

VIRGINIA:

In the Court of Appeals of Virginia on Tuesday the 29th day of June, 2021.

IN RE:

SIXTH ORDER CONCERNING COURT OPERATIONS UNDER THE PUBLIC HEALTH EMERGENCY CREATED BY THE OUTBREAK OF CORONAVIRUS DISEASE 2019 (COVID-19)

This order MODIFIES in part, and EXTENDS in part, the provisions of this Court's February 22, 2021 order concerning the Court of Appeals' operations under the public health emergency created by the outbreak of Coronavirus Disease 2019 (COVID-19).

As set forth in this Court's March 18, 2020, June 23, 2020, August 31, 2020, November 23, 2020, and February 22, 2021 orders, over the course of the past 15 months, the Court has closely monitored the COVID-19 outbreak and has carefully tracked the developing guidance from the Centers for Disease Control, other public health authorities, and the Office of the Executive Secretary of the Supreme Court. The Court has followed a strategy of a staged response to the public health emergency created by the COVID-19 outbreak, with the primary goal of balancing health and safety concerns with the need to continue to provide an essential service in the Commonwealth. The Court's previous operational orders detailed the phases of the Court's strategy. In the fifteen months since the March 2020 order was entered, the members of the Bar and litigants have embraced the Court's modified practices. As a result, access to justice in the Court has not been disrupted during this time period.

On May 14, 2021, Governor Northam entered Executive Order Number Seventy-Nine (2021), which became effective on May 28, 2021. That order "end[ed] commonsense public health restrictions due to novel coronavirus (COVID-19)" and declared that "it [was] time to begin our new normal." That executive order also indicated that "[a]ll individuals in the Commonwealth aged five and older should cover their mouth and nose with a mask in accordance with the Centers for Disease Control and Prevention guidance."

On June 15, 2021, the Supreme Court of Virginia entered a twenty-third order extending the judicial emergency in response to the COVID-19 emergency. That order indicated that “[t]he ongoing judicial emergency caused by the COVID-19 pandemic continues to impede the operation of Virginia’s courts, and to limit the courts’ ability to ensure (i) immediate access for litigants and others and (ii) that schedules or time deadlines imposed by court order, rule, or statute are met.” The order also stated that “[a]ll courts . . . may follow the guidance of the Centers for Disease Control and Prevention (CDC), the Governor’s Executive Order(s), and the Virginia Department of Health, with respect to safety protocols, including physical distancing and capacity restrictions and requiring a mask covering the mouth and nose.”

In light of these orders, and after careful consideration, the Court determines the following:

Electronic filing. The Court’s prior operational orders permitted and strongly encouraged the electronic filing of all documents. Effective June 1, 2021, the Rules of the Supreme Court of Virginia were amended to require all attorneys to file all documents electronically through this Court’s electronic filing system (VACES). Information on how to register to file through VACES and other instructions regarding the filing of electronic pleadings can be found on the Virginia Judicial System’s website at <https://eapps.courts.state.va.us/help/robo/vaces/index.htm>. *Pro se* and self-represented litigants may, but are not required to, file pleadings through the VACES system. If such an individual elects not to file through VACES, only one paper copy of a filing is required. Although those individuals may elect to deliver documents directly to the Court’s clerk’s office, a drop-box outside of the clerk’s office will continue to be available for the deposit of paper documents to be filed with the Court.

Extensions of time. The Court will continue its liberal extension of time policy for pleadings due to be filed in instances where the parties are impacted by this public health event.

Oral arguments. The Court will continue to conduct its upcoming oral argument writ dockets by videoconference through December 31, 2021.

As of September 1, 2021, every effort will be made to conduct the Court’s upcoming oral argument merit dockets in person, to the extent practicable, and absent any changes to the contrary in the Governor’s

Executive Orders or the Supreme Court’s Judicial Emergency Orders. The holding of in-person merit dockets will be contingent on the availability of individual courtrooms in various locations throughout the Commonwealth. The Court is mindful of the need for the circuit courts to move their dockets forward, and every effort will be made not to interfere with the circuit courts’ conducting of their dockets. The Court greatly appreciates the gracious efforts of the circuit courts to accommodate this Court’s regional panels.

The video panel hearings will be live streamed for public access and will be posted on the Court’s website after each docket is completed.

The Court will continue its liberal continuance policy for oral arguments in instances where the parties are impacted by the COVID-19 pandemic.

Safety-related protocols. Safety-related protocols, including physical distancing, capacity restrictions, and mask requirements, will be dictated by the local courthouses in which this Court will sit, CDC guidelines, the Virginia Department of Health guidelines, the Governor’s Executive Orders, and the Supreme Court of Virginia’s directives.

The Court takes this opportunity to thank all of the attorneys and *pro se* litigants who have cooperated with its operational protocols over the last 15 months to ensure the orderly administration of justice.

The Court also takes the opportunity to express its appreciation to all of the staff members who have made it possible to continue the Court’s operations during this extended unprecedented public health event.

Going forward into the “new normal,” the Court’s goal remains to balance vital health and safety concerns with the critical need to ensure access to justice for all and to continue to provide essential services to those with business before the Court. Due to the ever-changing nature of this public health event, all interested parties should monitor the Court’s website at www.courts.state.va.us/news/items/covid_19.pdf for further updates and detailed information.

This order shall remain in effect until further order of the Court.



Marla Graff Decker
Chief Judge, Court of Appeals of Virginia