

**PRESS RELEASE**  
**FOR IMMEDIATE RELEASE**

March 16, 2020

Effective March 17, 2020, all state courts in Roanoke City, Roanoke County, and Salem City are to remain open, but will reduce operations and restrict access to courthouses, pending further Order.

In response to concerns about the health and safety of court personnel and the public arising out of potential exposure to the Coronavirus (COVID-19), the Chief Judges of all state courts in Roanoke City, Roanoke County, and Salem City announced today that while the courts will remain open, operations will be reduced and access to the courthouses will be restricted. As more particularly described in the attached Order, these Courts have suspended many in-court proceedings. The Courts have further encouraged restricted access to the courthouse for litigants, involved attorneys, material witnesses, and necessary court personnel. These restrictions will remain in place through at least April 10, 2020. For the duration of any such restrictions, all courts will have a liberal continuance policy for any cases otherwise scheduled for trial.

*For the most current information about the schedules for Courts in the 23<sup>rd</sup> Judicial Circuit and District, please check the individual Court websites, which can be accessed through the Virginia Judicial System website at <http://www.courts.state.va.us/main.htm>.*

## **VIRGINIA:**

*In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Wednesday the 8th day of July, 2020.*

### **IN RE: SEVENTH ORDER EXTENDING DECLARATION OF JUDICIAL EMERGENCY IN RESPONSE TO COVID-19 EMERGENCY**

Under the constitutional, statutory, and inherent authority of the Supreme Court of Virginia, the Court unanimously EXTENDS the Declaration of Judicial Emergency through August 9, 2020, and ORDERS that the provisions of the *Sixth Order Extending Declaration Of Judicial Emergency In Response To Covid-19 Emergency*, entered June 22, 2020 (Sixth Order), shall continue to apply in all courts of the Commonwealth, except as provided herein. The provisions of the Sixth Order, as amended and modified by this Order, are hereby incorporated by reference as if fully set forth herein and shall apply for the duration of this Order unless amended by future order. Accordingly, the Period of Judicial Emergency now extends from March 16, 2020, through August 9, 2020.

1) As provided in the Clarification Order, entered May 1, 2020, deadlines imposed by the Speedy Trial Act, Va. Code § 19.2-243, are tolled during the ongoing Period of Judicial Emergency (March 16, 2020, through August 9, 2020).

2) Plans for restarting jury trials, as required by Paragraph 16 of the Sixth Order, shall be submitted by Chief Circuit Court Judges to the Chief Justice. Jury trials may be held as soon as the plan has been submitted and approved by a panel of three Justices in consultation with the Office of the Executive Secretary. No jury trials shall occur in any locality in the Commonwealth for the duration of this Order, unless and until the plan applicable to the locality has been approved by the panel.

3) Except as provided in Paragraph 1 above, beginning on July 20, 2020, for cases in the district and circuit courts, there shall be no further tolling of statutes of limitation or other case-related deadlines. Similarly, beginning July 20, 2020, there shall be no further tolling of deadlines regarding filings made pursuant to Part Five of the Rules of the Supreme Court of Virginia with the clerk of the circuit court as well as the filing of the petition for appeal in the Supreme Court under Rule 5:17(a)(1).

The tolling period as a result of the Judicial Emergency for such statutes of limitation and deadlines shall be limited to March 16, 2020 through July 19, 2020. This period of tolling shall not be counted for purposes of determining statutes of limitation or other case-related deadlines. If, for example, the circuit court entered final judgment on March 10, 2020, six days before the Judicial Emergency was declared, then the total number of days of the tolling period resulting from the Judicial Emergency shall not count toward the 90-day deadline for filing the petition for appeal under Rule 5:17(a)(1), and this deadline would be extended for a period of 84 days after the tolling period ends on July 20, 2020.

Deadlines regarding filings made pursuant to Part Five A of the Rules of the Supreme Court of Virginia with the clerk of the circuit court are no longer tolled. All deadlines in the Court of Appeals that run from the filing of the record in that court, remain unaffected; however, parties remain free to seek extensions of time in the Court of Appeals.

This Order shall be in effect from July 20, 2020, through August 9, 2020. The Declaration of Judicial Emergency may be extended for additional periods as provided in Va. Code § 17.1-330(E). It is so ORDERED.



