



Date: March 9, 2020

Judges,

I write on behalf of NAIJ to provide guidance on the immigration courts and COVID-19. NAIJ has repeatedly reached out to EOIR for guidance on coronavirus, as well as resources (such as hand sanitizer), but neither has been forthcoming. The letter we sent this morning to Acting Chief Immigration Judge Christopher Santoro can be [found here](#).

The CDC's Interim Guidance for Businesses and Employers can be [found here](#). I am attaching to this correspondence two sets of posters ("COVID-19 Symptoms" and "Stop the Spread of Germs") prepared by the CDC, in both Spanish and English versions. I am also attaching the February 27, 2020 guidance memorandum provided to federal courts by the Administrative Office of the United States Courts.

In terms of specific recommendations for your courthouse and courtroom, NAIJ recommends the following:

- (1) Hang the attached posters in public areas of the courts, including on the door to your courtroom.
- (2) If you are experiencing symptoms, stay home. Encourage others in the court to stay home if they are sick. Do not allow anyone in your courtroom who is symptomatic. According to the CDC, the symptoms of COVID-19 include fever, cough, and shortness of breath.
- (3) Of course, wash your hands frequently. Keep bottles of hand sanitizer on your bench, on respondent's counsel table, at the front desk, and with your legal assistant. Use it often.
- (4) Use disinfecting wipes to clean commonly used surfaces, like keyboards and desks.
- (5) Take all prudent steps to reduce the number of people in court. For example, under the Immigration Court Practice Manual Chapter 4.9(a)(ii), "Immigration Judges authorized to close hearings. — The Immigration Judge may limit attendance or close a hearing to

protect parties, witnesses, or the public interest, even if the hearing would normally be open to the public." See 8 C.F.R. § 1003.27(b) ("For the purpose of protecting witnesses, parties, or the public interest, the Immigration Judge may limit attendance or hold a closed hearing.") Existing regulations and policies give you enough authority to do any of the following:

- Limit court attendance to the attorney and respondent.
- Waive the respondent's appearance if he or she is represented. See 8 C.F.R. § 1003.25(a); ICPM Chapter 4.15(m)(ii).
- Allow counsel or witnesses to appear telephonically. ICPM Chapter 4.15(n).
- Conduct hearings by video, instead of in person.

NAIJ is not specifically recommending which of these "social separation" practices are appropriate for your docket, courtroom, or part of the country. But you have these all at your disposal and NAIJ encourages you to use them. We also encourage you to discuss these practices with your ACIJ, but ultimately the regulations provide you with the final say on whether and how court attendance is limited. If you do allow any non-parties in the courtroom, you should allow interested media to observe as well. CDC and other guidelines urge special precautions for older persons and those dealing with other health conditions. If you fall within these categories, it may be prudent to discuss enacting other precautions with your supervisors.

(6) Discourage in-court filings.

(7) Stay up to date with local health department guidance. Different parts of the country have different observed rates of infection.

Do not hesitate to reach out to NAIJ if you have specific concerns you would like to discuss.

Very truly yours,

Samuel B. Cole
Director of Communications
National Association of Immigration Judges

Attachments