



TWELFTH JUDICIAL CIRCUIT COURT
en banc

August 25, 2020
Effective August 25, 2020

IN RE: COVID-19 – Continuation of Phase One Operating Procedures, In-Person Proceedings, Video Proceedings, and Social Distancing in Courtrooms, Circuit Clerk’s Offices, Juvenile Offices, other Court Offices and Litigation Related Activities
Administrative Order 20AO-04

NINTH
SUPERSEDING ORDER

This Order supersedes this Court’s Administrative Order 20AO-04 dated August 11, 2020.

WHEREAS, on July 24, 2020, the Supreme Court of Missouri issued its Order and Operational Directives to Courts of this state to follow before resuming court activities that have been previously suspended by the Court’s prior orders; and

WHEREAS, the Directives permit the presiding judge of a circuit, after considering certain Gateway Criteria and after consultation with local health officials and local judiciary partners, to order a change of operating phase for the circuit either up or down; and

WHEREAS, any movement to the next higher operating phase can be made only after a court has been in the prior operating phase for a period of at least fourteen calendar days, though a court may revert back immediately to a prior operating phase when local conditions and circumstances require it; and

WHEREAS, after considering said Gateway Criteria and consultations, this Circuit reverted to “Operating Phase One” effective July 15, 2020; and

WHEREAS, the Supreme Court of Missouri has authorized the presiding judge of each circuit to determine the manner in which proceedings are to be conducted; and

WHEREAS, the Supreme Court of Missouri has ordered that such proceedings shall be limited to the attorneys, parties, witnesses, security officers, and other individuals necessary to the proceedings as determined by the judge presiding over the proceedings; and

WHEREAS, the Supreme Court of Missouri has encouraged judges to utilize all available technologies – including teleconferencing and video conferencing – to further limit in-person courtroom appearances to the extent not prohibited by the Constitution or statutes as to these proceedings and to conduct suspended in-person proceedings remotely; now

IT IS HEREBY ORDERED, until further notice, this Court shall operate in “Operating Phase One”, under the following procedures:

1. All in-person proceedings are suspended with the following exceptions:
 - Proceedings necessary to protect the constitutional rights of criminal defendants, including the right to a speedy trial, and the rights afforded under section 544.676.3;
 - Proceedings pursuant to chapters 210 and 211 pertaining to juvenile delinquency and abuse, neglect, and termination of parental rights;
 - Proceedings pursuant to chapter 453 pertaining to adoption;
 - Proceedings pursuant to chapter 455 pertaining to orders of protection;
 - Proceedings related to emergency child custody orders;
 - Proceedings related to petitions for temporary restraining orders or other forms of temporary injunctive relief;
 - Proceedings related to emergency mental health orders;
 - Proceedings pursuant to Chapter 475 for emergency guardianship or conservatorship;
 - Proceedings directly related to the COVID-19 public health emergency;
 - Oral arguments regarding time-sensitive matters;
 - Preliminary hearings for defendants being held in a county jail within this Circuit;
 - Probation violation hearings for defendants being held in a county jail within this Circuit;
 - Pendente lite motions in Domestic Relations cases;
 - Treatment Court staffing, dockets and guilty pleas or dispositions related to entry, completion or termination of or from Treatment Court;
 - Probation Violations Hearings involving allegations of new laws violations, weapons violations, or containing revocation recommendations from the probation officer;
 - Other exceptions approved by the Chief Justice of the Supreme Court.
2. Proceedings not falling within the exceptions denoted above are hereby continued and shall be reset at a later date.
3. The summoning and impaneling of all jurors is hereby suspended. Pursuant to the Supreme Court’s Directives, absent exigent circumstances, all jury trials scheduled during “Operating Phase One” are hereby continued and will be rescheduled to a later date and will not be held until “Operating Phase Three.”

