V I R G I N I A :

IN THE CIRCUIT COURT OF THE 31ST JUDICIAL CIRCUIT
SPECIAL ORDER OF MAY 15, 2020

IN RECOGNITION OF the COVID-19 pandemic, and in conjunction with Orders of the Virginia Supreme Court, dated March 16, 2020, March 27, 2020 and April 22, 2020, declaring and extending a state of Judicial Emergency, this Court entered Special Orders dated March 13, 2020, March 16, 2020 and April 23, 2020. The March Special Orders of this Court were in effect until April 30, 2020. The April 23, 2020 Special Order of this Court is in effect until May 30, 2020. Further, 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. On May 6, 2020 the Supreme Court entered a Fourth Order Modifying and Extending the Declaration of Judicial Emergency (the Fourth Order). On May 12, 2020 the Supreme Court entered an Order amending the Fourth Order.

Among other things, the Supreme Court's Fourth Order provided that:

1) courts should continue to prioritize emergency matters;

2) courts should continue to conduct as much business as possible by remote means;

3) courts may hear in-person non-emergency matters *if they determine it safe to do so*;

4) courts shall take reasonable measures to prohibit certain individuals deemed to have a particular risk of transmitting COVID-19 from entering the courthouse;

5) judges are charged with the responsibility of taking reasonable steps to minimize the risk of the spread of COVID-19;

6) continuances and excuses for failure to appear shall be liberally granted for any cause resulting from the impact of the COVID-19 crisis;

7) all jury trials are suspended until further notice throughout the Commonwealth; and

8) Chief Judges should assemble a transition team of interested stakeholders to provide input on transitioning to normal operating procedures.

The Order of May 12, 2020 amending the Fourth Order provided, among other things, that it is not necessary for a party to obtain the agreement of any other party to bring a pre-trial motion before the court or to set a non-jury trial.

Pursuant to the Fourth Order, the Chief Judge of this Court convened a meeting of the interested stakeholders on May 8, 2020 to receive input on transitioning to normal operations. Among the attendees at this meeting were representatives of the Prince William County Health District and the Department of Emergency Management. The Health District representative reported that the Northern Virginia region, which includes Prince William County, currently has the highest rate of positive COVID-19 cases in the Commonwealth and it is not presently recommended that the region loosen restrictions on social distancing. The Health District representative further recommended that the judges of this Court and their support staff continue to work in teams with no more than half present in the courthouse in a given week.

UPON CONSIDERATION of the Fourth Order, as amended, and the guidance provided by public health professionals, it is hereby ORDERED as follows:

The previous Orders of this Court of March 13, March 16 and April 23, and the Memorandum dated April 22, referenced above, are hereby incorporated in this Order and extended; however, the provisions of this Order on specific topics shall be controlling.

In order to maintain the recommended social distancing the number of persons permitted in the courtrooms shall be limited to that number which may be seated at least six feet from any

other person. Only the parties, counsel, witnesses and members of the press shall be permitted in the courtroom. The use of protective face masks is strongly encouraged.

Civil Cases:

1. Jury trials are suspended until further order of the Supreme Court. Any cases presently set for trial by a jury through June 30, 2020 will be removed from the docket. Counsel may reschedule such trials for a date after June 30, 2020 by contacting judges' chambers or by placing the case on the next available term day docket.

2. The Court's previously announced liberal continuance policy shall remain in effect for any cause resulting from the impact of the COVID-19 crisis. Agreed continuance Orders pursuant to the Special Continuing Order entered on March 12, 2020 may be filed with the Clerk by electronic mail at circuitcourt@pwcgov.org. The Clerk shall forward such Orders to Chambers for entry.

3. Effective June 1, 2020 and continuing until further notice one judge shall be available on Monday, Tuesday and Wednesday each week to hear, in-person, two motions for pendente lite relief with a strict time limit of two hours each and two rules to show cause for violations of prior orders concerning child custody, visitation or support with a strict time limit of one hour each.

4. Effective June 1, 2020 and continuing until further notice one judge shall be available on Monday, Tuesday and Wednesday each week to conduct in-person civil trials not to exceed one day (six hours) in length. The Court will impose a strict time limit on these trials. Failure of counsel to conclude the presentation of evidence and argument within the allotted time shall be grounds for the Court to order a mistrial of the case which will be re-set for a future date. Criminal trials shall continue to have priority on the docket. Without limiting other types of civil

cases that may be heard, priority for civil trials shall be given to child custody, visitation and support matters and other cases having statutory priority or constituting an emergency as previously defined by the Supreme Court's Orders. No multi-day civil trials shall be held until further order of this Court. Counsel may reschedule any multi-day trials presently on the docket for a date after June 30, 2020 by contacting judges' chambers or by placing the case on the next available term day docket. In order to expedite the conclusion of child custody and support disputes, if the parties agree, the Court will bifurcate the issues of child custody and support from other issues in divorce actions for a final decision, provided that the issues of child custody and support can be concluded in a one-day trial.

