabric. Use tightly woven cotton, such as quilting fabric or cotton sheets. T-shirt fabric will work in a pinch. Stack the two rectangles; you will sew the cloth face covering as if it was a single piece of fabric.



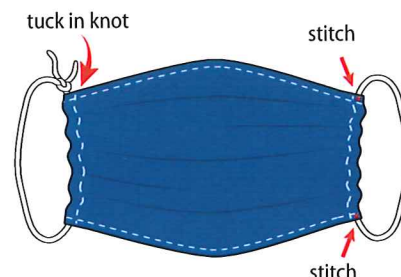
2. Fold over the long sides 1/4 inch and hem. Then fold the double layer of fabric over 1/2 inch along the short sides and stitch down.



3. Run a 6-inch length of 1/8-inch wide elastic through the wider hem on each side of the cloth face covering. These will be the ear loops. Use a large needle or a bobby pin to thread it through. Tie the ends tight. Don't have elastic? Use hair ties or elastic head bands. If you only have string, you can make the ties longer and tie the cloth face covering behind your head.



4. Gently pull on the elastic so that the knots are tucked inside the hem. Gather the sides of the cloth face covering on the elastic and adjust so the mask fits your face. Then securely stitch the elastic in place to keep it from slipping.

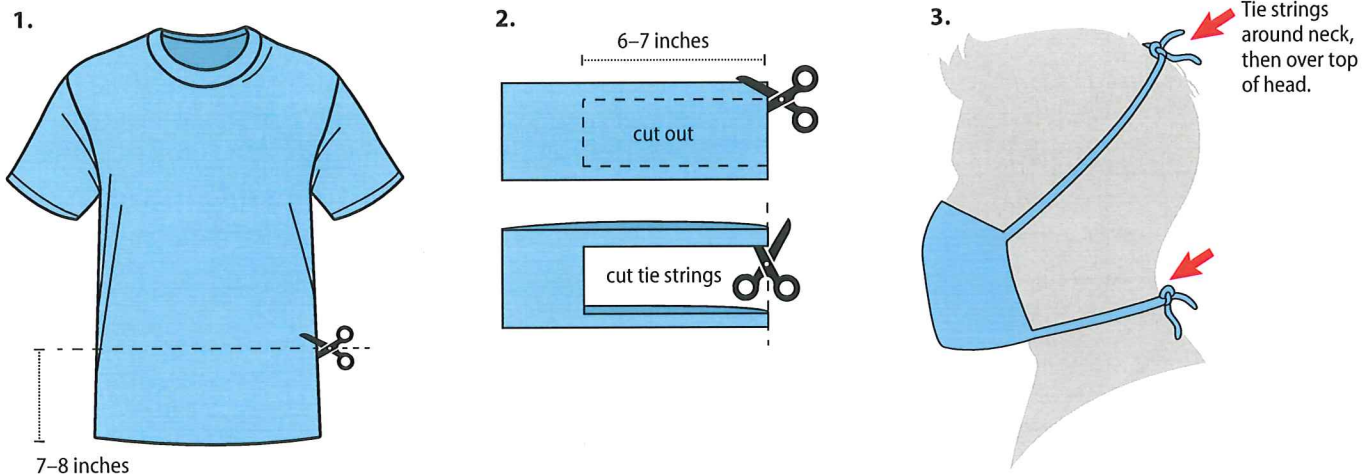


Quick Cut T-shirt Cloth Face Covering (no sew method)

Materials

- T-shirt
- Scissors

Tutorial



Bandana Cloth Face Covering (no sew method)

Materials

- Bandana (or square cotton cloth approximately 20"x20")
- Rubber bands (or hair ties)
- Scissors (if you are cutting your own cloth)

