

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

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

This Order of Operation of the Court supersedes the **ORDER REGARDING CHESAPEAKE CIRCUIT COURT OPERATIONS AND SCHEDULING DURING COVID-19 EMERGENCY** entered on May 18, 2020 and will remain in effect until the Supreme Court of Virginia's Declaration of Judicial Emergency in Response to COVID-19 Emergency is lifted, or further order of this Court.

The attached Chesapeake Circuit Court Orders of May 15, 2020, November 23, 2020, and December 22, 2020, regarding operation of the Courthouse for safety of the public and staff apply and are incorporated herein. Pursuant to those orders, all individuals entering the Courthouse must wear a face covering that covers the nose and mouth and must meet the building entry criteria outlined therein.

The Fifth Order Modifying and Extending Declaration of Judicial Emergency in Response to COVID-19 Emergency entered by the Supreme Court of Virginia on June 1, 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 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:

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

Out of necessity and courtesy to the Court and your colleagues, please adhere to the following Criminal and Civil Case Scheduling procedures:

Criminal Cases

- (1) The Supreme Court's Emergency Order identifies those hearings that are presumed essential and therefore not automatically continued. 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.
- (2) It is imperative that counsel work as officers of the Court to ensure that any case set for hearing will go forward. When you set a case for trial you affirmatively state that the case will proceed, and that you:
 - (i) Personally contacted all witnesses and confirmed their availability; and
 - (ii) Have any necessary documents, such as plea agreements, etc., *already* signed by the defendant, *not* just anticipating that things will be done and completed by the hearing date.

Please ensure that cases are able and ready to proceed so that the Court may hear as many matters as possible and not increase the existing backlog.

- (3) It is encouraged and preferred that 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. Inmates will continue to appear via video for most hearings unless permission to appear in person has been granted by the Court (this excludes bench/jury trials). Requests for inmates to appear in person must be e-mailed to the ccjudgeschambers@cityofchesapeake.net e-mail address at least 48 hours in advance of hearing date. Attorneys will no longer be able to meet with inmates in Courthouse lockup areas, or prepare for the hearing/trial in the courtroom when the defendant will appear by video.
- (4) Bail review means a first hearing in the Court where the case is returnable, following the hearing by a magistrate, and bail appeals from the District Courts. The Court now requires that all Notice and Motions for Bail include language

that the assigned/retained attorney or an attorney of his or her firm has personally met with the client and will be ready to proceed with a bail hearing on the date selected and that a bail hearing was not previously considered, withdrawn, or deferred by the defendant in a District Court or in this Court (Notice and Motion for Bond Form for use is attached).

- (5) The Clerk will not place a case on the Court's docket on motion or notice of a party without Court approval. This does not eliminate any notice requirements that must be filed with the Court and the opposing party. If all counsel are in agreement that a matter cannot go forward, they should submit a continuance order ahead of time.
- (6) Effective November 15, 2021, most **criminal** trials will be docketed for 9:00 a.m. and hearing request forms ("HRF") are no longer necessary **IF** the defendant is housed in the Chesapeake City Jail or on bond. If an inmate is housed elsewhere, a hearing request form (attached) must be submitted by defense counsel at least three days in advance of the hearing date to the ccjudgeschambers@cityofchesapeake.net e-mail address to secure the defendant's appearance via video. Defense counsel is NOT required to obtain the Commonwealth's signature on the HRF; however, they must copy the assigned CWA on the e-mail so that chambers staff can notify all counsel of the hearing time assigned by the out of city housing agency. Until further notice, previously assigned sentencing days for the judges will not be reactivated, therefore, counsel must contact the Docket Administrator at 757-382-3053 or ccjudgeschambers@cityofchesapeake.net to obtain available dates before submitting a setting order for cases assigned to a specific judge.
- (7) Remote witness requests must be submitted to the in-court clerk/deputy at the beginning of the daily docket to allow chambers staff time to provide the appropriate connection link via e-mail (see attached request form).