5. The requirement for pretrial conferences is hereby suspended until further order of the Court. In setting a matter for trial as discussed in paragraph 4 above counsel shall be deemed to certify that:

a) The case has matured and is ready for trial

b) There are no unresolved demurrers or pleas in bar

c) All discovery has been completed or will be completed prior to trial

d) All exhibits and witness lists have been or will be exchanged at least 48 hours prior to trial

e) The parties and counsel have conferred in a good faith attempt to resolve the case; and

f) The plaintiff (or appellant in the event the case is an appeal) shall arrange for a court reporter for the trial

6. Effective June 1, 2020 the Court will recommence ore tenus divorce hearings on the first and third Thursdays of each month at 9:00 a.m. A maximum of ten cases may be placed on a given ore tenus docket.

7. Effective June 1, 2020 and continuing until further order of the Court Friday motions days shall proceed in-person according to the following schedule and limitations:

9:00 – 10:30 Motions in which the Commonwealth's Attorney has an interest

10:45 – 11:15 Pendente lite motions to be set and Show Cause Rules to be set

11:30 – 1:00 Other civil motions

Contested civil motions shall be limited to twenty minutes (ten minutes per side). All motions shall be filed with the Clerk's office at least two weeks prior to the scheduled motions day. The 11:30 a.m. docket shall be limited to a maximum of 15 cases total for all judges combined until further notice. **The Clerk is instructed to close the 11:30 a.m. docket upon reaching the 15-case maximum for a given day.**

8. If agreed by all parties, the Court will consider and rule on civil motions which do not necessitate the taking of testimony, without oral argument in accordance with the procedures and with the briefing limits set forth in the Court's Memorandum of April 22, 2020.

9. In accordance with the Supreme Court's amendment of its Fourth Order and pursuant to Virginia Code § 17.1-513.2 the Court may hear pre-trial motions by video conference or teleconference provided that all participants have access to the video or teleconferencing equipment required by Virginia Code §19.2-3.1. Counsel wishing to have a remote hearing on pretrial motions should contact judges' chambers to schedule the matter. Argument of such motions shall be limited to twenty minutes (ten minutes per side). Counsel will note that the Polycom platform mentioned in the Court's prior memorandum has severe limitations in its implementation in Prince William County, making its use for civil motions impractical. The Court is awaiting delivery of the hardware necessary to conduct hearings via the WebEx platform. The Court will notify the Prince William County Bar Association when such

equipment is available. Until that time, remote hearings in civil cases will be limited to teleconference.

Criminal Cases:

10. Effective June 1, 2020 and continuing until further notice one judge shall be assigned to the criminal docket each Monday, Tuesday and Wednesday.

11. Effective June 1, 2020 and continuing until further notice the Court will hear bond motions, arraignments and motions to reconsider sentences each day Monday through Thursday at 9:30 a.m. by video. Non-incarcerated defendants are excused from appearing at status and to-be-set hearings. Incarcerated defendants will appear for such hearings by video. Bond motions must be filed two days in advance of the hearing in accordance with existing practice. As of June 1, 2020, in order to accommodate a Friday motions docket, the Court will cease hearing bond motions on Fridays.

12. Jury trials are suspended until further order of the Supreme Court. Any criminal cases presently set for trial by a jury through June 30, 2020 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, of the Supreme Court's Order on the defendant's speedy trial rights.

13. Criminal bench trials may go forward in person as presently scheduled for dates on or after June 1, 2020. Criminal trials shall have priority over all other matters except cases entitled to statutory priority.

14. The court will hear guilty pleas on Thursdays at 10:00 a.m. If the parties agree, counsel are still encouraged to continue pleas for non-incarcerated defendants for a date after June 30, 2020.

15. Sentencing and revocation hearings set for the month of June for non-incarcerated defendants will be continued to the assigned judge's sentencing date in August or later. Sentencing and revocation hearings set for the month of June for incarcerated defendants will go forward as scheduled unless continued by agreement of the defendant and the Commonwealth's Attorney or as may be required to be adjusted to conform with the assigned judge's rotation schedule.

16. Suppression motions and motions in limine in criminal cases will be heard on Thursdays at 9:00 a.m. in accordance with the prior practice. Such motions should first be placed on a Friday motions docket at 9:00 a.m. to be set for hearing.

There may be further adjustments to the Court's dockets if the public health situation warrants. Any such changes will be communicated by a separate Order.

ENTERED this 15th day of May, 2020.

Tracy C. Hudson, Chief Judge
Circuit Court