4. In all criminal cases falling within the exception to in-person proceedings where the defendant is in detention in the County Jail or otherwise in custody at any other detention center or at any other prison, said defendants shall not be personally transported to or brought into court for any hearing, except for preliminary hearings or probation violations hearings and then only after confirmation from the Court in advance of transportation. All other hearings regarding any such defendants shall be conducted via videoconferencing, including initial appearance and arraignment hearings. Judges have the discretion to allow attorneys to appear by telephone if appropriate and continue hearings as appropriate consistent with this Administrative Order. Victims have a constitutional right to participate in hearings – that right is not changed by this Administrative Order. However, Judges are encouraged to identify alternative methods for victims to participate in any hearings.
5. Attorneys are strongly encouraged to file written waivers of arraignments and pleas of not guilty as appropriate in criminal proceedings. After preliminary hearing or waiver of preliminary hearing, the Associate Circuit Judge shall set the case for arraignment on the next available Division I Law Day. Upon the filing, either contemporaneous or subsequently, of a written waiver of arraignment the Circuit Clerk shall note the waiver and date in the docket, remove the case from the docket and continue the case to the following month's Law Day for disposition or trial setting.
6. Each judge has the discretion to hear motions or other routine matters via telephone or videoconferencing.
7. Each judge shall be responsible for re-scheduling new hearing dates.
8. The Court may set any civil proceeding for video hearing other than trial by jury or other proceedings required to be a matter of record. The Circuit Clerk shall send an electronic video link to the parties. Any party wishing to be removed from the video hearing docket and continued to an in-person docket must file such request at least five days in advance or else such request shall be deemed waived. The proceeding provisions of this order notwithstanding, any civil proceeding may be heard at any time by the consent of the parties.
9. Judges of this Court may otherwise conduct proceedings that are suspended from in-person proceedings utilizing PolyCom, Scopia, or WebEx, as approved by the Missouri Court Automation Committee, and utilizing the following protocols:
 - a. In any proceeding conducted under these protocols all participants must be in remote, separate locations, including, but not necessarily limited to, the judge, clerk, court reporter, attorneys, parties, and witnesses;
 - b. For all participants in the proceedings, no more than 10 people may be present in any one room or space in which they are located, and all persons within such areas shall take and maintain necessary precautions to reduce the transmission of COVID-19, including maintaining at least six feet (6') of distance between all individuals that are not family members;

- c. No participant shall travel from their usual workplace or home, except to a courthouse for placement in a remote location within the courthouse for the proceedings, or in contravention of any stay-at-home order or similar order from their state or local government;
 - d. Any party agreeing to participate in such proceeding shall be responsible for downloading the appropriate software and securing the availability and usage of such software and equipment for their own counsel, party and any witness they may wish to call; and
10. All nonessential court related travel for staff and judges is canceled until further notice.
11. Not more than ten (10) people at one time shall be allowed within any courtroom, Circuit Clerk's Office, Juvenile Office, judicial chambers, law library, court staff office or any other area within immediate proximity or control of the Court for the purpose of accommodating a court-related function, and all persons within such areas shall take and maintain necessary precautions to reduce the transmission of COVID-19, including maintaining at least six feet (6') of distance between all individuals that are not family members.
12. Depositions, as otherwise allowed, may only occur with the following conditions:
 - a. The deposition may occur by tele-conference or video-conference provided that the attorneys, deponent, and court reporter shall be in separate locations and no more than 10 people may be present in any one room or space, all persons within such areas shall take and maintain necessary precautions to reduce the transmission of COVID-19, including maintaining at least six feet (6') of distance between all individuals that are not family members; and
 - b. The court reporter, attorneys, and deponent shall not travel from their usual workplace or home, or in contravention of any stay-at-home order or similar order from their state or local government.
13. Court-ordered mediation may only occur with the following conditions:
 - a. The mediation may occur by tele-conference or video-conference provided that the attorneys, parties, and mediator shall be in separate locations and no more than 10 people may be present in any one room or space, all persons within such areas shall take and maintain necessary precautions to reduce the transmission of COVID-19, including maintaining at least six feet (6') of distance between all individuals that are not family members; and
 - b. The attorneys, parties and mediator shall not travel from their usual workplace or home, or in contravention of any stay-at-home order or similar order from their state or local government.
14. Court appointed guardians ad litem shall follow social distancing protocols with in-person contact with individuals as part of their assignment, including not being present in any

room or space with more than 10 people, maintaining at least six feet (6') of distance between all individuals that are not family members, and wearing a mask.

