

VIRGINIA :

IN THE CIRCUIT COURT OF THE 31ST JUDICIAL CIRCUIT
PHASE III RESUMPTION OF COURT OPERATIONS

IN RECOGNITION OF the COVID-19 pandemic, and in conjunction with Orders of the Virginia Supreme Court, dated March 16, 2020 (“First Order”), March 27, 2020 (“Second Order”), April 22, 2020 (“Third Order”), May 6, 2020 (“Fourth Order”), May 12, 2020 (“Amended Fourth Order”), June 1, 2020 (“Fifth Order”), June 22, 2020 (“Sixth Order”), July 8, 2020 (“Seventh Order”), July 29, 2020 (“Eighth Order”), August 7, 2020 (“Amended Eighth Order”), August 20, 2020 (“Ninth Order”) declaring, extending and amending a state of Judicial Emergency this Court entered Special Orders dated March 13, 2020, March 16, 2020, April 23, 2020, May 15, 2020, and June 25, 2020. In addition, on April 22, 2020, this Court issued a Memorandum Regarding Temporary Procedures for Certain Civil Matters, to be in effect for the duration of the present Judicial Emergency. Among other things, the Supreme Court’s Sixth, Seventh, Eighth, Amended Eighth, and Ninth Orders provided that:

- 1) All civil and criminal jury trials are suspended;
- 2) Notwithstanding the current suspension of civil and criminal jury trials, each chief circuit court judge shall develop a plan for their circuit that describes how and when they will be able to safely conduct jury trials;
- 3) The written plan shall be submitted to the Chief Justice on or before August 17, 2020;
- 4) No jury trials shall be held in a particular locality until the plan is approved by a panel of three Justices in consultation with Office of the Executive Secretary;

5) The period of Judicial Emergency extends from March 16, 2020, through September 20, 2020.

UPON CONSIDERATION of updated guidance provided by public health professionals, and because the required public health protocols will drastically reduce the Court's capacity to hold multiple jury trials simultaneously, it is hereby ORDERED as follows:

Jury Trials

- 1) The Court has submitted a plan for the resumption of jury trials to the Supreme Court of Virginia and is awaiting approval. The submitted plan provides:
 - a. Criminal jury trials will not resume until at the earliest, thirty (30) days from the Supreme Court's approval of this Court's proposed jury plan. We project that this date will be no earlier than October 4, 2020. Any criminal cases presently set for a jury trial before October 4th should be placed on the docket by counsel prior to the scheduled trial date to determine the status of the matter and the implications, if any, on the defendant's speedy trial rights.
 - b. Due to the backlog of criminal cases and the Court's limited ability to conduct jury trials under pandemic conditions, civil jury trials are suspended through at least January 3, 2021. Any cases presently set for trial by a jury through January 3, 2021, will be removed from the docket. Counsel may reschedule such trials for a date after January 3rd by contacting judges' chambers or by placing the case on the next available term day docket.

IT IS FURTHER ORDERED that the following changes are made to the Court's dockets:

Pretrial Conferences (Civil Cases)

Starting September 3, 2020, and until further ordered, the Court will offer and strongly encourage attorneys and/or *pro se* parties to appear at pretrial conferences via teleconference. At least two (2) days prior to the hearing date, chambers will email the teleconference instructions to all parties whose email addresses are in the Court's file. All parties who want to appear via teleconference should promptly respond to the email. Parties in domestic cases are not required to appear at the pretrial conference if represented by counsel.

Friday Civil Motion's Day "Virtual Docket"

Beginning September 4, 2020, all parties will have the option to have a case on the Friday Civil Motion's Day Docket heard over WebEx or teleconference, rather than in person. As per prior orders of the Supreme Court, the motion of one party to conduct a Motion's Day hearing remotely will be sufficient to require all parties to appear remotely, whether there is specific agreement. This "Virtual Docket" will occur at 11:30 a.m. after the conclusion of the in-person 10:30 a.m. docket. The praecipe/notice setting the case for a remote hearing on the Friday Motion's Day shall include the email addresses of all persons whose attendance is required for the Motion to proceed, including but not limited to, attorneys, parties, court reporters etc. (See Exhibit A "Virtual Motion's Day Praecipe/Notice"). A hearing on the Virtual Civil Motion's Day docket must be noticed and docketed at least two (2) weeks in advance of the hearing date. Chambers will email the WebEx meeting invitation/teleconference information at least two (2)

days prior to the Motion's Day to all parties indicated on the praecipe/notice. If the email address of a necessary party is not included on the praecipe/notice, it is the moving party's responsibility to forward the WebEx meeting link or the teleconference instructions to the opposing party. The WebEx invitation will also include information for how to join a teleconference if the WebEx system fails to function.

