

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

AMENDED STANDING ORDER GOVERNING BENCH PROCEEDINGS

This Standing Order governs the conduct of bench proceedings held by Judge Lee during the pendency of the national emergency declared under the National Emergencies Act, 50 U.S.C. 1601 et seq. The requirements in this order are in addition to the May 27, 2020 general order that requires face coverings in the Dirksen Federal Courthouse. The Court invites the parties to raise any concerns or questions, either by motion or by email to the courtroom deputy (with a copy to the other side).

1. **Participants at Counsel Table.** Only case participants (lawyers and clients) may be seated at counsel table, limited to two total at each table. That means one lawyer and one client at each table, and they must sit at the ends of the table distanced from each other. The first row of the gallery will be reserved for additional lawyers and clients, but they must sit distanced from each other and from those seated at the table. (For multi-party cases with separate attorney representation, more planning will be necessary, and the Court will confer with the parties.)

2. **Face Coverings.** Everyone wears one, including when addressing the Court or a witness. (If an accommodation is genuinely required due to a medical condition, then the lawyer or party must file a motion for relief.)

3. **Physical Distance.** Everyone stays six feet apart from everyone else. The rare exception: lawyers and clients may provide a written note to each other for a lawyer-client conferral (see below for more information).

4. **Arguments or Objections by Lawyers.** Lawyers presenting argument or making objections shall remain seated at counsel table and use the table microphone nearest them. Upon request of the Court, one lawyer from each side may step up to the designated lectern to speak.

5. **Lawyers Conducting Witness Examinations.** As much as possible, counsel shall conduct examinations while seated at counsel table, using the table microphone, or at the designated lectern. The Court will try to open sightlines for the lawyers and parties to the witness stand. There might be a very limited exception to the at-table requirement for exams about exhibits placed on the Document Camera (see the next paragraph).

6. **Exhibits.** As much as possible, exhibits shall be displayed via the courtroom's litigation-display system using the laptop connection at the counsel tables. Lawyers are not allowed to approach the witness to provide exhibits. If paper exhibits are truly necessary in lieu of laptop display, then they must be placed on the

Document Camera or, in the worst case, placed at the witness stand before the witness testifies.

Physical objects (and if truly necessary, paper copies) shall be placed on the Document Camera at the lectern to be shown on the litigation-display system. The lawyer must place the exhibit on the Document Camera and then return to counsel table to ask questions. Ask permission before approaching the Document Camera. At the end of the lawyer's examination, the lawyer must use a court-supplied disinfectant wipe to clean the Document Camera.

In very rare instances, if it becomes impractical to ask questions while seated at the counsel table about an exhibit on the Document Camera, then the Court might allow the lawyer to use the Document Camera's lectern microphone to ask questions. But the lawyer must use a court-supplied disinfectant wipe to clean the mic after the examination is over.

7. **The Witness.** Like everyone else, witnesses must wear a face covering until their testimony begins on the witness stand (so both on the way to and from the witness stand). The oath will be administered while the witness is seated at the witness stand. The witness may take his or her mask off when testifying.

The witness-stand microphone will have a disposable microphone cover. After testifying, the witness shall use court-supplied latex gloves to remove the cover and place it in a nearby wastebasket.¹

If the witness uses the touch-screen during the exam, then the witness must wipe the monitor with a court-supplied disinfectant wipe at the end of the testimony.

8. **Lawyer-Client Conferrals.** In light of the face-covering requirement, lawyers and clients should plan on conferring by writing notes to one another as much as possible. When that's not feasible, lawyers and clients may try to speak with one another at the six-foot distance (no need to seek permission from the Court) but must remain masked. If needed, the Court can readily disable the microphones at counsel table to facilitate that sort of conferral. If all of that becomes impractical for private conferrals, then the lawyer may ask for a recess.

9. **No Sidebars.** Generally speaking, there will be no sidebars during a bench proceeding. As necessary, the witness will be instructed to step out or the courtroom will be cleared. Obviously, the goal is to keep those interruptions to zero or to an absolute minimum.

¹ Lawyers must ask their witnesses whether they have a latex allergy or some other condition that would prevent them from accomplishing this, and then file a motion in advance if an accommodation is needed.

10. **Attorney-Witness Room.** Only one witness is permitted per attorney-witness room, and the witness must remain masked while waiting. To the extent that more space is needed, the Court will make arrangements for other attorney-witness rooms or other spaces. But the parties must raise that issue with the Court well in advance of the hearing. To facilitate the separate spacing, there will be pauses between the end of one witness's testimony and the start of the next. For example, in federal criminal cases, the government might be required to house their next witnesses in the U.S. Attorney's Office space, and there will be a pause between witnesses to allow the next one to arrive in the courtroom. All of this applies only to sequestered witnesses; non-sequestered witnesses (such as potential character witnesses at sentencing) may sit in the public gallery as usual (bearing in mind face covering and distance requirements).

11. **Covid-19 Testing of Any Individual Whose Participation in a Bench Proceeding Will Exceed Two Days.** For complete information about the testing program at the courthouse, see Clerk of the Court Thomas G. Bruton's letter to case participants, the consent form, and answers to frequently asked questions. All three documents are available on Judge Lee's website under his COVID-19 Testing Protocols for Bench Proceedings and Jury Trials.

IT IS SO ORDERED.

DATE: April 27, 2021

ENTERED: 4/27/21

A handwritten signature in black ink, reading "John Z. Lee", written over a horizontal line.

JOHN Z. LEE
UNITED STATES DISTRICT JUDGE