(SEAL)

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Chief Justice of the Supreme Court of Virginia

## **VIRGINIA:**

*In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Monday the 22nd day of June, 2020.*

### **IN RE: SIXTH ORDER EXTENDING DECLARATION OF JUDICIAL EMERGENCY IN RESPONSE TO COVID-19 EMERGENCY**

On March 12, 2020, Governor Northam entered Executive Order 51 (2020) Declaration of a State of Emergency Due to Novel Coronavirus COVID-19. This state of emergency became effective March 12, 2020, and, as amended on May 26, 2020, is to remain in full force and effect until amended or rescinded by further Executive Order. On Monday, March 16, 2020, pursuant to Va. Code § 17.1-330, the Chief Justice issued an Order declaring a judicial emergency for all district and circuit courts of the Commonwealth to protect the health and safety of court employees, litigants, judges, and the general public (“First Order”). This First Order was effective from March 16, 2020 through April 6, 2020. On March 27, 2020, this Court entered an Order extending the Declaration of Judicial Emergency for a second twenty-one day period, effective April 6 through April 26, 2020, for all district and circuit courts of the Commonwealth (“Second Order”).

On March 30, 2020, the Governor, through Executive Order 55 (2020), required Virginia residents generally to stay at home due to the public health threat. This Executive Order expired on June 4, 2020. On April 22, 2020, the Court entered an Order extending the Declaration of Judicial Emergency for a third twenty-one day period, effective from April 26 through May 17, 2020, for all district and circuit courts of the Commonwealth (“Third Order”). On May 1, 2020, the Court entered a Clarification Order Concerning Tolling of Statutory Speedy Trial Deadlines During the Judicial Emergency In Response To COVID-19 Crisis (“Clarification Order”). On May 6, 2020, the Court entered an Order modifying and extending the Declaration of Judicial Emergency from May 18 through June 7, 2020 (“Fourth Order”). Paragraph 4 of the Fourth Order was amended on May 12, 2020 (“Amended Fourth Order”). On May 26, 2020, Governor Northam entered Executive Order 63 (2020), effective May 29, 2020, requiring, among other things and with some exceptions, that face masks be worn inside buildings. On June 1, 2020 the

Court entered an additional Order modifying and extending the Declaration of Judicial Emergency from June 8 through June 28, 2020 (“Fifth Order”). The Fifth Order was amended June 8, 2020 to include a temporary stay of unlawful detainers and evictions (“Amendment to the Fifth Order”). The Fifth Order was further amended on June 22, 2020, to allow the issuance of unlawful detainers and writs of evictions for matters unrelated to failure to pay rent (“Second Amendment to the Fifth Order”).

Under the constitutional, statutory, and inherent authority of the Supreme Court of Virginia, the Court unanimously EXTENDS the Declaration of Judicial Emergency from June 29 through July 19, 2020, and ORDERS the following:

1) As provided in the First, Second, Third, Fourth, and Fifth Orders, as amended and clarified, for all cases in district and circuit courts, the statutes of limitation and, except as otherwise provided in this Order, all other case-related deadlines, excluding discovery deadlines, shall continue to be tolled during the ongoing Period of Judicial Emergency (March 16, 2020, through July 19, 2020), pursuant to Va. Code § 17.1-330. Consistent with this Court’s Fourth and Fifth Orders, in all civil cases, including jury trial cases that are currently suspended, deadlines and obligations arising out of Part Four of the Rules of Supreme Court of Virginia are not tolled and, upon notice to the parties or their counsel, courts may impose and enforce case-related pre-trial deadlines. Litigants are encouraged to resolve as many pretrial matters as possible with or without the assistance of the courts.

2) Courts shall continue to prioritize emergency matters including, but not limited to, quarantine or isolation matters, criminal arraignments, bail reviews, protective order cases, emergency child custody or protection cases, 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, and proceedings necessary to safeguard applicable constitutional protections.

3) Effective June 29, 2020, courts may resume hearing all unlawful detainer actions and issuing writs of eviction. Commercial unlawful detainer actions and writs of eviction were not and are not affected by the Amendment to the Fifth Order issued on June 8, 2020.

