

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

IN RE: ORDER REGARDING CHESAPEAKE CIRCUIT COURT OPERATIONS AND SCHEDULING DURING COVID-19 EMERGENCY

This Order of Operation of the Court is divided between two phases. Phase One is while all cases except those identified by the Supreme Court's order have been automatically continued (currently through June 7, 2020). Phase Two will apply when the automatic continuances have been lifted (currently June 8, 2020), until further order.

In both phases, the attached Chesapeake Circuit Court Order of May 15, 2020, regarding operation of the Courthouse for safety of the public and staff applies. Pursuant to that order, all individuals entering the Courthouse must wear a face covering that covers the nose and mouth.

The Fourth Order Modifying and Extending Declaration of Judicial Emergency in Response to COVID-19 Emergency entered by the Chief Justice of the Supreme Court of Virginia on May 6, 2020, as amended on May 12, 2020, noted significant challenges presented by the Novel Coronavirus COVID-19, and directed that courts of the Commonwealth continue conducting as much business as possible by means other than in-person court proceedings, encouraged courts to continue and to increase the use of videoconferencing, telephone, teleconferencing, e-mail, or other means that do not involve in-person contact, and stated that these methods are preferred over in-court proceedings. Therefore, to allow the Court to function in a safe manner, it is ORDERED and DECREED as follows:

(1) The Supreme Court's Emergency Order identifies those hearings that are presumed essential and therefore not automatically continued during Phase One.

All Contact with the Circuit Court Judges' Chambers is preferred to be by telecommunication. All in-person requests should be made at the counter of our Jury Assembly Room located on the 4th floor of the Courthouse.

The Chesapeake Sheriff's Weekender program is suspended until further notice.

(2) Defendants in custody will appear via videoconference for all pre-trial hearings allowed by statute. Attorneys will no longer be able to meet with inmates in courthouse lockup areas. The Sheriff will not transport inmates from the jail to the courthouse unless authorized by a judge.

Bail review means a first hearing in the Court where the case is returnable, following the hearing by the Magistrate, and bail appeals from the district courts. ***Counsel must certify in their notice that a bail hearing was not previously considered or deferred by the defendant in a District Court or this Court.***

(3) It is encouraged and preferred that other matters involving defendants in custody be conducted by live video to protect inmates confined to local jails. To the extent possible, it is preferred that any party or witness appear by live video. The goal of the Court is to conduct as much business as is safely possible and to reduce the number of people coming into the Courthouse to the minimum amount necessary.

(4) It is imperative that counsel work as officers of the Court to ensure that any case set for hearing will go forward. Other than those hearings defined as essential in the Supreme Court's Emergency Order, no case or hearing will be conducted by the Court unless authorized by the Court.

(5) During Phase One, all requests to have civil and criminal cases requiring trial or hearing placed on the docket (except for civil motions) must be done by e-mailing the attached Chesapeake Circuit Court Hearing Request Form to the e-mail address listed on the form or by faxing it to (757) 382-3090 at least 72 hours (3 business days) in advance. It is important to recognize that during Phase One, which is the time between entry of this order and when the automatic continuance by the Supreme Court is lifted (currently, June 8, 2020), all requests are to *add* a case to the docket for trial or hearing because they have been continued.

During Phase Two, after the automatic continuance is lifted (currently beginning June 8, 2020), the Chesapeake Circuit Court Hearing Request Form must be submitted at least 72 hours (3 business days) in advance and is necessary for cases already set on the

Court's docket (except for civil motions, *see* paragraph 11, *infra*) to remain and to go forward with the previously scheduling hearing or trial.

(6) Once the attached request form is received by the Court, the Court will confirm the scheduled proceeding and place it on the docket to be heard. If there is a dispute regarding whether a matter should go forward on the docket, counsel should contact Judges' Chambers to set up a conference call with a judge.

