

VIRGINIA:

IN THE GENERAL DISTRICT COURT OF THE CITY OF RICHMOND

SECOND NOTICE TO THE PUBLIC AND THE BAR

This Second Notice supplements the Court's Notice to the Public and the Bar dated May 14, 2020. As expected, the Court will resume hearing non-emergency matters on May 26, 2020.

Civil Matters.

Beginning May 26, 2020, the Court will resume hearing its civil dockets at 9:00 a.m., 10:00 a.m., 11:00 a.m. and 1:00 p.m. It will generally follow the "Reopening Plan – Civil" attached to this Second Notice. As described in that document, the number of cases on the dockets during the week of May 26 are limited and will enable the Court to maintain social distancing and follow the other health practices outlined later in this Second Notice.

Criminal Matters.

Beginning May 26, 2020, the Court will resume hearing criminal matters in the John Marshall and Marsh Courthouses starting with arraignments at 8:30 a.m., followed by the criminal docket at 9:00 a.m.

Effective June 1, 2020, in order to ensure social distancing in all courtrooms, the Court will establish discrete times throughout the morning and, if necessary, in the early afternoon for calling the cases on the 9:00 a.m. docket. A schedule of times for the calling of each case on the daily 9:00 a.m. dockets will be made available in advance of the court date on the Supreme Court's website for the Richmond General District Court and will also be posted immediately outside the Clerk's Office of each court. Information on the time set for the calling of each case

will also be available by phone from the Clerk's Office. This procedure will remain in effect through June 30, 2020.

Effective July 1, 2020, the Court will operate in the John Marshall and Marsh Courthouses under a **segmented docket** in which criminal cases are set at 9:00 a.m., 10:00 a.m. and 11:00 a.m. on each day of the week. To the extent necessary, cases may also be set at 1:00 and 2:00 p.m. on each day. The Court anticipates that afternoon criminal dockets will be necessary through approximately August 31, 2020 in order to reduce the backlog of criminal cases continued during the period of Judicial Emergency.

The adoption of segmented dockets is necessary to limit courtroom occupancy over the course of the day and thereby ensure appropriate social distancing in each courtroom.

Until further notice, criminal defendants incarcerated at the Richmond Justice Center or other facility will not be transported to either courthouse for hearings other than trials where the only charges against the defendant are misdemeanor(s), except with leave of court granted pursuant to a motion filed no later than three days before the transportation date.

The Court has reason to believe that (a) there will be a daily limitation on the number of incarcerated defendants who can be transported to the courthouses for general district court matters and (b) an incarcerated defendant who is, in fact, transported to either courthouse may be subject to quarantining for up to 14 days following return to the Justice Center after a hearing.

Traffic Matters.

On September 1, 2020, traffic court will likewise begin operating under a segmented docket in which cases are set at 12:30 p.m., 1:00 p.m., 1:30 p.m., and 2:00 p.m. on each day of the week. This segmented docket system is adopted for traffic cases, in line with the modified criminal docket system, to limit courtroom capacity and to facilitate social distancing.

All cases on the traffic docket through August 31 - - not including those involving a felony or a misdemeanor charge of driving under the influence, hit and run, eluding a law enforcement officer, obstruction of justice or speeding at 90 or more miles per hour, **are continued to September 1, 2020 and dates thereafter.** Notices of new court dates for those cases (generally, the officer's next date) will be mailed by the Clerk's Office to the address on the charging paper. **Defendants are advised that it is your obligation to notify the Clerk's Office immediately if the address on the charging paper is incorrect.** The rescheduled court dates will be available by checking the Supreme Court website, <http://www.courts.state.va.us> under case information for Richmond General District Court or by calling the Clerk's Office.

Failure to notify the Clerk's Office of a change of address or to check the Supreme Court website or call the Clerk's Office to verify the new court date may result in your being tried in your absence.

Failure to appear on the original court date for a felony or misdemeanor charge of driving under the influence, hit and run, eluding a law enforcement officer, obstruction of justice or speeding at 90 or more miles per hour may result in the issuance of a capias or show cause for contempt of court for failing to appear.

The **toll violation appeals, parking ticket appeals and bus camera video dockets** are under study and therefore continued until further notice.

Many traffic offenses are pre-payable without the necessity of your coming to court. Defendants who do not contest their charges are encouraged to pre-pay. Information on how to prepay is available on the court's website <http://ww.courts.state.va.us> or by calling the **Clerk's Office (804-646-6431)**.

