Rappahannock County Circuit Court First Transition Plan

Pursuant to the Supreme Court of Virginia's Fourth Order Modifying and Extending Declaration of Judicial Emergency in Response to Covid-19 Emergency, as amended, the Circuit Court of Rappahannock County adopts this First Transition Plan.

For cases that do not conform with this Transition Plan and that currently remain on the docket, the parties must contact the Clerk of Court or file a scheduling motion to reschedule those cases.

Due to the infrequency and size of the dockets in Rappahannock County, it has been determined that most matters may be conducted in-person in the Courthouse. However, no party shall be required to by physically present in the courtroom if they have personal health concerns related to COVID-19 and the ability exists for them to appear remotely.

I. Facilities

A. Courthouse Access

All parties, other than incarcerated inmates, may appear in-person at the Courthouse. The courthouse remains open to members of the press and to "court-watch" groups. However, due to the limited capacity of the courtroom, litigants and their counsel shall have priority over all other individuals.

B. Health and Social Distancing

All persons entering the Courthouse shall be subject to screening and questioning by the Sheriff's Courthouse Security Officers related to the COVID-19 virus. Individuals may be prohibited from entering the courthouse if deemed a public health risk.

A mask or face covering over the nose and mouth shall be worn at all times. The requirement to wear a mask or face covering includes all areas of the courthouse, including inside the courtroom, unless excused or permitted by the presiding judge. All persons in the Courthouse must maintain six-foot social distancing from all other persons at all times, subject to exceptions for security and other approved reasons.

All individuals, parties or attorneys who believe they are either experiencing symptoms of COVID-19, or who believe they may have been exposed and require self-quarantining, should contact the Clerk of Court so that their case may be heard remotely or rescheduled.

C. Courtroom Seating

Due to limited space within the courtroom, and in an effort to maintain social distancing, the Sheriff has designated certain seating areas where individuals may sit. These restrictions further limit the number of people permitted within the courtroom at

any given time. A separate seating area is designated for attorneys waiting for their case to be called. Assigned seating will be made for court reporters and probation officers.

Individuals or parties called to testify may do so from their assigned seat in the courtroom unless otherwise instructed by the presiding judge.

If the courtroom reaches capacity, all other parties and attorneys will be required to wait in one of the two designated waiting rooms, or outside the Courthouse, until the courtroom has been cleared or their case is called. The Clerk shall make efforts to structure the docket so as to minimize the traffic flow within the courtroom.

The presiding judge may, in the interest of public safety, further restrict the number of persons in the courtroom.

II. In-Person Dockets / Days of Court

A. Criminal Dockets

2nd Monday of every month
- 9:00 a.m. Miscellaneous Criminal
  Grand Jury (Jan, Mar, May, Jul, Sep and Nov)
- 1:00 p.m. Grand Jury Returns (Jan, Mar, May, Jul, Sep and Nov)

3rd Thursday of every month
- 9:00 a.m. Miscellaneous Criminal

B. Civil Dockets

2nd Monday of every month
- 11:00 a.m. Miscellaneous Civil

3rd Friday of every month
- 9:00 a.m. Miscellaneous Civil

III. Civil Cases

A. General

The presumption for all civil hearings is that they will be conducted in-person. At the request of any party the Court will permit hearings by video conference or teleconference ("Remote Hearings").

The following cases will have docketing priority: petitions for protective orders; child custody or protection cases (emergencies will be prioritized); civil commitment hearings; petitions for temporary injunctive relief; proceedings related to emergency protection of elderly or vulnerable persons; petitions for appointment of a guardian or

conservator; proceedings necessary to safeguard applicable constitutional protections; rules to show cause; and other matters deemed an emergency by the Court.

The Court may need to *sua sponte* continue motions and trials, sometimes possibly at the last moment, as may be necessary to accommodate docket volume and priorities, or in the interest of public safety.

B. Civil Motions

1. General

All motions initially will be scheduled at times as outlined above (II. In-Person Dockets / Days of Court). Parties are expected to be available to participate either in-person, or remotely, at the designated time when contacted by the Court. Notwithstanding the above, each presiding judge may, in the judge's discretion, organize the assigned docket and set and announce each motion for a time certain throughout the day.

Hearings are not required for motions. By agreement of all parties, a ruling may be based solely on the filed briefs by waiving oral argument and notifying the Court of this preference.

1. In-Person Hearings

All civil hearings are presumed to take place in person in accordance with the guidelines as set out in section I. Facilities.

2. Remote Hearings

Requests for a remote hearing shall be made, in writing, with notice to the opposing party, at the time the matter is noticed for scheduling. For previously filed matters, any notice requesting a remote hearing shall be made at least fourteen (14) days prior to the scheduled hearing date. The consent of all parties for a remote hearing is not required. Hybrid hearings are permitted where some appear in-person and others appear remotely.

All motions approved for a remote hearing that are to be heard remotely shall not exceed a total of 20 minutes absent prior approval of the presiding Judge. Motions to be heard remotely citing authority (or briefs accompanying a motion if the motion does not cite authority) shall be limited to 10 pages and shall be filed at least 14 days prior to the scheduled motions day. Responses to motions shall be limited to 10 pages and shall be filed at least 7 days prior to the scheduled motion. The Court may permit deviations from the above page limits upon motion for good cause shown. A proposed order shall be filed with any motion or opposition thereto.

