

EAST CENTRAL JUDICIAL DISTRICT
STANDARD OPERATION PROCEDURES (SOPs)
DURING COVID - 19

Administrative Order 25 will be expiring soon. With the expiration of that Order, many questions have surfaced about whether it will be business as usual at the Court. The East Central Judicial District has been working on plans that will enable the Court to conduct business while at the same time, allow for proper social distancing as we transition to the new normal. These plans will include procedures for conducting some proceedings by Reliable Electronic Means (“REM”) including but not limited to telephone, interactive television and internet based audio-visual interface (such as Zoom).

To address public health requirements:

1. All persons may be subject to COVID-19 screening prior to being allowed into the courthouse. There may be lines into the courthouse so social distancing and understanding will be needed. Attorneys and parties are discouraged from congregating in groups in the hallways.
2. Cleaning items and hand sanitizer will be at the attorney tables and parties will be asked to clean the space when done for the next party.
3. Tables or seating will allow for social distancing. Attorneys will be allowed to communicate with clients during the proceedings by electronic means (such as text messaging).
4. The number of persons in the courtroom will be limited to the current social distancing requirements or guidelines.
5. Instead of coming to the clerk counter, attorneys and parties can check in by calling 701-451-6924 or by emailing 09clerk@ndcourts.gov.

Hearings by Reliable Electronic Means

6. To the extent possible, all Guardianship, Eviction, Small Claims, Traffic, Juvenile Court and Protection Order proceedings will be handled by REM.
7. All Mental Health proceedings will be handled by REM to the extent allowed under N.D. Sup. Ct. Admin. R. 52.
8. Some other proceedings may also be handled by REM at the discretion of the assigned Judge.
9. Attorneys and parties can also request that a proceeding or some aspects of a proceeding be conducted by REM. This request can be made by filing a stipulation and proposed order. Whether the hearing will be held by REM is at the discretion of the assigned Judge.

10. Hearings by REM can be by audiovisual or telephonic means. You will be notified if the assigned Judge has elected to have the proceeding by REM. If your proceeding will be handled by REM, the **Standing Order for Proceedings by REM** will apply.
11. Any stipulations or requests for a hearing by REM filed in a criminal case must be accompanied by a **Consent to Hearing by REM** signed by the Defendant.
12. Civil proceedings being conducted by REM must be noticed by clearly stating how to join the proceeding. See sample **Notice**.
13. Public access to proceedings conducted by REM will be provided through livestream or by providing the public with the information necessary to join the proceeding using REM. Some cases will allow for attendance in the courtroom with limitations on the number of people in the courtroom based on current social distancing requirements or guidelines.

Criminal proceedings:

14. **Initial and other appearances.** Defendants in custody will be seen by REM under N.D. Sup. Ct. Admin. R. 52. Other initial appearances may be heard by REM.
15. **Preliminary Hearings.** Defendants and attorneys need not appear for a **Preliminary Hearing** if a written waiver is filed into the Odyssey case management system 1 calendar day prior to the hearing or the hearing is conducted by REM. Uncontested Preliminary hearings may be conducted by REM at the discretion of the assigned Judge. Contested Preliminary hearings may be conducted by REM with Defendant's consent at the discretion of the assigned Judge. A **Consent to Hearing by REM** should be signed by Defendant and filed prior to any such hearing.
16. **Dispositional Conferences.** Defendants and attorneys need not appear for a **Dispositional Conference** if the Calendar Control Clerk is notified at least 1 calendar day prior to the hearing that a Jury Trial, Bench Trial or Change of Plea date should be scheduled for a date provided by the Court. Any requests for a Bench Trial must be accompanied with a written waiver of a Jury Trial and consent signed by the State's Attorney. Requests for continuance can be submitted in writing by stipulation or otherwise if filed into the Odyssey case management system along with a proposed order at least 1 calendar day prior to the hearing. Such request must specify the reason for the request. **Dispositional Conferences** may also be conducted by REM at the discretion of the assigned Judge.
17. **Order to Show Cause and Revocation Hearings.** Defendants and attorneys need to personally appear for Order to Show Cause and Revocation Hearings unless the hearing is conducted by REM. Uncontested hearings may be conducted by REM at the discretion of the assigned Judge. Contested hearings may be conducted by REM with Defendant's consent at the discretion of the assigned Judge. A **Consent to Hearing by REM** should be signed by Defendant and filed prior to any such hearing.
18. **Motion Hearings.** Defendants and attorneys need to appear in person for Motion Hearings unless the hearing is conducted by REM. Motion Hearings without witnesses may be conducted by REM at the discretion of the assigned Judge. Motion Hearings with witnesses may be conducted by REM with Defendant's consent at the discretion of the

assigned Judge. A **Consent to Hearing by REM** should be signed by Defendant and filed prior to any such hearing.

Proceedings in person

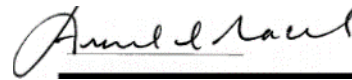
19. For any in-person civil proceedings or contested criminal proceedings the parties must notify the Court if it is anticipated that more than one attorney and one client representative for each party will be appearing.
20. In order to limit the number of people present in the courtroom, witnesses are asked to remain outside the courthouse until they are called to testify. Parties will then be permitted to call the witness to let them know when it is time to enter the courthouse.
21. Everyone entering the courthouse and the courtroom will be required to follow the **Cass County Policy for Facemasks** that is attached. It is each party's responsibility to ensure that all participants in the proceedings (such as witnesses) are aware of and comply with this policy.
22. To avoid the need to pass documents between the parties, witnesses and court personnel, the following protocols will be enforced:
 - a. Any exhibits that the parties intend to introduce into evidence must be pre-marked and filed, prior to the proceeding using the Odyssey case management system. When filing exhibits use the description "proposed exhibit."
 - b. Documents and exhibits necessary for rebuttal may be used during the proceeding but must be contemporaneously electronically exchanged with all participants prior to use during the proceeding. Contemporaneous electronic exchange may include real-time display, email, cloud upload and download, ELMO display or using other REM.
 - c. All participants must have electronic access to any documentary or other evidence necessary to the examination or cross-examination of any witness. It is up to the parties to ensure that those participating have access to these electronic documents.
 - d. With respect to other docket items being referred to, be prepared to reference the docket entry number to ensure a clear record and for ease of locating the document by the Court and opposing counsel.
 - e. Approaching the bench, recorders, reporters, clerks or other court personnel will not be allowed.
 - f. The parties are responsible for marking any proposed exhibits to the extent that an electronic version could not be filed or made available.
 - g. All proposed Orders must be filed and handled electronically.
 - h. Approaching witnesses will not be allowed. Attorneys and parties must reference documents from counsel table, use the ELMO to display the document or display the document by other electronic means.
23. Accommodations to this Order may be granted upon request due to COVID-19 concerns. Requests can be filed along with a proposed order. All requests must specify the accommodation being requested and the reason for the request.

24. Continuances can also be requested due to COVID-19 concerns. Requests for continuance due to COVID-19 concerns can be filed along with a proposed order. All requests must specify the reason for the request.

Jury Trials

25. The Court is working on implementing a plan to ensure proper social distancing in order to safely conduct Jury Trials.

These Standard Operating Procedures During COVID-19 will remain in place until modified by the Court. If you have questions about a specific upcoming proceedings, please contact one of the staff members working with the assigned Judge. As many members of the court system are working remotely, email contact information has been attached.

A handwritten signature in black ink, appearing to read "Frank L. Racek", written over a solid black horizontal line.

Frank L. Racek
Presiding Judge
East Central Judicial District

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