(7) The Clerk will not place a case on the Court's docket on motion or notice of a party without Court approval utilizing the Chesapeake Circuit Court Hearing Request Form. This does not eliminate any notice requirements that must be filed with the Court. If all counsel are in agreement that a matter cannot go forward, they should submit a continuance order ahead of time.

(8) Cases continued during Phase One that have not been scheduled for a specific date by order, will be continued pursuant to Local Rule 14 *or* as follows:

(a) All hearings in **CIVIL** trials scheduled through June 7, 2020, may obtain a new trial date by contacting the Court's Docket Administrator at aloder@cityofchesapeake.net.

(b) With the exception of Protective Order Appeals, all cases docketed on the June 2, 2020 10:00AM Civil Docket Call have been continued to the July 7, 2020, 10:00AM Civil Docket Call; therefore, the filing of a new praecipe is NOT required. Parties involved in a Protective Order Appeal should contact the Court's Docket Administrator at 757-382-3053 or aloder@cityofchesapeake.net so the case can be set for trial as soon as possible.

(9) The Supreme Court's Emergency Order unequivocally ordered, effective immediately, that all civil and criminal jury trials are suspended and shall be continued until further notice, and that no jury trial shall occur in the Commonwealth. Jury trials in this Circuit will not resume until the next term that is at least 14 days after the Supreme Court lifts the suspension and permits jury trials to recommence; at that time, priority will be given so that these cases can be re-scheduled as quickly as possible. Counsel in all criminal jury trials should contact the assigned Deputy/Assistant Commonwealth Attorney

to obtain a new trial date and counsel in all civil jury trials should contact the Court's Docket Administrator at aloder@cityofchesapeake.net to obtain a new trial date.

(10) Pursuant to the Supreme Court's Order, the Court will have a liberal continuance policy and all parties agreeing to a continuance of any civil case set to be tried through December 31, 2020 may obtain a new trial date by contacting the Court's Docket Administrator at aloder@cityofchesapeake.net.

(11) Until further notice, all **CIVIL MOTIONS** will be conducted on Wednesdays by remote electronic means (either videoconference or teleconference) unless otherwise approved by the Court. Matters where witness testimony does not need to be presented and only legal arguments are being made, should be conducted by teleconference. Matters where witness testimony will be presented should be conducted by videoconference in accordance with Rule 1:27 of the Rules of the Supreme Court of Virginia. The Court will utilize Cisco WebEx for this purpose. Any written briefs, agreed stipulations, depositions, or exhibits must be exchanged, filed, and a copy e-mailed to civilmotions@cityofchesapeake.net, at least 14 days before the hearing date. It is the responsibility of counsel/litigants to ensure that all parties/witnesses are prepared to go forward and have the ability to connect or appear in the manner requested.

Counsel may schedule a hearing date, a minimum of two weeks in advance, *online* at www.cityofchesapeake.net/civilmotions. The online hearing request must list the names and e-mail addresses of all hearing participants (for both sides).

If the hearing is no longer necessary, by agreement, counsel must inform the Court by e-mail to civilmotions@cityofchesapeake.net before 12:00 noon the day prior to the hearing. If a dispute exists as to whether a matter can or should be heard or regarding what remote mechanism is appropriate, counsel should contact Judges' Chambers to schedule a phone conference with the judge.

Counsel and any parties or witnesses participating in the hearing will receive an invitation via e-mail for the WebEx videoconference or teleconference with the assigned time and duration on the afternoon the day prior to the hearing. Counsel must be ready to proceed at the allotted time. If counsel believes that an in-court hearing is necessary, it

must be requested at least 10 days in advance via e-mail to civilmotions@cityofchesapeake.net stating the reasons for the request, and then be subsequently approved by the hearing judge.

Nothing in this order should be construed to waive any notice requirements. Counsel must comply with the requirements set forth in Rule 4:15.

IT IS SO ORDERED.

ENTER: May 18, 2020



Randall D. Smith, Chief Judge