IN THE COURT OF APPEALS OF MARYLAND

FIFTH AMENDED ADMINISTRATIVE ORDER EXTENDING THE STATEWIDE SUSPENSION OF JURY TRIALS AND MAINTAINING GRAND JURIES

WHEREAS, Pursuant to the Maryland Constitution, Article IV § 18, the Chief Judge of the Court of Appeals is granted authority as the administrative head of the Judicial Branch of the State; and

WHEREAS, The Court of Appeals has approved Chapter 1000 of Title 16 of the Maryland Rules of Practice and Procedure setting forth the emergency powers of the Chief Judge of the Court of Appeals; and

WHEREAS, In instances of emergency conditions, whether natural or otherwise, that significantly disrupt access to or the operations of one or more courts or other judicial facilities of the State or the ability of the Judiciary to operate effectively, the Chief Judge of the Court of Appeals may be required to determine the extent to which court operations or judicial functions shall continue; and

WHEREAS, Due to the outbreak of the novel coronavirus, COVID-19, and consistent with guidance issued by the Centers for Disease Control and Prevention (CDC) and the Maryland Department of Health (MDH), an emergency exists for which measures continue to be required to mitigate potential for exposure for individuals visiting a court or judicial facility and for judicial personnel; and

WHEREAS, The COVID-19 emergency has continued, with recent significant increases in infection rates across Maryland, requiring the suspension of certain judicial functions until COVID-19 once again is suppressed to a level that allows their resumption, with safeguards as advised by the CDC and the MDH; and

WHEREAS, the *Seventh Administrative Order Restricting Statewide Judiciary Operations Due to the COVID-19 Emergency*, having been filed on December 22, 2020, extending the return to Phase II operations in light of the surge in COVID-19 infection rates throughout Maryland,

NOW, THEREFORE, I, Mary Ellen Barbera, Chief Judge of the Court of Appeals and administrative head of the Judicial Branch, pursuant to the authority conferred by Article IV, § 18 of the Maryland Constitution, do hereby order this 22nd day of December 2020, that:

(a) Grand juries, previously having been suspended by order of the Chief Judge of the Court of Appeals due to the COVID-19 emergency and having resumed, may continue at the discretion of the administrative judge or his or her designee; and

(b) New grand juries may be empaneled as necessary; and

(c) Grand juries that are currently convened may be extended by the administrative judge pursuant to an administrative order; and

(d) All criminal jury trials in the Circuit Courts throughout the State of Maryland scheduled to begin on or after March 16, 2020, having been suspended on an emergency basis, and having been authorized to resume, with trial dates scheduled beginning on October 5, 2020; and such trial dates pending on November 16, 2020, through April 23, 2021, unless a jury has been empaneled, shall be suspended and rescheduled as promptly as feasible with dates beginning April 26, 2021, pending further order of the Chief Judge of the Court of Appeals, as such date that the summoning of Maryland citizens in sufficient numbers to constitute an adequate jury pool from which a jury venire may be drawn will be possible; and

(e) All civil jury trials in the Circuit Courts throughout the State of Maryland scheduled to begin on or after March 16, 2020, shall be suspended on an

emergency basis effective November 16, 2020, through April 23, 2021, unless a jury has been empaneled, with jury trial dates to be scheduled beginning April 26, 2021, and thereafter, consistent with the *Seventh Administrative Order Restricting Statewide Judiciary Operations Due to the COVID-19 Emergency*, filed December 22, 2020, subject to priority being given to criminal trials and other urgent actions; and

(f) Any previously scheduled criminal jury trial beginning between October 5, 2020, and April 23, 2021, in which the jury has not yet been empaneled, shall be suspended consistent with Section (d) of this Order, and the number of days that jury trials are suspended shall be included in the calculations of new statutory and rules deadlines in Sections (g) and (h) of this Order; and

(g) In tolling the statutory and rules deadlines related to the start of criminal jury trials and other criminal matters, the *Administrative Order on Expanding the Statewide Suspension of Jury Trials and Suspending Grand Juries*, filed April 3, 2020, provided that statutory and rules deadlines related to the adjudication of pending criminal matters were to be suspended and extended by the number of days that the courts are closed to the public; and

(h) For the purposes of this Order, "tolled or extended by the number of days that the courts were closed" means that the days that jury trials were not able to be offered to criminal defendants due to the COVID-19 emergency during the periods beginning March 16, 2020, through October 4, 2020, and November 16, 2020, through April 23, 2021, pending further Order of the Chief Judge of the Court of Appeals, do not count against the time remaining for the start of a criminal jury trial; and

(i) There further shall be an additional tolling of thirty days from the time that jury trials resumed on October 5, 2020, ending on November 4, 2020, for criminal cases that were pending in the Circuit Courts on March 12, 2020, or initiated

prior to the resumption of jury trials on October 5, 2020, to allow the Circuit Courts to conduct status hearings and reschedule jury trials as appropriate; and

(j) For all criminal cases that were pending or initiated on March 16, 2020, through July 30, 2020, the deadline to conduct preliminary hearings in the District Court pursuant to Maryland Rule 4-221(b) previously was extended by Order to August 30, 2020, consistent with Phase III; and

(k) For all criminal cases that were pending or initiated on November 16, 2020, through February 26, 2021, the deadline to conduct preliminary hearings in the District Court pursuant to Maryland Rule 4-221(b) is extended to April 16, 2021, pending further Order; and

(l) All such proceedings shall be conducted consistent with the implementation of safeguards, including social distancing and face masks, consistent with the *Fifth Administrative Order Clarifying COVID-19 Health Measures in Courthouses and Judicial Branch Facilities,* filed December 22, 2020; and

(m) The *Fourth Amended Administrative Order Re-Imposing the Statewide Suspension of Jury Trials and Maintaining Grand Juries*, filed November 24, 2020, shall be and hereby is rescinded; and

(n) To the extent that this Administrative Order conflicts with extant Administrative Orders, this Administrative Order shall prevail; and

(o) This Administrative Order will be revised as circumstances warrant.

/s/ Mary Ellen Barbera
Mary Ellen Barbera
Chief Judge
Court of Appeals of Maryland

Filed: December 22, 2020

Pursuant to Maryland Uniform Electronic Legal Materials Act (§§ 10-1601 et seq. of the State Government Article) this document is authentic.

Suzanne Johnson
2020-12-22 15:16-05:00

/s/ Suzanne C. Johnson
Suzanne C. Johnson
Clerk
Court of Appeals of Maryland

Suzanne C. Johnson, Clerk