Tutorial

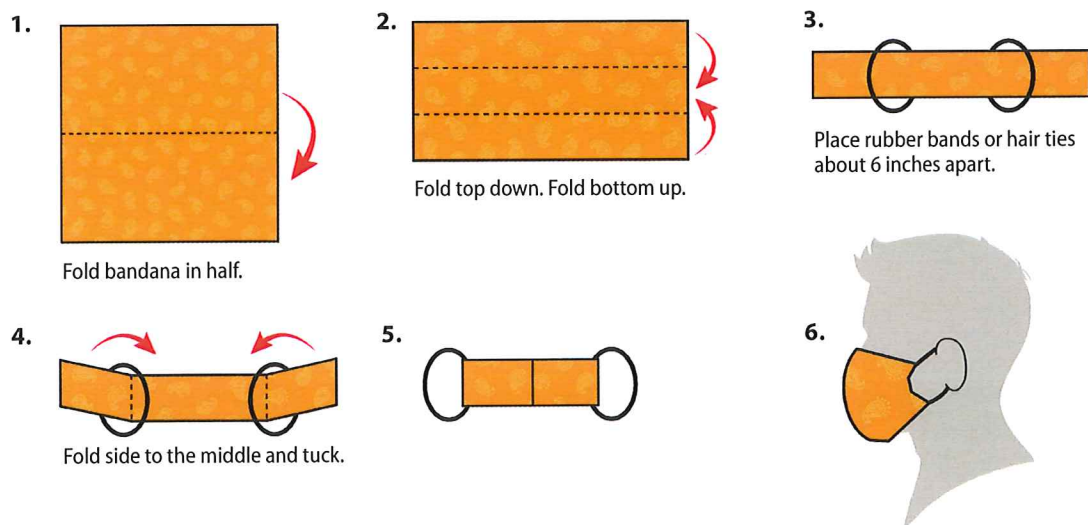


Exhibit B



Experience. Ethics. Strong Morals.

Now offering will preparation over the phone.

Please call 610-838-6563 and leave your name. Following a phone interview, you will receive your will in the mail.

(Neither witnesses nor a notary are required.)

**Bradford D. Wagner,
Attorney at Law**

Your hometown Hellertown law office since 1978.

662 Main St., Hellertown, Pa. bwagner@bdwagnerlaw.com

Saucon Source | (<https://sauconsource.com/2020/06/03/new-safety-procedures-added-as-district-courts-reopen/>)

New Safety Procedures Added as District Courts Reopen



By Josh Popichak | 3 hours ago

Note: The following information is provided by Northampton County District Judge Alan Mege. It is shared with Saucon Source readers at his request and as a public service. Mege presides over District Court 03-2-04 (<https://www.nccpa.org/MD/Info/MD/Listing>) at 1404 Walter St., Bethlehem (Lower Saucon Township).

There are various court orders with dates that are not consistent, and we have been receiving inquiries regarding same. Hopefully the following will clear this up:

The district court is open to the public effective as of June 1, 2020.

Governor Wolf's stay-at-home red phase order is in effect until June 5, 2020.

In order to avoid any confusion and avoid any unnecessary worry about having to appear at a hearing despite the stay-at-home order in effect, hearings will not commence until June 5, 2020.

Northampton County Executive Lamont McClure closed the county government center until June 8, 2020, but this has no effect on the district court operation.

President Judge Michael Koury has issued an administrative order extending the judicial emergency from May 31, 2020 to September 30, 2020. This does not mean the district court is not open to the public until Oct. 1, 2020.

When you do come to the district court, there are some changes in effect.

First, by order of the court, all those entering the district court must wear a mask covering the mouth and nose. If you have symptoms of Covid-19 you should not enter the court and instead call or e-mail us.

Second, some seats have been marked that they are not to be used, so that we may maintain required distancing.

Third, a hand-sanitizing station will soon be installed.

Fourth, we will be closing our doors at 4 p.m. every day to allow time time for disinfecting via UVC lamps and sprays/wipes.

Fifth, renovations are continuing, so the newly installed conference room and ADA compliant restroom are not yet operational.

Magisterial District Judge Alan R. Mege, Esq.



Exhibit C

Alan Mege The new Facebook.com is coming to this browser soon Create 2

Alan Mege Timeline Recent Add Friend

MEGE

MAGISTERIAL DISTRICT JUDGE

Timeline About Friends 18 Mutual Photos More

Add Friend

Intro

Magisterial District Judge at Commonwealth of Pennsylvania

Owner-operator at Law Office of Alan Mege

Studied at Dickinson School of Law

Studied at Penn State

Went to Honesdale High School

Lives in Hellertown, Pennsylvania

Married



Alan Mege

22 hrs ·

There are various Orders with dates that are not consistent, and we have been receiving inquiries regarding same. Hopefully the following will clear this up:

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MDJ Alan R. Mege, Esq.

8

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