4) Courts should continue to conduct as much business as possible by means other than in-person court proceedings. In all civil and criminal matters, courts are encouraged to continue and even increase the use of video conferencing, teleconferencing, email, or other means that do not involve in-person contact. These methods are preferred over in-person court proceedings.

5) Notwithstanding the ongoing preference for conducting business by video conferencing or telephone, all courts may hear in-person non-emergency matters and non-jury cases if they determine it is safe to do so, and provided they comply with (i) the guidance for transitioning from emergency to routine operations provided by the Office of the Executive Secretary (“OES”) and (ii) information from the Centers for Disease Control and Prevention (“CDC”) in order to minimize the risk of the spread of COVID-19 from in-person court proceedings.

6) Whether criminal or civil, whether the case is one that is handled in-person or by video or telephone, 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 set a non-jury trial. The parties are not relieved of notice requirements or other duties under pre-trial orders and compliance with applicable rules and statutes.

7) All courts and security personnel shall take reasonable measures to prohibit individuals from entering the courthouse if they have, within the previous fourteen 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.

8) The court and security personnel shall direct such individuals to contact the 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 regarding alternate arrangements for court access. Judges shall take reasonable steps to minimize the risk of the spread of COVID-19 through social and physical distancing. In doing so, it may be necessary to limit the number of people present in the courthouse or a particular courtroom at any given time to ensure that those present can remain six feet apart.

9) In order to further minimize the risk of the spread of COVID-19, in addition to recommended social and physical distancing, all persons aged 10 or over entering the courthouse must wear a face covering that covers the nose and mouth. This includes judges, attorneys, deputy sheriffs, court reporters, employees, members of the public, contractors, and all others who work in or visit the courthouse. Individuals without a face mask will not be permitted to enter the courthouse except for those who cannot safely wear a face mask because of a health-related condition. Within a courtroom, the presiding judge may authorize removal of a face mask to facilitate a proceeding. The requirement to wear a face mask shall not apply to: (i) judges or magistrates to the extent they determine it inhibits their ability to effectively communicate, (ii) individuals who have difficulty breathing, who cannot remove a face mask without help, or have other medical issues that make wearing a face mask unsafe, or (iii) any person whom the presiding judge determines should be excused from the requirement to wear a face mask.

10) Court clerks are charged with ensuring that their offices remain open and functions continue.

11) As provided in the Clarification Order, deadlines imposed by the Speedy Trial Act, Va. Code § 19.2-243, are tolled during the ongoing Period of Judicial Emergency (March 16, 2020, through July 19, 2020).

12) All courts are authorized to accept pleadings, orders and other documents that are electronically signed, including those where the electronic signature is accomplished by scanning.

13) Continuances and excuses for failure to appear shall be liberally granted for any cause resulting from the impact of the ongoing COVID-19 crisis.

14) Without regard to when any scheduling order was entered, all civil and criminal jury trials are suspended and shall be continued, and no jury trials shall occur in the Commonwealth for the duration of this Order. Notwithstanding this suspension, upon notice to the parties or their counsel, courts may impose discovery deadlines, and other pre-trial deadlines in jury trial cases that are currently suspended. All jury trials scheduled for a date after July 19, 2020, are subject to a further period of suspension if the Declaration of Judicial Emergency is extended for additional periods as provided in Va. Code § 17.1-330(E).

15) The Chief Justice has created a Jury Task Force to address the reinstatement of jury trials throughout the Commonwealth. The Jury Task Force includes the following members: Chief Justice Donald W. Lemons, Justice S. Bernard Goodwyn, Justice D. Arthur Kelsey, Chief Judge Lisa Kemler (Alexandria), Chief Judge William T. Newman Jr. (Arlington), Chief Judge William Chapman Goodwin (Augusta), Chief Judge Bruce White (Fairfax), Chief Judge Richard S. Wallerstein Jr. (Henrico), Judge John Marshall (Henrico), Chief Judge Douglas L. Fleming Jr. (Loudoun), Chief Judge Mary Jane Hall (Norfolk), Judge Jerrauld Jones (Norfolk), Chief Judge Joi Jeter-Taylor (Richmond), Judge W. Reilly Marchant (Richmond), Chief Judge David Carson (Roanoke City), Chief Judge Tracy Hudson (Prince William), Judge Victoria Willis (Stafford), Edward F. Jewett (Clerk, Richmond Circuit Court), Captain James Jenkins (Richmond Sheriff's Office), Jovo Skoro (IT, Richmond Sheriff's Office), Karl Hade (Executive Secretary), Eddie Macon (Assistant Executive Secretary and Legal Counsel), and Kristen L. Mynes (Law Clerk to Chief Justice Donald W. Lemons, Jury Task Force Reporter). The Jury Task Force is also consulting with the Virginia Department of Health in its effort to determine best practices and how to safely resume jury trials.