Any party who has a case set at 10:30 a.m. on September 4, or any Motions Day thereafter, and wishes for it to be heard over WebEx or teleconference, may file a new praecipe/notice moving the case time from 10:30 a.m. to 11:30 a.m. with at least one (1) week proper notice to the opposing party and a courtesy copy delivered to chambers. Once the matter has been set for the 11:30 a.m. docket, all parties must appear virtually. It is the moving party's responsibility to ensure that all necessary parties are aware that the hearing is being conducted over WebEx or teleconference, and/or the Court has the email address of all necessary parties. If a necessary party fails to appear at the remote hearing, the burden is on the moving party to show that the party had notice of the hearing.

After every virtual hearing on Friday Motion's Day, the Court will instruct one party to prepare an order. The order should be prepared as instructed by the Court, circulated for all parties' signatures, and emailed to Circuitcourt@pwcgov.org no later than end of business day on the Tuesday following the hearing. The subject line of the email should state "Friday Civil Motion's Virtual Docket" and all relevant case numbers.

WebEx Appearances in Civil Hearings/ Bench Trials (Monday-Thursday Hearings/Trials)

Any party may request that a witness or party appear at a civil hearing or bench trial via WebEx by filing a motion. (See Exhibit B “Motion for Party/ Witness to Appear Remotely”). Any time that a WebEx appearance is requested, the moving party must praecipe/notice the motion on a Friday Motion’s Day at least two (2) weeks before the scheduled hearing or bench trial. At the Motion’s Day hearing the moving party should be prepared to discuss who is to appear remotely (the parties, witnesses, counsel etc.), who will appear in person, how exhibits or other evidence will be introduced, and other concerns the parties or the Court may have about the remote hearing. The Court will consider all the logistical and legal implications of a request before deciding whether to grant or deny the motion.

Requirements for Remote Attendance at Pretrial Conferences, Friday Motions, or any hearing.

Counsel and participants are generally admonished that remote proceedings will be conducted with the same requirements for decorum as pertain to in-person hearings. In particular, any person who appears remotely at any Circuit Court proceeding must adhere to the Court’s “Virtual Hearing Etiquette” (See Exhibit C “Virtual Hearing Etiquette”) at a minimum.

Civil Term Day

All parties following court procedures may set trial dates by contacting judges’ chambers up to

the Friday before Term Day in lieu of appearing for Term Day. The September Civil Term Day and all subsequent Term Days, until further notice, will be divided alphabetically into four (4) groups by the Plaintiff's last name or entity name. The Judge will call cases by group as follows:

Group 1: 2:00 p.m.

- A – E (plus all Protective Order Appeals and Juvenile Appeals)

Group 2: 2:40 p.m.

- F – L

Group 3: 3:20 p.m.

- M – T

Group 4: 4:00 p.m.

- U – Z

Criminal Term Day

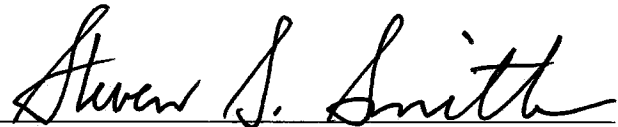
The procedures for Criminal Term Day are unchanged. Parties are encouraged to contact the Commonwealth's Attorney Office and submit agreed orders setting trial or plea dates to chambers instead of appearing at Term Day.

This Order Supplements the Provisions of Prior Orders and Published Court Procedures

All provisions of previously entered or published Court Orders relating to court procedures in light of COVID-19 and the Prince William County Circuit Court Practice Guidelines, including, but not limited to the Special Order – Phase II Resumption of the Court Operations, entered June 25, 2020, shall continue to apply. To the extent that this Order is inconsistent with the Court's prior orders and/or the Prince William County Circuit Court Practice Guidelines, this order shall

control. This order will remain in effect until amended by future order of this Court, which may occur if the public health situation warrants.