Courthouse Safety.

All persons entering the courtrooms in the John Marshall and Marsh Courthouses must comply with the following requirements:

- **Maintain social distancing at all times**, specifically at least six feet of separation from any other person in the courtroom
- **Only parties, verified witnesses, attorneys and news media are permitted in the courtrooms. Family members, children and others must wait outside the courthouse.**
- Have a mask in place if within six feet of any person in any courtroom
- Wear a mask (strongly encouraged)
- Respond to limited questioning for possible recent exposure to the Covid-19 Virus
- Submit to a noninvasive body temperature check; no one with an elevated body temperature will be permitted to enter the courthouse
- Observe all courtroom markings and designations showing approved, socially distanced seating and standing positions established to ensure social distancing

- Observe the guidelines “to minimize the spread of Covid-19” issued by the Office of the Executive Secretary of the Supreme Court of Virginia.

(http://www.vacourts.gov/news/items/covid/2020_0511_recovery_guide.pdf).

The judges of this Court wish to express their gratitude to the Public and the Bar for their exemplary understanding and cooperation throughout this unprecedented period of judicial emergency.

May 22, 2020

L. B. Cann, III, Chief Judge

VIRGINIA: IN THE GENERAL DISTRICT COURT OF THE CITY OF RICHMOND

REOPENING PLAN -- CIVIL

Limiting Courtroom Occupancy

(1) Safety Tools. In order to reopen for non-emergency hearings, the Court must (in the words of the Supreme Court) "determine that it is safe to do so." The Court has a number of tools at its disposal to ensure safe operations inside the second-floor courtrooms in the John Marshall Courthouse. It may, for example, require all persons on the second floor, including all persons entering the courtrooms, to observe the following requirements:

- Have a mask in place if within six feet of any person in any of the courtrooms
- Wear a mask (strongly encouraged)
- Respond to limited questioning for possible recent exposure to the Covid-19 Virus
- Submit to a noninvasive body temperature check; no one with an elevated body temperature will be permitted to enter the courthouse
- Maintain social distancing at all times, specifically at least six feet of separation from any other person in the courtroom
- Observe all courtroom markings and designations showing approved, socially distanced seating and standing positions established to ensure social distancing
- Observe the guidelines "to minimize the spread of Covid-19" issued by the Office of the Executive Secretary of the Supreme Court of Virginia.
(http://www.vacourts.gov/news/items/covid/2020_0511_recovery_guide.pdf).
- Only parties, verified witnesses, attorneys and news media are permitted in the courtrooms. Family members and others must wait outside the courthouse.

Until further notice, the Court intends to require compliance with these requirements in all civil courtrooms.

(2) Social Distancing/Courtroom Maximum. Maintaining social distancing, in addition to being the single most important factor ensuring courtroom safety, is also the key to the volume of business the Court can safely handle on any given day. If all of the safety criteria listed above were met but "social distancing" cannot be achieved because too many people are packed into a courtroom, the risk of virus spread would likely rise to an unacceptable level for that reason alone.

Socially distancing at a minimum of six feet (the WHO recommends one meter, or 39 inches) will dictate the maximum occupancy of Courtrooms 202 and 204 during the transition to normal operations. To maintain that distance in the two courtrooms, the Court in consultation with the Richmond Health Department believes that no more than 28 persons ought to be allowed at one time in any courtroom, exclusive of the judge and the two clerks. The Court reserves the right to restrict that number even further if circumstances warrant. The Court will enforce this limitation on courtroom capacity and design its dockets in light of it.

Currently, the Court holds hearings at 9:00 a.m., 10:00 a.m., 11:00 a.m., and 1:00 p.m. in Courtrooms 202 and 204. At all but the 10:00 a.m. general docket, the number of people entering any one courtroom is almost invariably less than 10. The matters heard at those times

are motions and trials where only the parties, their lawyers and any witnesses are present. Thus, it is only the 10:00 a.m. general docket that presents a risk of exceeding the maximum number of occupants allowed.

Phase One: Transition (May 26 -- June 12, 2020)

Courtrooms 202 and 204 will operate in Phase One using their customary docket schedule and times.