16) Notwithstanding the current suspension of civil and criminal jury trials, each chief circuit court judge shall develop a plan for their circuit that describes how and when they will be able to safely conduct jury trials, either in their existing courtrooms or in alternate space that may be made available. In creating the plan, each chief judge shall consult with the other judges in the circuit, as well as local sheriffs, public health officials, attorneys, and the clerk of court. In making this plan, chief judges should consider resources and guidance provided by OES and the CDC, as well as relevant factors, including but not limited to the following:



- i. Consider requirements for personal protective equipment or “PPE” (such as face shields, face masks, and gloves) necessary for the protection of the public, attorneys, press, witnesses, and jurors, and whether the local department of emergency services or other local entity will supply it;
- ii. Consider developing a questionnaire to prescreen prospective jurors regarding health concerns, vulnerability to coronavirus, and issues concerning family exposure, vulnerability, or risk;
- iii. Consider designating appropriate paths of juror travel from the entrance into the courthouse to rooms within the courthouse. Consider placing social distancing markers around courthouse, in and near restrooms, and near elevators, and limiting the number of riders per elevator, which may necessarily delay juror travel around the courthouse. Consider use of stairwells as alternatives to elevators and have stairwells marked with appropriate signage to ensure safe use. Consider frequent cleaning of restrooms and handrails. Create a plan for courtroom(s) to allow for social distancing. Consider using multiple rooms with video connections between rooms so that visitors, family and the press may view proceedings.
- iv. Consider staggering times for jurors to arrive in smaller groups (i.e., alphabetically by last name or by number) to enable social distancing. Consider best methods for jurors to check in once they have arrived.
- v. Consider using large areas or rooms in the courthouse for jury assembly, including the jury assembly room or large courtrooms. Consider how jury movement will be impacted within the courthouse. In some courthouses, the jury assembly area could be bypassed by bringing jurors directly to the courtroom and have them check-in immediately outside the courtroom. Consider having assigned seats for jurors, even during jury selection.
- vi. Plan for a higher number of jurors requesting to be excused based on COVID-19 symptoms, exposure, and related health concerns.

Each plan should include (i) a statement of the criteria the judges have considered to determine if they can safely conduct jury trials in their courts, and (ii) guidelines and restrictions each court in the circuit is prepared to implement (recognizing that circumstances may be different for different jurisdictions within each circuit) to protect jurors, attorneys, clerks, judges, court staff, members of the press, and others present from the risk of the spread of COVID-19 from in-person court proceedings. The written plan may include different guidelines and restrictions for different courthouses or localities within a judicial circuit, and localities within a circuit may be

prepared to begin jury trials at different times. The written plan shall be submitted to the Chief Justice on or before August 17, 2020. No jury trials shall be held in a particular locality until the plan is approved.

17) Judges should continue to exercise their discretion with regard to holding grand jury proceedings.

18) To the extent that the content of this Order is different from the preceding orders, this Order shall control.

This Order shall be in effect from June 29, 2020, through July 19, 2020. The Declaration of Judicial Emergency may be extended for additional periods as provided in Va. Code § 17.1-330(E).

It is so ORDERED.



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CHIEF JUSTICE DONALD W. LEMONS

**VIRGINIA:**

*In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Monday the 22nd day of June, 2020.*

**IN RE: FIFTH ORDER FURTHER MODIFYING AND EXTENDING DECLARATION OF JUDICIAL EMERGENCY IN RESPONSE TO COVID-19 EMERGENCY**

The Amendment to the Fifth Order issued on June 8, 2020, is further modified as follows:

Recognizing that unlawful detainer actions and writs of eviction may issue for matters unrelated to failure to pay rent, effective immediately, courts may hear residential unlawful detainer actions, and issue writs of eviction, unrelated to the failure to pay rent for the remaining duration of the Fifth Order (June 28, 2020).