- (8) Due to COVID social distancing guidelines and the inability of the Court to socially distance a 20-to-40-member jury panel during selection, the Court is still limited to starting one jury trial per day, due to only one courtroom or assembly room that can accommodate that number of potential jurors.
- (9) Both counsel are required to notify the Court by conference call 30 days before the designated jury trial date of any issue that may prohibit the jury from going forward. The Court has second and third place cases set on most days, and if the first-place case cannot proceed for good cause as determined by the Court, counsel for the second or third place cases must be allowed sufficient time to prepare to try their case(s). To promote the convenient and efficient use of this courthouse, and the orderly management of the court docket, and in an effort to attain a more efficient administration of justice by avoiding undue hardships to citizens serving as jurors and to subpoenaed witnesses for both the Commonwealth and defendant, all demands for a jury shall be made in writing, and except upon a show of exceptional circumstances as granted by the Court, be delivered to the Clerk of Court and the Judges Chambers no later than 30 days before the scheduled trial date.

Civil Cases

- (10) Civil cases continued due to the emergency declaration order that that have not been scheduled for a specific date by order, will be continued pursuant to Local Rule 14 *or* as follows:
- (i) Except for Protective Order Appeals, all cases docketed on civil docket call (held the first Tuesday of every month at 10:00 a.m.) will be continued to the next monthly docket call if that docket call date falls within the Supreme Court of Virginia Order Extending Declaration of Judicial Emergency in effect at that time; however, the filing of a new praecipe is NOT required. Parties involved in a Protective Order Appeal should contact the Court's Docket Administrator at

ccjudgeschambers@cityofchesapeake.net or 757-382-3053 so the case can be set for trial as soon as possible.

- (ii) Parties may set a civil trial/jury and avoid docket call IF they submit mutually agreeable dates in writing to the Docket Administrator at the ccjudgeschambers@cityofchesapeake.net e-mail address. The Docket Administrator will reply to all parties confirming the selected date that is best for the Court.
 - (iii) To provide a timely and efficient alternative to litigants and to assist in alleviating the case backlog resulting from the COVID-19 pandemic, the Court has established a Judge *Pro Tempore* program for domestic relations cases. Litigants and their counsel may agree to have their matter heard by a Judge *Pro Tempore*, in accordance with Code §§ 17.1-109 – -111. More information regarding the program and the procedures are provided on the Court’s Website and in the Contested Divorce Procedures Manual.
- (11) 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 may obtain a new trial date by contacting the Court’s Docket Administrator at ccjudgeschambers@cityofchesapeake.net or 757-382-3053.
- (12) Until further notice, all **CIVIL MOTIONS** will be conducted on Wednesdays by remote electronic means (either videoconference or teleconference) unless otherwise permitted or approved by the Court. Matters where witness testimony does not need to be presented and only legal arguments are being made may be conducted by teleconference; matters where witness testimony will be presented must 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 these purposes.
- Any written briefs, agreed stipulations, depositions, or proposed exhibits must be exchanged, filed, and a copy e-mailed to civilmotions@

cityofchesapeake.net, **at least 14 days before the hearing date**. If the proposed exhibit(s) to be offered at the hearing total more than 20 pages, a hard copy of all proposed exhibits must be delivered to judges' chambers at least 7 days prior to the hearing. 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 for Webex hearings must list the names and e-mail addresses of all hearing participants (for both sides). Limited types of in-person hearings may be scheduled without pre-approval using the online form, for the following matters only: Default Judgment; Show Cause; Appointment of Guardian/Conservator; and matters where the opposing party is not represented by counsel, the scheduling party does not have a valid e-mail address for the opposing party, and must be served with notice of the hearing. In all other cases, if counsel believes that an in-court hearing is necessary, it must be requested by letter to the duty judge (signed by counsel) at least 14 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.

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 in the afternoon the day prior to the hearing. Counsel must be ready to proceed at the allotted time.

Nothing in this Order regarding Chesapeake Circuit Court operations and scheduling during COVID-19 emergency 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: 12/14/21



John W. Brown, Chief Judge