(1) Motions and Trials. The Clerk's Office has examined all cases on the 9:00 a.m., 11:00 a.m., and 1:00 p.m. dockets in each courtroom from May 26 through June 12. At all 11:00 a.m. or 1:00 p.m. times, there is only a single case scheduled. As for the 9:00 a.m. dockets, the numbers are slightly higher but the matters heard at that time are more limited in scope. **The nature of the cases and the number of subpoenas requested indicates that all matters at 9:00 a.m., 11:00 a.m. and 1:00 p.m. can be expected to produce courtroom attendance well below 20 persons - - and in all probability, less than 10 - - on any one occasion.**

(2) General Docket. The 10:00 a.m. general dockets between now and June 12, as expected, have higher numbers of cases but, as compared to typical 10:00 a.m. dockets as recently as February and early March of this year, are quite limited in number. As all of the judges are aware, and as the clerks know as well or better than the judges, a docket listing 50 (for example) cases often results in a courtroom of less than 10 attendees. For all 10:00 a.m. dockets, it can be said without fear of contradiction that a substantial percentage of parties with case(s) on

the docket - - defendants for the most part - - do not come to court. Additionally, it is not unreasonable to expect that attrition of this sort will be higher in the current environment of Covid-induced aversion to public gatherings.

Through a combination of luck and design, most of the Court's 10:00 a.m. dockets between May 26 and June 15 reflect, on paper, a maximum of 35 and on many days significantly fewer defendants in each courtroom. Long experience teaches that far fewer than 35 persons will actually attend court. These are ideal conditions in which to experiment with the transition to higher volume operating conditions. The dockets in Phase One ought to give the Court a realistic test of its systems and practices and allow it to gain a sense of how the litigants and the public react to resuming more normal levels of court operations.

Phase Two: All-Day Trial Docket/ All-Day General Docket (June 16 – July 9, 2020)

The 10:00 a.m. dockets beginning on June 16 are unusually large and remain so over the following four weeks. Adjustments must be made for these dockets to be safely handled. On the other hand, there is nothing remarkable about the number of cases set on the 9:00 a.m., 11:00 a.m. and 1:00 p.m. dockets during the same four-week period. As explained below, Phase Two calls for different uses of Courtrooms 202 and 204. **In Phase Two, one courtroom will be devoted entirely to the general docket; the other, entirely to motions and trials.**

(1) All-Day General Dockets in One Courtroom. The challenge lies in redistributing the cases on the 10:00 a.m. dockets. The numbers for the first week in Phase Two are typical. For

June 16, 17, 18 and 19, the case counts at 10:00 a.m. are 578, 394, 632 and 386. Even after the expected attrition and dividing the cases between the two courtrooms, the expected number of arrivals at 10:00 a.m. will exceed socially-distanced courtroom capacity.

A different approach is called for. Fortunately, there is one that solves this “numerosity” problem. It requires, however, a novel reorganization of the Court’s civil docket. As discussed in Phase Three, it also requires the Court to implement a new filing procedure to govern cases filed after May 26, 2020. As will become clear, it also requires substantial additional work on the part of the Clerk’s Office staff and a degree of cooperation on the part of the bar and public.

Phase Two assumes that the Court will hold steady the existing caseloads from June 16 through July 9. New filings with minor exceptions will be scheduled after July 9.

The task is to find a means of redistributing the 10:00 a.m. cases to bring the number of appearances in any one courtroom down to or below the “socially-distanced capacity” of that courtroom. The solution is to devote one courtroom to an all-day handling of what, in pre-Covid times, would be handled entirely within one or two hours at 10:00 a.m.

If the Court is to avoid wholesale continuances and the disruption that occasions, it needs to find a way to distribute each day’s 10:00 a.m. cases over the course of the entire day - - and in a manner that reduces the number of persons present in court at any given time. At first glance, that could be done mathematically by simply dividing the day (e.g., June 16) into equal time segments - - every half hour, for example - - and then dividing the number of time slots (14) into

the total number of cases (578), arriving at 41 for each slot, a number that may be manageable when the normal number of failures to appear is accounted for.

The Clerk's Office has a better way. It is thoroughly familiar with the names of the Court's regular filers. Using its knowledge of the historic "defendant yield" for each filer, the Clerk's Office can distribute the day's caseload across the entire day in a way that more effectively limits courtroom attendance at any one time. The task is aided by the Court's computer system, which can identify each day's cases by plaintiff or plaintiff's attorney.