All of the Justices agree.

It is so ORDERED.



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CHIEF JUSTICE DONALD W. LEMONS

**VIRGINIA:**

*In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Monday the 1<sup>st</sup> day of June, 2020.*

**IN RE: FIFTH ORDER MODIFYING AND EXTENDING DECLARATION OF JUDICIAL EMERGENCY IN RESPONSE TO COVID-19 EMERGENCY**

On March 12, 2020, Governor Northam entered Executive Order 51 (2020) Declaration of a State of Emergency Due to Novel Coronavirus COVID-19. This state of emergency became effective March 12, 2020, and is to remain in full force and effect until June 10, 2020, unless sooner amended or rescinded by further Executive Order. On March 16, 2020, the Chief Justice received a request from the Governor for a declaration of a judicial emergency in all district and circuit courts of the Commonwealth of Virginia, pursuant to Va. Code § 17.1-330. The Chief Justice issued an order declaring a judicial emergency for all district and circuit courts of the Commonwealth, effective on Monday, March 16, 2020, to protect the health and safety of court employees, litigants, judges, and the general public (“First Order”). This First Order was effective through Monday, April 6, 2020.

After careful consideration and review, on March 27, 2020, the Justices of this Court unanimously extended the Declaration of Judicial Emergency for a second twenty-one day period, effective April 6 through April 26, 2020, for all district and circuit courts of the Commonwealth (“Second Order”). On March 30, 2020, the Governor, through Executive Order 55 (2020), required Virginia residents generally to stay at home until June 10, 2020, due to the public health threat. On April 22, 2020, the Court extended the Declaration of Judicial Emergency for a third twenty-one day period, through May 17, 2020, for all district and circuit

courts of the Commonwealth (“Third Order”). On May 1, 2020, the Court entered a Clarification Order Concerning Tolling of Statutory Speedy Trial Deadlines During the Judicial Emergency In Response To COVID-19 Crisis (“Clarification Order”). On May 6, 2020, the Court entered an Order modifying and extending the Declaration of Judicial Emergency through June 7, 2020 (“Fourth Order”). Paragraph 4 of the Fourth Order was amended on May 12, 2020 (“Amended Fourth Order”). On May 26, 2020, Governor Northam entered Executive Order 63 (2020), effective May 29, 2020, requiring, among other things and with some exceptions, that face masks be worn inside buildings.

Under the constitutional, statutory, and inherent authority of the Supreme Court of Virginia, the Court unanimously hereby MODIFIES and EXTENDS the declaration of judicial emergency and ORDERS the following:

1) As provided in the First, Second, Third, Fourth, and Clarification Orders, for all cases in district and circuit courts the statutes of limitation and, except as otherwise provided in this Order, all other case-related deadlines, excluding discovery deadlines, shall continue to be tolled during the ongoing Period of Judicial Emergency (currently March 16, 2020, through June 28, 2020) pursuant to Va. Code § 17.1-330. Consistent with this Court’s Fourth Order, in all civil cases, including jury trial cases that are currently suspended, deadlines and obligations arising out of Part Four of the Rules of the Supreme Court of Virginia are not tolled and, upon notice to the parties or their counsel, courts may impose and enforce case related pre-trial deadlines. Litigants are encouraged to resolve as many pretrial matters as possible with or without the assistance of the courts.

2) Courts shall continue to prioritize emergency matters including, but not limited to, quarantine or isolation matters, criminal arraignments, bail reviews, protective order cases,

emergency child custody or protection cases, 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, and proceedings necessary to safeguard applicable constitutional protections.

3) Courts should continue to conduct as much business as possible by means other than in-person court proceedings. In all civil and criminal matters, courts are encouraged to continue and even increase the use of video conferencing, teleconferencing, email, or other means that do not involve in-person contact. These methods are preferred over in-person court proceedings.