3. Motions to Compel

All motions to compel discovery responses, and oppositions thereto, shall contain an excel-type spreadsheet ("Spreadsheet") specifically identifying and succinctly summarizing

the areas of dispute. The spreadsheet shall be filed at least five (5) days prior to argument on the motion.

C. Civil Trials

1. Jury Trials

No jury trials will occur until further notice. Jury trials that have currently been set will remain on the Court's docket in a "COVID status" posture and, if necessary, may be rescheduled when the Supreme Court of Virginia removes the prohibition on jury trials. Notwithstanding the removal of the prohibition on jury trials, the Court may further postpone previously set jury trials based on docket volume or priorities, or in the interest of public safety.

2. Bench Trials

In-Person bench trials previously scheduled remain on the docket.

Remote bench trials may be requested by any party. The parties are responsible for the remote appearance of their respective witnesses, and for arrangements to have witnesses properly sworn if the witness is appearing remotely. Trials are limited to matters lasting two days or less (to allow for luncheon recess and occasional brief daily recesses, a day equals approximately six hours) until further notice. The Court will endeavor to allocate time equally between the parties. All time allocations for cases will be strictly enforced. Failure of the parties to adhere to time allocations may result in mistrial, necessitating the case being rescheduled.

3. Remote Trials: Exhibits and Related Filing Requirements

a. Exhibits

Parties must pre-file with the Clerk and exchange proposed exhibits at least 14 days prior to trial. All exhibits filed with the Clerk must be in notebooks, contain two copies of an exhibit roster, be tabbed by exhibit number, have exhibit stickers attached to the first page of each proposed exhibit, and have all pages sequentially numbered (beginning with the first page of Exhibit 1). No additional exhibits will be considered in remote hearings. Failure to adhere to the above requirements may result in the exhibits not being considered.

Witnesses participating in remote hearings must be provided with exhibits in advance so that they may have access to the exhibit during their testimony and/or for identification purposes.

b. Domestic Relations / Equitable Distribution Cases

In any case involving equitable distribution, parties must file at least seven (7) days prior to trial a joint equitable distribution schedule identifying each entry

on which the parties agree. This requirement will necessitate cooperation between the parties. Should the Court find that a party has failed to cooperate in good faith to narrow the equitable distribution issues for trial, the Court may take such action as may be appropriate, including but not limited to the exclusion of evidence and prohibiting a party from arguing or defending a particular matter(s).

Parties in contested domestic relations cases involving grounds of divorce, child custody, equitable distribution, spousal support and/or child support should expect the Court to require post-trial transcripts and Proposed Findings of Fact and Conclusions of Law cross-referenced to the trial transcripts. Parties are urged to prepare their respective case in anticipation of the Court ordering the above post-trial filings.

IV. Criminal Cases

A. Criminal Motions / Hearings

All criminal matters will be scheduled at times as outlined above (II. In-Person Dockets / Days of Court). The presumption for all criminal matters is that they will be conducted in-person. The only exception to this is that all criminal matters involving incarcerated defendants shall be conducted remotely unless otherwise permitted by the presiding Judge and with the agreement of the Sheriff.

At the request of any party, the Court may permit a remote hearing for a non-incarcerated defendant. Any party may also request remote attendance by any necessary witness for a motion.

B. Requests for Remote Hearing / In-Person Attendance

A party requesting a remote hearing for non-incarcerated defendant, remote attendance of a witness, or an in-person hearing for an incarcerated defendant must do so by written Motion at least fourteen (14) days prior to the scheduled hearing. The Motion shall include good cause justification and shall further outline the proposed procedures by which the hearing will be conducted, if granted. Such Motions shall be reviewed and considered *in camera* without a hearing.

Due to volume, the Court *sua sponte* may reassign proposed criminal matters to another Thursday.

C. Criminal Jury Trials

No jury trials will occur until further notice. Jury trials that have currently been set will remain on the Court's docket in a "COVID status" posture and, if necessary, may be rescheduled when the Supreme Court of Virginia removes the prohibition on jury trials. Notwithstanding the removal of the prohibition on jury trials, the Court may further

postpone previously set jury trials based on docket volume or priorities, or in the interest of public safety.

D. Criminal Bench Trials

Felony and Class 1 and 2 misdemeanor criminal bench trials shall enjoy priority on the Court's docket. Currently scheduled bench trials and lasting two days or less may proceed absent notice or leave from the Court otherwise.

Defendants not in custody must appear in-person. Defendants in custody will appear remotely. Counsel, witnesses, interpreters, court reporters, victim witness services personnel, and probation officers may participate in-person, consistent with the public health and social distancing requirements outlined above.

This Transition Plan remains in effect until modified or vacated.

Dated: July 29, 2020

Approved: Douglas L. Fleming, Jr.
Douglas L. Fleming, Jr.
Chief Judge, 20TH Judicial Circuit