

## Fairfax Circuit Court Second Transition Plan

On May 18, 2020 the Court adopted its First Transition Plan. Pursuant to the Supreme Court of Virginia's Fifth, Sixth and Seventh Orders "Modifying and Extending Declaration of Judicial Emergency in Response to Covid-19 Emergency," as amended, the Fairfax Circuit Court adopts this Second Transition Plan. To the extent any provision of this Second Transition Plan differs from the First Transition Plan, the provisions here will control.

### **I. Civil Cases**

The Court will continue to hear presently scheduled motions and trials, and any new, properly noticed matters, via video or teleconference ("Remote Hearings"). All civil hearings, except for proceedings relating to protective orders, 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.

Civil trials are limited to matters lasting four days or less until further notice.

Presently scheduled motions and trials that do not conform with this policy must be reset at Calendar Control.

#### **A. Civil Motions**

The Court will continue to follow 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.

**B. Civil Jury Trials**

No jury trials will occur until further notice.

**C. Civil Bench Trials**

Bench trials currently set for four 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 will continue to follow its Friday criminal motions practice.

**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 may 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 may 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. The Court is in the process of preparing a plan to resume criminal jury trials to be submitted to the Supreme Court of Virginia in the near future.

**E. Criminal Bench Trials**

Felony and Class 1 and 2 misdemeanor criminal bench trials shall enjoy primary priority on the Court's docket.

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. Calendar Control**

The Court will continue to follow its 8:30 a.m. Calendar Control process for scheduling and requests for leave to appear in-person. Afternoon Calendar Control at 3:30 p.m. is reserved for emergencies or requests pertaining to the next day's docket. All Calendar Control is conducted by telephone. There is no in-person Calendar Control option.

#### **IV. 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 on May 18, 2020, the Court required and will continue to require 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: July 15, 2020

Approved

  
Chief Judge Bruce D. White