4) Notwithstanding the ongoing preference for conducting hearings by video conferencing or telephone, all courts may hear in-person non-emergency matters and non-jury cases if they determine it is safe to do so, and provided they comply with the guidance for transitioning from emergency to routine operations provided by the Office of the Executive Secretary in order to minimize the risk of the spread of COVID-19 from in-person court proceedings. Whether criminal or civil, whether the case is one that is handled in person or by video or telephone, 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 set a non-jury trial. The parties are not relieved of notice requirements or other duties under pre-trial orders and compliance with applicable rules and statutes.

5) All courts and security personnel shall take reasonable measures 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.

6) The court and security personnel shall direct such individuals to contact the 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 regarding alternate arrangements for court access. Judges shall take reasonable steps to minimize the risk of the spread of COVID-19 through social and physical distancing. In doing so, it may be necessary to limit the number of people present in the courthouse or a particular courtroom at any given time to ensure that those present can remain six feet apart.

7) In order to further minimize the risk of the spread of COVID-19 in addition to recommended social and physical distancing, all persons aged 10 or over entering the courthouse must wear a face covering that covers the nose and mouth. This includes judges, attorneys, deputy sheriffs, court reporters, employees, members of the public, contractors, and all others who work in or visit the courthouse. Within a courtroom, the presiding judge may authorize removal of a face mask to facilitate a proceeding. Individuals without a face mask will not be permitted to enter the courthouse except for those who cannot safely wear a face mask because of a health-related condition. The requirement to wear a face mask shall not apply to judges or magistrates to the extent they determine it inhibits their ability to effectively communicate, or to individuals who have difficulty breathing or who cannot remove a face mask without help or have other medical issues that make the wearing of a face covering unsafe.

- 8) Court clerks are charged with ensuring that their offices remain open and functions continue.
- 9) As provided in the Clarification Order, deadlines imposed by the Speedy Trial Act, Va. Code § 19.2-243, are tolled during the ongoing Period of Judicial Emergency (March 16, 2020, through June 28, 2020).
- 10) All courts are authorized to accept pleadings, orders and other documents that are electronically signed, including those where the electronic signature is accomplished by scanning.
- 11) Continuances and excuses for failure to appear shall be liberally granted for any cause resulting from the impact of the ongoing COVID-19 crisis.
- 12) It is ORDERED that, without exception and without regard to when any scheduling order was entered, all civil and criminal jury trials are suspended and shall be continued, and no jury trials shall occur in the Commonwealth for the duration of this order. Notwithstanding this suspension, upon notice to the parties or their counsel, courts may impose discovery deadlines, and other pre-trial deadlines in jury trial cases that are currently suspended. All jury trials scheduled for a date after June 28, 2020, are subject to a further period of suspension if the Declaration of Judicial Emergency is extended for additional periods as provided in Va. Code § 17.1-330(E).
- 13) Judges should continue to exercise their discretion with regard to holding grand jury proceedings.
- 14) To the extent that the content of this Order is different than the preceding orders, this Order shall control.



This Order shall be in effect from June 8, 2020, through June 28, 2020. The Declaration of Judicial Emergency may be extended for additional periods as provided in Va. Code § 17.1-330(E).

It is so ORDERED.



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CHIEF JUSTICE DONALD W. LEMONS

**VIRGINIA:**

*In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Wednesday the 6th day of May, 2020.*

**IN RE: FOURTH ORDER MODIFYING AND EXTENDING DECLARATION OF JUDICIAL EMERGENCY IN RESPONSE TO COVID-19 EMERGENCY**

On March 12, 2020, Governor Northam entered Executive Order Number Fifty-One (2020) Declaration of a State of Emergency Due to Novel Coronavirus COVID-19. This state of emergency became effective March 12, 2020, and is to remain in full force and effect until June 10, 2020, unless sooner amended or rescinded by further Executive Order. On March 16, 2020, the Chief Justice received a request from the Governor for a declaration of a judicial emergency in all district and circuit courts of the Commonwealth of Virginia, pursuant to Va. Code § 17.1-330. The Chief Justice issued an order declaring a judicial emergency for all district and circuit courts of the Commonwealth to protect the health and safety of court employees, litigants, judges, and the general public. This Order became effective on Monday, March 16, to Monday, April 6, 2020.

