

MESSAGE TO THE BAR REGARDING REOPENING OF THE CIRCUIT COURT

As you may be aware, the Circuit Court for Montgomery County will be resuming non-emergency operations on Monday, June 8, 2020. Even with the reopening, the building will remain closed to the public and attorneys, with limited exceptions, until at least June 22. This two week period will enable us to educate our employees on new court processes and safety considerations and catch up on filing, while we continue to hear cases required under the terms of Judge Barbera's previous orders. The global pandemic requires the institution of technological and personnel changes that are unprecedented, and which are especially difficult for non-MDEC jurisdictions.

We have been utilizing remote technologies since March 16, in order to hear the cases we are presently required to conduct, and we intend to continue to use and refine those procedures. Much of this process is evolutionary, and we are responsive to issues and suggestions raised by our justice system stakeholders. Members of the bar have contributed to decisions we are making regarding courthouse security, implementation of dockets, and the use of technology, and will do so going forward. The court will be utilizing remote technologies, including teleconference and videoconference, whenever possible, into the immediate future. The resumption of regular in-person contested hearings is not anticipated to resume for many weeks.

Our court will do the very best that it can to serve the public, as always. Be mindful, however, that at the end of the day we will have essentially the same number of judges, courtrooms, and clerks; fewer cases per docket and per courtroom because of social distancing concerns; and a diminished ability to extend hours because of looming budgetary cuts. This is not a scenario conducive to "catching up" in a relatively short period of time.

Counsel and self-represented litigants are encouraged to seek alternative resolutions (ADR) to their cases. The global pandemic has seriously disrupted the court system's ability to timely process cases, and those awaiting trials will not be able to utilize that process for many months. The Circuit Court has a list of attorneys and senior judges who are available to assist in the resolution of cases. Our Special Magistrate Sarah Malik will facilitate any such request, and she can be reached by email at smalik@mcccourt.com to begin the process. Please use that address for ADR requests only.

The court will continue to operate without a full complement of workers for many weeks. This is a stressful time for all, including our employees, and we appreciate the frustration that many of you are feeling regarding the status of legal matters in the courts. We are doing the best we can to accommodate all concerned, and request your continued patience and consideration. The backlog of cases that were delayed for nearly three months is heavy, and we will be tested because of the need to limit the number of occupants in the building and our courtrooms for an extended period of time. While it is true that Montgomery and Prince George's Counties are not following the state reopening plan set out by Governor Hogan, the same "opt out" approach is not available with respect to the court system. Though some individual modifications may be made to our Circuit Court procedures, we are required to generally comply with the statewide judiciary plan for reopening, even while Montgomery County at large may not fully be reopened for business.

Please read the following information carefully. These rules apply to all cases set to be heard between June 8-June 26, 2020, inclusive, unless otherwise specified. Non-jury trials and hearings of any type set for dates after June 26 now remain on the court's schedule, and a decision on whether

and under what circumstances they will be held will be made no later than June 12, 2020. As always, we will post that information on our website and disseminate it to our list of bar associations. Where the uncertainties of the pandemic closure have left counsel unable to adequately prepare for post-June 26 trials, the court will be liberal in granting continuances.

1. **JURY TRIALS** - All jury trials in civil and criminal cases are postponed until at least October 5, 2020, with the new date to be set by the Assignment Office, after consultation with counsel.
2. **EMERGENCY DOCKETS** - The court will continue to hear the cases it presently hears under the requirements of Judge Barbera's previous orders. These include bail reviews/bench warrants; arraignments for detained defendants; juvenile detention hearings; juvenile shelter care hearings; peace order petitions for juvenile respondents; emergency evaluation petitions; quarantine and isolation petitions; extradition cases; body attachments and extreme risk protective order appeals. The court, at its discretion, may also hear emergency matters including CINA cases; emergency delinquency matters; emergency habeas corpus petitions; emergency issues in guardianship matters; domestic violence protective orders; appeals from peace orders; family law emergencies, including time-sensitive special juvenile immigration status cases; temporary restraining orders; criminal competency matters; motions regarding extreme risk protective orders; domestic violence protective orders and peace orders; contempt hearings related to peace or protective orders, and certain matters involving locally incarcerated defendants. All such hearings will continue to be held remotely, whenever possible.
3. Other than the cases described in paragraph 2, above, no other trials, hearings or proceedings of any type scheduled for June 8-June 26, inclusive, will be heard except as described below.
4. **DRUG AND MENTAL HEALTH COURTS** – All such cases will continue to be heard as scheduled, by teleconference or videoconference.
5. **CONTESTED TRIALS OF ANY TYPE (CRIMINAL, CIVIL, FAMILY, JUVENILE OR OTHER)** - All such cases previously scheduled for June 8 through June 26, inclusive, will be postponed to a new date, to be set by the Assignment Office.
6. **UNCONTESTED DIVORCES** – These cases will continue to be heard as scheduled, by telephone or videoconference. You will be contacted by a family magistrate's assistant before the hearing to inform you of the time your case will be heard and the way you can access the platform on which the hearing is conducted. It then becomes counsel's or the self-represented litigant's responsibility to inform their clients and any witnesses of the instructions for the hearing.
7. **MOTIONS IN CIVIL CASES** – Those cases which were previously set on the 10:00 a.m. civil motions dockets from Monday through Friday will remain on the docket and be heard by telephone or videoconference, beginning with cases set to be heard on June 1 (not June 8), 2020. This includes guardianship cases on the Thursday 1:30 p.m. docket. This also includes Register of Wills cases, but only with cases set to be heard on June 8 and thereafter. Motions which do not require a hearing pursuant to Md. Rule 2-311(f) will be decided on the papers, without a hearing, even though one may previously have been set. You will be contacted by a judge's assistant before the hearing or trial to inform you of the time your case will be heard and the way you can access the platform on which the hearing is conducted. It then becomes counsel's or the self-represented litigant's responsibility to inform their clients and any witnesses of the instructions for the hearing.
8. **FAMILY LAW SCHEDULING CONFERENCES** - The court will hear previously-set scheduling conferences in family law cases beginning on Monday, June 22, by telephone. As described in