ENTERED this 28 day of August, 2020.

A handwritten signature in black ink, reading "Steven S. Smith". The signature is written in a cursive style and is positioned above a horizontal line.

Steven S. Smith, Chief Judge
Circuit Court

Exhibit A

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

Plaintiff

Case No. _____

v.

Defendant

Virtual Motion's Day Praecipe/Notice

The Clerk of said Court will please place the above-referenced case on the Civil Motion's Day docket to be called on Friday _____, 2020 at 11:30 a.m., for a hearing via teleconference or WebEx (video) on the following action:

SIGNATURE

Printed Name: _____

Address: _____

Phone: _____

Email Address: _____

CERTIFICATE OF SERVICE:

_____ I CERTIFY that I have in good faith conferred or attempted to confer with other affected parties in an effort to resolve the subject of the motion without Court action and to determine a mutually agreeable hearing date and time, pursuant to Rule 4:15(b) of the Rules of the Supreme Court of Virginia.

_____ I CERTIFY that on the _____ day of _____, 2020, I sent a copy of the foregoing to opposing party/counsel by ___Mail___Fax___Hand Delivery.

List the name, address, phone number for opposing party/counsel: _____

Email Address of Opposing Party/Counsel (required): _____

Email Address of Any other Necessary Parties (Court reporter, etc.): _____

SIGNATURE

Printed Name: _____

Address: _____

Phone: _____

Mail or Deliver original to:
Clerk of the Circuit Court
9311 Lee Ave, Rm 314
Manassas, VA 20110
(703) 792-6029

Exhibit B

VIRGINIA:

IN THE CIRCUIT COURT FOR THE 31ST JUDICIAL CIRCUIT

_____)	
Plaintiff)	Case Number: CL _____
)	
v.)	
)	
_____)	
Defendant)	
)	

Motion for Party or Witness to Appear Remotely via WebEx

Comes now _____, the Counsel/Party for the Petitioner/Defendant (circle) requesting that the party/witness (circle) in the Trial Scheduled on _____ appear via WebEx for the following reason(s):

Opposing Counsel/Party is _____ is not _____ in agreement of this request.

Date: _____

SIGNATURE: _____

Printed Name: _____
Address: _____
Phone: _____
Email Address: _____

Contact information for Party to Appear Remotely (If multiple parties/witnesses, please attach additional pages)

Name: _____
Phone: _____
Email Address: _____

_____ I CERTIFY that on the _____ day of _____, 2020, I sent a copy of the foregoing to opposing party/counsel by ___ Mail ___ Fax _____ Hand Delivery.

List the name, address, phone number for opposing party/counsel: _____

Mail or Deliver original to:
Clerk of the Circuit Court 9311 Lee Ave, Rm 314
Manassas, VA 20110
(703) 792-6029

Exhibit C

Virtual Hearing Etiquette

Below are the minimum decorum requirements for persons participating in virtual (WebEx or Teleconference) hearings in Prince William County Circuit Court:

Before the meeting:

- Download the Cisco WebEx App, if appearing over video and you plan to use a mobile or tablet device.
- Test the equipment you plan to use for the video or teleconference hearing at least one day in advance.
- Make sure your computer or mobile device is fully charged, and you have a good and stable internet connection.

During the meeting:

- Sit in a quiet room or location, without background noise.
- Sit in front of a neutral well-lit background and in a location where you will not be disturbed.
- Dress as you would appear in court.
- Place your camera at face height.
- Close all other programs on your computer
- Use earbuds or headphones, if you can. This improves sound quality
- Join the WebEx meeting or teleconference at least 10 minutes before your scheduled start time, unless you are instructed to do otherwise by the Court. For example, witnesses may

Exhibit C

be instructed not to connect with the court until they receive a text from the attorney or party who has asked them to testify.

- Always keep your microphone on **mute** when you are not speaking.

If you are participating by telephone:

- Stay in one location; do not participate while driving so that your connection remains stable.