15. Educational parenting sessions as required in domestic relations cases may only be attended online as allowed by Section 452.605, RSMo, except for good cause shown.
16. Due to good cause found because of the pandemic, in-person hearings on renewals of orders of protection shall be continued and reset, except for further good cause shown; new ex parte orders of protection shall be issued as required by law.
17. In order to provide stability to children and families in domestic relations cases, and to efficiently manage judicial resources at the expiration of this Order, counsel and parties are strongly encouraged to mediate domestic relations cases as otherwise allowed by Supreme Court Rule 88. Such mediation may only occur with the following conditions:
 - a. The mediation may occur by tele-conference or video-conference provided that the attorneys, parties, and mediator shall be in separate locations and no more than 10 people may be present in any one room or space, all persons within such areas shall take and maintain necessary precautions to reduce the transmission of COVID-19, including maintaining at least six feet (6') of distance between all individuals that are not family members; and
 - b. The attorneys, parties and mediator shall not travel from their usual workplace or home, or in contravention of any stay-at-home order or similar order from their state or local government.
18. The performance of judicial marriage ceremonies by judges of this Court is hereby suspended.
19. All private probation companies who are currently supervising a defendant by way of an order of a judge of this Court shall adhere to all limitations regarding in-person contact as currently adopted by the Missouri State Board of Probation and Parole.
20. The payment of court costs and fines for any case within this circuit shall only be accepted online or by mail. All deadlines for the payment of court costs and fines ordered by a judge of this Court are hereby extended for 90 days from the expiration date of this Order.
21. The Circuit Clerks shall ensure that the public access computer portals are set up in areas accessible to litigants who otherwise lack access to computers that is in conformity with the social distancing procedures set out herein.
22. Appropriate levels of screening shall occur where possible at Court facility entrances to mitigate against individuals experiencing symptoms related to COVID-19 from entering Court facilities.

23. The CARES Act¹ places a temporary moratorium on legal actions to recover possession of certain described covered dwellings for the nonpayment of rent for the 120-day period ending on July 25, 2020. Beginning on the date of this Administrative Order and continuing until July 25, 2020, any lessor of a dwelling, whether represented by counsel or self-represented, who *initiates* a legal action by filing a petition seeking recovery of possession of said dwelling against a tenant for nonpayment of rent, shall file with the Court in the pending casefile, a verification of compliance with the CARES Act, in substantially the same form/format as attached hereto. Said verification of compliance shall be filed as early as possible in the legal action but in any event, shall be filed before any judgment for recovery of possession of said dwelling against a tenant for nonpayment of rent may be entered in said legal action. Beginning on the date of this Administrative Order and continuing until July 25, 2020, in any *currently pending* legal action by a lessor of a dwelling, whether represented by counsel or self-represented, which seeks recovery of possession of said dwelling against a tenant for nonpayment of rent, said lessor or lessor's counsel shall file with the Court in the pending casefile, a verification of compliance with the CARES Act, in substantially the same form/format as attached hereto. Said verification of compliance shall be filed before any judgment for recovery of possession of said dwelling against a tenant for nonpayment of rent may be entered in said legal action.
24. Vulnerable² litigants, witnesses, victims, attorneys and other individuals involved in court proceedings may participate remotely as allowed under law, or continue or postpone their required presence at court facilities.
25. The use of masks or face coverings by all individuals in public reception or waiting areas of Circuit Clerk's Offices, Juvenile Offices, or any public hallway or waiting area immediately adjacent thereto or to courtrooms is required. Those who do not have a mask will be provided a mask at the screening checkpoint of each courthouse. The use of masks or face coverings by all individuals in courtrooms is required, unless Plexiglass or other protective barriers are in place within the courtroom, or unless the judge presiding over the proceedings authorizes the removal of a mask for any individual.
26. Appropriate heightened sanitation procedures shall be applied to court facilities in coordination and consultation with the County Commissions and Circuit Clerks.

¹ The Coronavirus Aid, Relief and Economics Security Act ("CARES Act") was enacted as part of the laws of the United States; and places a temporary moratorium on legal actions to recover possession of certain described covered dwellings for the nonpayment of rent for the 120 day period ending on July 25, 2020.

² Vulnerable individuals are defined by the CDC as individuals 65 years or older or individuals with underlying medical conditions, particularly if not well controlled, including those who suffer from chronic lung disease, moderate to severe asthma, serious heart conditions, immune disorders, obesity, diabetes, or chronic kidney or liver disease.

27. Markings shall be used within each courtroom to clearly denote social distancing protocols.

28. All municipal courts within the 12th Circuit are subject to this Administrative Order.

Day-to-day



JASON H. LAMB, Presiding Judge