paragraph 7, above, you will be provided information as to how to access the platform on which the hearing will be conducted.

9. **FAMILY LAW PENDENTE LITE HEARINGS** – All such hearings set for the period of March 16-July 2 will be removed from the docket and not rescheduled. A new request for such hearing may be filed where appropriate, but granting of that request is not automatic.
10. **STATUS/PRETRIAL HEARINGS IN TRACK 2 CIVIL CASES** – All such hearings set for the period of March 16 through July 2 have been removed from the docket and will not be rescheduled. You will be contacted by the Assignment Office to set a trial date. If the Assignment Office does not promptly hear back from counsel regarding the setting of a trial date, it will be set without clearing the date with counsel.
11. **PRETRIAL/SETTLEMENT HEARINGS IN TRACK 3 CIVIL CASES** – All such hearings set for the period of March 16-July 2 have been removed from the docket and will not be rescheduled. You will be contacted by the Assignment Office to set a trial date. If the Assignment Office does not promptly hear back from counsel regarding the setting of a trial date, it will be set without clearing the date with counsel.
12. **CRIMINAL GUILTY PLEAS** – All such cases set before any judge during the weeks of June 8-19 will be rescheduled. All criminal guilty pleas previously set before a plea-eligible, resolution conference or Track 4 judge beginning on June 22 and thereafter will be heard as scheduled. Such pleas will require attendance of counsel and the defendant in the courtroom, unless a plea is taken by videoconference with a defendant who is incarcerated, and such plea has been cleared by the Administrative Judge so that it can occur in a detention facility or jail, or the parties are able to agree upon a remotely-conducted plea in a case where the defendant will not be sentenced to active incarceration, and provisions have been made for the immediate execution and return of any probation contract.
13. **CRIMINAL SENTENCING HEARINGS** – All such cases set before any judge during the weeks of June 8-19 will be rescheduled. Sentencings will require the attendance of counsel and the defendant in the courtroom, unless the sentencing is of an incarcerated defendant, and the parties agree that it can occur in a detention facility or jail, and this procedure has been cleared by the Administrative Judge, or where the parties and court agree that a non-incarcerated defendant will not be sentenced to active incarceration and provisions have been made for the immediate execution and return of any probation contract.
14. **If you believe your case or hearing type was omitted from the list above, it is because the case will not be heard, and will be rescheduled.**
15. Dates on Scheduling Orders in all civil and family law cases, and criminal cases where applicable, where Scheduling Orders were issued before March 16, 2020, shall be adjusted by adding 84 days (the length of the court emergency closure) to each event described, provided the original event date for which extension is sought was after March 16. As an example, a scheduling order discovery deadline of March 25, 2020, is now extended to June 17, 2020. However, a scheduling order event deadline date of March 13, 2020 would be unaffected, and not extended, since compliance could have been achieved before the court closure on March 16.
16. Because of the sheer number of cases which will need to be rescheduled, when postponing non-jury trials or hearings of any type set for one day or less, the Assignment Office will have the authority to set a new date without consulting counsel or the parties. There is no way Assignment Office staff can deal with the number of cases that will need to be rescheduled if clerks are required to contact

counsel for every postponement. You are encouraged to try to work within your schedule to accommodate the court when you receive a court date. If you are not able to appear on the rescheduled date, you must file a motion to postpone.

17. The virtual dropboxes established by previous order of this court for the resolution of Track 2 and 3 family law and civil discovery and juvenile cases are discontinued, effective June 5, 2020. New electronic filing systems, which will be described in a future message, are being instituted effective June 8, 2020. The dropbox on the Maryland Avenue entrance side of the courthouse, and regular mail may still also be utilized for the filing of papers. Any matters of an emergency nature should be so marked on the outside envelope. The clerk's office will not accept filings inside of the building, and all windows where filings previously occurred will remain closed. Files may not be "walked through" to a judge's chambers by attorneys or litigants.
18. Please respond promptly to any inquiries from the court or staff regarding rescheduling of matters. Your failure to do so may result in the setting of dates that conflict with your calendar.
19. **More detailed explanations of prospective court procedures will follow in the coming days and weeks, including courthouse safety considerations, the conduct of remote proceedings, and new courthouse technology. Please check the court's website frequently at montgomerycounty.md.gov/cct for more information.**

Robert A. Greenberg
Administrative Judge, Circuit Court for Montgomery County