The Clerk's Office has prepared a sample allocation of 10:00 a.m. cases over an entire day for June 16, the first day in Phase Two. See Exhibit A. Exhibit A shows, for example, 28 cases for the 9:30 a.m. time slot. The plaintiff in 25 of those cases is one that, in the historical experience of the Clerk's Office over a long period of time, has a relatively small percentage of who come to court to contest the claims. This type of analysis - - the historical "defendant yield" of each filer - - results in a sensible, all-day docket without the need to continue any cases. The public is served in several respects: (a) safe distancing is preserved so as to offer a safe environment to defendants who come to court to dispute the claims against them; and (b) the administration of justice is efficiently served without undue delay in access to the court.

The burden will be placed on plaintiffs with 10:00 a.m. docket cases to notify defendants in writing of the modified court time for the case on the existing court date. Plaintiffs ought not to object to this increased burden on notification, since the alternative of continuance to a different date would require the same administrative burden - - sending notice

of a change of court date instead of a time change. Coordination will also be required between the Clerk's Office and the plaintiff to establish the new court time.

The Court recognizes that the large number of changed times - - all the while keeping the existing court date - - is not going to be seamless. In all likelihood, an increased number of continuances will be requested, but the Chief Justice had advised the lower courts to be prepared for this and to grant them liberally.

(2) Motions and Trials in One Courtroom. The other courtroom will handle motions and trials only. With the 9:00 a.m. motions and hearings typically completed by 10:00 a.m., the trial courtroom would have the balance of the day to hear the four full-blown trials scheduled on most days (or more trials, if feasible). Because, as discussed above, individual trials rarely produce even 10 attendees, the trial courtroom's staggered trial times would eliminate the risk of exceeding courtroom capacity. It would also be available as its schedule permits to take any overflow experienced in the general docket courtroom.

For rescheduling trials in the trial courtroom, more intensive involvement of the Clerk's Office will enable the staff to move trial times to accommodate the parties. Considering that the various emergency orders and decrees issued since March 16 have brought civil litigation and other forms of commerce to a virtual standstill, lawyers as well as litigants should have ample time available for rescheduling new dates and times.

Phase Three: July 12 – August 31, 2020

Phase Three differs from Phase Two in that the number of cases on the 10:00 a.m. dockets after July 9 begins to taper off and by the end of July dwindles to only a handful. Phase Three assumes that the Judicial Emergency backlog has been eliminated. Thus, starting at the end of July, the Court will be populating its 10:00 a.m. dockets virtually from scratch. The challenge in preparing the all day, segmented general dockets is therefore greatly simplified.

The second, key aspect of Phase Three is the following:

In all civil cases filed on and after May 26, 2020, the filing party must obtain advance approval of the court date and time from the Clerk’s Office. Until further notice, any paper or pleading filed after May 26, 2020 without prior approval of the court date and time is subject to being returned to the filing party for resubmission with an approved court date.

Thus, all new filings in Phase Three will be set on pre-approved court dates. This will enable the Court to control the size of the general dockets as they are prepared. Again, the challenge of achieving limited numbers of people in the courtrooms and offering greater scheduling flexibility to litigants will be similarly simplified.

Post-September 1, 2020

The Court will design the docket procedures to follow Phase Three based on its experience in June, July and early August. Appropriate notice of the post-September 1 procedures will be issued in August.

June 16, 2020

Exhibit A

9:00

Ballato 73 (approx. 15-20 min)
Blackburn Conte 1
White, Samuel 1

9:30

Cowan & Gates 1
Hairfield, Morton 1
Hershener, Gary
Marks & Harrison 1
Schilling & Esposito 1
Brock & Scott 1
Check City 25 (approx. 10 min)

10:00

Browne, David 1
Mayflower 1
Harrison 1
Moya 1
Pine 2
RVA 2
Steadfast 2
Stuart 1
City 5
Jones 1
Crocker-Rhodes 1
Haynie 1
Jackson 9

10:30

Parrish & Lebar 37 (approx. 10 min)
VACU 91

11:00

Godwin-Jones & Price 28 (approx. 20 min)

11:30

Midland Credit 36 (approx. 15 min)
Zwerdling & Oppleman 12 (approx. 15-20 min)

12:45

Genesis 14 (approx. 15-20 min)

1:15

Peroutka 93 (approx. 30 min)

1:45

William Dove 21 (approx. 20 min depending on interrogatories)
Nguyen Law 10

2:15

R. Knapp 78 (approx. 30-40 min)

2:45

Caudle & Caudle (ud's) 2
Hill & Rainey 2
Lafayette, Ayers 1
Nancy Rogers 13 (approx. 15 min)