After careful consideration and review, on March 27, 2020, the Justices of this Court unanimously extended the Declaration of Judicial Emergency for a second twenty-one day period, through April 26, 2020, for all district and circuit courts of the Commonwealth (“Second Order”). On March 30, 2020, the Governor, through Executive Order 55 (2020), required Virginia residents generally to stay at home until June 10, 2020, due to the public health threat. On April 22, 2020, the Court extended the Declaration of Judicial Emergency for a third twenty-one day period, through May 17, 2020, for all district and circuit courts of the Commonwealth (“Third Order”). On May 1, 2020, the Court entered a Clarification Order

Concerning Tolling of Statutory Speedy Trial Deadlines During the Judicial Emergency In Response To COVID-19 Crisis (“Clarification Order”).

The Novel Coronavirus COVID-19 has presented significant challenges around the world and has proven deadly. The Judiciary of Virginia has remained open, albeit with modifications. The balance between public safety and maintaining current dockets has been particularly challenging. Before this pandemic, in 2019, there were 2.8 million case filings and 3.4 million hearings (65,322/week) processed by the General District Courts in Virginia; the Juvenile and Domestic Relations District Courts processed 466,583 new case filings and held 1,084,832 hearings (20,862/week), and the Circuit Courts processed 483,761 new cases and held 1,131,451 hearings\* (21,759/week, \*excludes Fairfax & Alexandria). From March 16, 2020, through May 1, 2020, the General District, J&DR and Circuit Courts have continued approximately 413,000, 125,000 and 135,000 cases, respectively, to a future date. Every week, with the dockets limited only to emergency cases, adds approximately 60,000, 18,000 and 19,000 more cases to this growing backlog in the General District, Juvenile and Domestic Relations District Courts and Circuit Courts, respectively.

Metrics developed by the Office of the Executive Secretary have revealed a significant shortage of Deputy Clerks for many years. The District Courts are currently 275 positions short of the staffing needs to handle normal dockets. The 2020 General Assembly initially passed a budget that would have begun to address this staffing shortage by funding an additional 120 positions over the upcoming biennium. Unfortunately, due to the anticipated economic impact of the Coronavirus Pandemic on the state budget, the Governor recommended budget amendments that froze all new spending which were adopted and passed by the General Assembly during the recent veto session. This resulted in these new positions being put on hold indefinitely.

Now the General District Courts and Juvenile and Domestic Relations District Courts will need to handle cases that have been continued as well as new cases coming into the court system. For the courts that were already understaffed, it will be a serious challenge to reduce this backlog while doing their best to keep current cases from adding to the delay.

Under the constitutional, statutory, and inherent authority of the Supreme Court of Virginia, the Court unanimously hereby MODIFIES and EXTENDS the declaration of judicial emergency and ORDERS the following:

1) As provided in the First, Second, Third and Clarification Orders, for all cases in district and circuit courts the statutes of limitation and all other case-related deadlines, excluding discovery deadlines, shall continue to be tolled during the ongoing Period of Judicial Emergency (now March 16, 2020, through June 7, 2020) pursuant to Va. Code § 17.1-330. In all civil cases, any tolling of deadlines and obligations arising out of Part Four of the Rules of the Supreme Court of Virginia shall terminate as of the effective date of this order (May 18, 2020). All discovery issued with a deadline to respond during the judicial emergency shall be due within twenty-one (21) days of the effective date of this Order (May 18, 2020). Litigants are encouraged to resolve as many pretrial matters as possible with or without the assistance of the courts.

2) Courts shall continue to prioritize emergency matters including, but not limited to, quarantine or isolation matters, criminal arraignments, bail reviews, protective order cases, emergency child custody or protection cases, 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, and proceedings necessary to safeguard applicable constitutional protections.

3) Courts should continue to conduct as much business as possible by means other than in-person court proceedings. In all civil and criminal matters, courts are encouraged to continue and even increase the use of video conferencing, telephone, teleconferencing, email, or other means that do not involve in-person contact. These methods are preferred over in-person court proceedings.

