

# **V I R G I N I A: I N T H E C I R C U I T C O U R T O F T H E C I T Y O F C H E S A P E A K E**

## **I N R E: O R D E R R E G A R D I N G C H E S A P E A K E C I R C U I T C O U R T O P E R A T I O N S A N D S C H E D U L I N G D U R I N G C O V I D - 1 9 E M E R G E N C Y**

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](mailto: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](mailto: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](mailto: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](mailto: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](mailto: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](http://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](mailto: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](mailto: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

A handwritten signature in black ink, appearing to read 'R. Smith', written over a horizontal line.

Randall D. Smith, Chief Judge

**VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE**

**IN RE: ORDER REGARDING ADDITIONAL COURTHOUSE SECURITY, HEALTH, AND SAFETY MEASURES DURING COVID-19 EMERGENCY**

Pursuant to Virginia Code § 53.1-120(A), the Sheriff shall ensure that the City of Chesapeake courthouses and courtrooms within this jurisdiction are secure from violence and disruption and shall designate deputies for this purpose; also, pursuant to Virginia Code § 17.1-501(B), the chief judge of the circuit shall ensure that the system of justice in the circuit operates smoothly and efficiently.

Further, in accordance with Virginia Code § 8.01-4, the Court may prescribe rules to promote the efficient and safe use of courthouse facilities and clerks' offices.

In accordance with the orders of the Supreme Court of Virginia regarding the Period of Judicial Emergency in Response to the COVID-19 Emergency, it is

**ORDERED and DECREED** as follows:

The Sheriff is authorized and shall take reasonable measures to determine and to prohibit individuals from entering the Courthouse if they have, within the previous 14 days:

- (i) traveled internationally;
- (ii) been directed to quarantine, isolate, or self-monitor;
- (iii) been diagnosed with, or have had contact with anyone who has been diagnosed with, COVID-19;
- (iv) experienced a fever, cough, or shortness of breath; or
- (v) resided with or been in close contact with any person in the above-mentioned categories.

The Sheriff shall direct such individuals to contact the applicable clerk's office by telephone or other remote means to inform the Clerk of their business before the Court so they may receive further instruction.

The Sheriff is further authorized to require and enforce social distancing requirements of at least six feet from any other person, with the exception of family or household members or caretakers, and shall not permit gathering, lingering, or loitering in areas, except as directed by the Court or Sheriff for purposes of pretrial or prehearing staging.

All individuals entering the Courthouse, including but not limited to employees, vendors, contractors, litigants, attorneys, and members of the public, shall wear a face covering that covers the nose and mouth continuously when in public areas and shared common spaces, including hallways, entrance foyers, and courtrooms. Inside of each courtroom, the presiding judge may permit removal of face coverings for the purposes of facilitating a hearing or otherwise promoting the functioning and effective operation of the Court, with efforts made to ensure that individuals permitted to remove their face coverings stay at least six feet apart from other individuals.<sup>1</sup> Any individual denied entry into the Courthouse for this reason should immediately contact the applicable clerk's office to receive further instruction and to determine whether (1) alternate arrangements can be made to accomplish the needs of the visitor without entry to the Courthouse; or (2) if possible, they may quickly obtain a face covering and return to the Courthouse. Any individual granted entry to the Courthouse that refuses to continuously wear their face covering over their nose and mouth as required by this Order will be subject to removal from the Courthouse.

All individuals must exit the Courthouse immediately at the conclusion of their case or other business at the Court.

A willful violation of this order may be punished as contempt under Virginia Code § 18.2-456. This order shall be in effect until rescinded by the Court.

IT IS SO ORDERED.

ENTER: *May 15, 2020*



Randall D. Smith, Chief Judge

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<sup>1</sup> If an individual cannot safely wear a face covering/mask due to a medical condition that causes them to have difficulty breathing, such individual almost certainly qualifies as a "vulnerable individual" as defined by the CDC and should strongly consider avoiding entry into any public spaces, including the Courthouse. However, to the extent a litigant, or other individual, has a condition where it is medically unsafe for them to wear a face covering (to include children under two years old) but also has a critical need or is otherwise required to enter the Courthouse, a presiding judge may make exceptions to the face covering requirement.

It is the responsibility of counsel/litigants to ensure that all parties/witnesses are prepared to go forward in their case **AND** have the ability to connect or appear in the manner requested. Your signature below certifies that all parties/witnesses have been contacted and available to appear on the hearing date requested.

Case Names:

\_\_\_\_\_  
Petitioner/Plaintiff  
(Please complete all contact info on Page2)

\_\_\_\_\_  
Defendant/Respondent  
(Please complete all contact info on Page2)

Type of Hearing Requested:  Telephonic  WebEx-Best Used with personal computer  In courtroom

<b>Hearing Date Information</b>	
<input type="checkbox"/> Case currently set for _____	
<input type="checkbox"/> Requested Hearing Date _____	
*Requested Hearing Time Block (Check only one)	
<input type="checkbox"/> 9am-12pm	<input type="checkbox"/> 2pm-4pm
Location of in custody Defendant _____	
Assigned Judge's name (if applicable) _____	
Estimated Hearing Time Needed (Circle One/Fill in the blank)	
15 minutes    30 minutes    45 minutes    Hours _____	
*Upon receipt of this form, which must be emailed to <a href="mailto:twhite@vacourts.gov">twhite@vacourts.gov</a> , chambers staff will assign a specific hearing time within the requested time block above. Email confirmation of this hearing time will be sent to all counsel. If the hearing is no longer able to go forward, counsel must inform the Court by email ( <a href="mailto:twhite@vacourts.gov">twhite@vacourts.gov</a> ) as soon as possible.	

Parties appearing remotely:  All  \_\_\_\_\_

Please complete page 2 (Contact Information for All Remote Participants)

Electronic exhibits must be emailed to [twhite@vacourts.gov](mailto:twhite@vacourts.gov) at least two days prior to hearing.

Interpreter Needs:  None  Yes (Language needed/for who?) \_\_\_\_\_

Attorney Endorsements: \_\_\_\_\_  
Commonwealth/Plaintiff's Attorney                      Counsel for the Defendant/Respondent

**Court Use Only**     Granted (Assigned hearing time: \_\_\_\_\_)                       Denied

Other \_\_\_\_\_

Judge \_\_\_\_\_ Entered \_\_\_\_\_