

## **Fairfax 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 Fairfax adopts this First Transition Plan.

For cases currently on the docket between May 18, 2020 and June 1, 2020, the parties must contact Calendar Control to determine whether those cases will be continued or permitted to go forward.

### **I. Civil Cases**

Starting June 1, 2020, the Court will hear presently scheduled motions and trials, and any new, properly noticed matters, via video or teleconference (“Remote Hearings”). All hearings shall be Remote Hearings, absent leave of Court for good cause shown. The consent of all parties for a Remote Hearing is not required.

The following items enjoy docketing priority: Petitions for protective orders, child custody or protection cases (emergencies take priority), 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 matters deemed an emergency by the Court.

The Court may need to *sua sponte* continue motions and trials at the last moment pursuant to its own triage process necessary to accommodate priorities, or in the interest of public safety.

Trials are limited to matters lasting two days or less until further notice.

Presently scheduled motions and trials for June through July 2020, that do not conform with this policy must be reset at Calendar Control.

#### **A. Calendar Control**

The Court continues its 8:30 a.m. and 3:30 p.m. Calendar Control process for emergencies, scheduling, and requests for leave to appear in-person. All

Calendar Control is conducted by telephone. There is no in-person Calendar Control option.

## **B. Civil Motions**

The Court resumes its Friday civil non-evidentiary motions practice, including pendente lite and rules to show cause. (They will no longer be heard on Thursdays.) When assigned to a judge, the judge will segment the docket for Remote Hearings.

Civil evidentiary motions may be scheduled Mondays through Thursdays through Calendar Control.

All motions will be initially scheduled to begin at 10:00 a.m. Each presiding judge will organize the assigned docket and will set and announce each motion for a time certain throughout the day.

Parties may continue to request rulings on any motion based only on filed briefs by waiving oral argument and notifying the Court of this preference.

## **C. Civil Trials**

### **1. Jury Trials**

No jury trials will occur until further notice. They may be scheduled for dates starting August 3, 2020. However, the Court may further postpone jury trials consistent with the then-state of the judicial emergency. Parties with cases scheduled for jury trials prior to August 3, 2020, must reschedule the trial through Calendar Control unless all parties agree to a bench trial of no more than two days.

### **2. Bench Trials**

Bench trials currently scheduled in June through July 2020, set for two days or less, remain scheduled, as Remote Hearings, absent notice from the Court to the contrary. New matters may be scheduled through Calendar Control to be heard Mondays through Thursdays at the discretion of the Court.

## **II. Criminal Cases**

All criminal hearings will be initially scheduled to begin at 10:00 a.m. Each presiding judge will organize the assigned docket and will set and announce each motion for a time certain throughout the day.

### **A. Criminal Motions**

The Court resumes its Friday criminal motions practice. Motions will be conducted by Remote Hearing, absent leave of Court.

### **B. Criminal Pleas**

Pleas for felonies and Class 1 and 2 misdemeanors may be scheduled for hearings Mondays through Thursdays through Calendar Control. 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 appear remotely.

Agreed dispositions for pleas to traffic infraction appeals and Class 3 and 4 misdemeanors appeals may be submitted to the Court in writing for consideration of and entry of the disposition. Pleas without agreed dispositions must be scheduled for hearings Mondays through Thursdays through Calendar Control.

### **C. Sentencings/Revocations**

Currently scheduled sentencing and revocation hearings will proceed. Defendants must appear in person, unless in custody. Defendants in custody will appear remotely. Counsel, victims, witnesses, interpreters, court reporters, victim witness services personnel, and probation officers may appear remotely.

### **D. Criminal Jury Trials**

No jury trials will occur until further notice. They may be scheduled for trial dates starting August 3, 2020. However, the Court may further postpone jury trials consistent with the then-state of the judicial emergency. Parties with cases scheduled for trial by jury prior to August 3, 2020, must reschedule the trial through Calendar Control.

### **E. Criminal Bench Trials**

Felony and Class 1 and 2 misdemeanor criminal bench trials shall enjoy primary priority on the Court's docket. Currently scheduled bench trials lasting two days or less may proceed. All other matters must be rescheduled through Calendar Control.

Misdemeanor appeals of Class 3 and 4 misdemeanors, plus traffic offense appeals, must be continued to a date after August 3, 2020, through Calendar Control.

### **III. Facilities**

#### **A. Courthouse Access**

No parties or witnesses for a scheduled Remote Hearing may appear in-person at the Courthouse, without leave of Court.

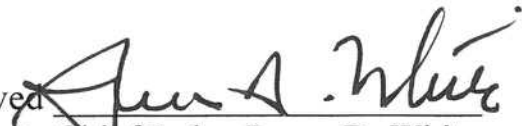
#### **B. Health and Social Distancing**

By Order entered this day, the Court required face coverings to enter and remain in the Courthouse, including within courtrooms. In addition, 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.

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

Dated: May 18, 2020

Approved

  
Chief Judge Bruce D. White