4) Notwithstanding the ongoing preference for conducting hearings by video conferencing or telephone, effective May 18, 2020, all courts may hear in-person non-emergency matters if they determine it is safe to do so, and provided they comply with the guidance for transitioning from emergency to routine operations provided by the Office of the Executive Secretary in order to minimize the risk of the spread of COVID-19 from in-person court proceedings.

5) All courts and security personnel shall take reasonable measures 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 court and security personnel shall direct such individuals to contact the 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 regarding alternate arrangements for court access.

6) Judges are charged with the responsibility to take reasonable steps to minimize the risk of the spread of COVID-19 as outlined in this Order and as provided by the Centers for Disease Control and Prevention (CDC) and the guidance provided by the Office of the Executive Secretary for transitioning from emergency to routine operations. In order to ensure recommended social and physical distancing, it may be necessary to limit the number of people present in the courtroom or courthouse at any given time as this number will necessarily be limited by the size of the courtroom to ensure that those present can remain six feet apart.

7) Court clerks are charged with ensuring that their offices remain open and functions continue.

8) As provided in the Clarification Order, deadlines imposed by the Speedy Trial Act, Va. Code § 19.2-243, are tolled during the ongoing Period of Judicial Emergency (March 16, 2020, through June 7, 2020).

9) All courts are authorized to accept pleadings, orders and other documents that are electronically signed, including those where the electronic signature is accomplished by scanning.

10) Continuances and excuses for failure to appear shall be liberally granted for any cause resulting from the impact of the ongoing COVID-19 crisis.

11) All courts should enter orders consistent with this Order to advise their court users of new protocols and schedules consistent with this Order.

12) Effective immediately, it is ORDERED that all civil and criminal jury trials are suspended and shall be continued until further notice and no jury trials shall occur in the Commonwealth.

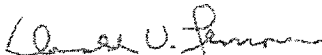
13) Judges should exercise their discretion with regard to holding grand jury proceedings.

14) To the extent that the content of this Order is different than the proceeding orders, this Order shall control.

Transition to normal operating process and procedures should be accomplished by Chief Judges assembling a transition team for the purpose of receiving input from representatives of all interested stakeholders. Transition plans are not “one size fits all.” While localities are well suited to adjust their practices and procedures to their unique circumstances, there are some matters that are subject to the unequivocal orders of this Court. The prohibition against jury trials is one of them.

As provided herein, additional guidance for transitioning from emergency to routine operations shall be provided by the Office of the Executive Secretary. This Order shall be in effect from May 18, 2020, through June 7, 2020. The Declaration of Judicial Emergency may be extended for additional periods as provided in Va. Code § 17.1-330(E).

It is so ORDERED.



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CHIEF JUSTICE DONALD W. LEMONS

## VIRGINIA:

*In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Wednesday the 22nd day of April, 2020.*

### **IN RE: THIRD ORDER EXTENDING DECLARATION OF JUDICIAL EMERGENCY IN RESPONSE TO COVID-19 EMERGENCY**

Having received a request from the Governor pursuant to Va. Code § 17.1-330, on March 16, 2020, the Chief Justice entered an Order declaring a judicial emergency for a period of twenty-one days, through April 6, 2020, for all district and circuit courts, recognizing the need to protect the health and safety of court employees, litigants, attorneys, judges, and the general public (“First Order”). After careful consideration and review, on March 27, 2020, the Justices of this Court unanimously extended the Declaration of Judicial Emergency for a second twenty-one day period, through April 26, 2020, for all district and circuit courts of the Commonwealth (“Second Order”). On March 30, 2020, the Governor, through Executive Order 55 (2020), required Virginia residents generally to stay at home until June 10, 2020, due to the public health threat. The Court unanimously extends the Declaration of Judicial Emergency for a third twenty-one day period, through May 17, 2020, for all district and circuit courts of the Commonwealth (“Third Order”). The First, Second and Third Orders shall be collectively referred to as the “Emergency Declaration Orders.” The period of time encompassed by these three Orders, from March 16 through May 17, 2020, shall be referred to as the “Period of Judicial Emergency.”

As the Declaration of Judicial Emergency has been extended from March 16 to May 17, 2020, without interruption, it is ORDERED that:

1. The terms and requirements of this Court’s First and Second Orders, as amended and clarified, shall continue in full force and effect through May 17, 2020, as if fully set forth herein.



