ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

RE: RESUMPTION OF OPERATIONS

WHEREAS, on March 22, 2020, in response to the COVID-19 crisis, the Chief Justice of the Supreme Court of Appeals of West Virginia entered an order declaring a judicial emergency, pursuant to Article 8, Section 3 of the Constitution of West Virginia, which grants the Supreme Court of Appeals of West Virginia constitutional supervisory power over the circuit courts, family courts, and magistrate courts in West Virginia;

WHEREAS, Article 3, Section 17 of the Constitution of West Virginia requires that the courts of this state shall be open, and every person, for any injury done to him, in his person, property or reputation, shall have remedy by due course of law; and justice shall be administered without sale, denial or delay;

WHEREAS, the Supreme Court of Appeals of West Virginia desires to balance public health with the constitutional mandate that our courts continue to function for our citizens,

WHEREAS, W. Va. Code § 2-2-2 authorizes the Chief Justice of the Supreme Court of Appeals of West Virginia to declare an emergency in situations where conditions prevent the general transactions of court business;

WHEREAS, the Supreme Court of Appeals of West Virginia has utilized heightened mitigation efforts to protect the health and safety of the public during the COVID-19 crisis;

WHEREAS, in consultation with local and state public health officials, the Supreme Court of Appeals of West Virginia has evaluated the continued need for a judicial emergency in light of ongoing COVID-19 mitigation efforts, and determined that certain court business may resume upon expiration of the judicial emergency in accordance with the **COVID-19 RESUMPTION OF OPERATIONS PROTOCOLS** ("Protocols") issued by the Supreme Court of Appeals of West Virginia on May 6, 2020, attached hereto and incorporated by reference, as further directed herein;

THEREFORE, it is ORDERED that the judicial emergency, the April 22, 2020 Second Amended Order, and the April 24, 2020 Temporary Order Regarding Civil Litigation and Rules of Civil Procedure in Circuit Court shall continue in force and effect through May 15, 2020.

It is further ORDERED that, upon the May 15, 2020 expirations of the judicial emergency, the April 22, 2020 Second Amended Order, and the April 24, 2020 Temporary Order Regarding Civil Litigation and Rules of Civil Procedure in Circuit Court, all courts, judicial officers and court personnel shall comply and adhere to the applicable guidance and directives set forth in the Protocols. Remote hearings and proceedings are still permitted and encouraged, if appropriate.

It is further ORDERED that, upon the expiration of the judicial emergency, and subject to the Protocols:

- In-person hearings or proceedings may commence on or after May 18, 2020;
- Grand jury proceedings may commence on or after June 15, 2020;
- Jury trials may commence on or after June 29, 2020.

It is further ORDERED that, pursuant to W. Va. Code § 2-2-2(a), all proceedings and court deadlines stayed due to the COVID-19 crisis, except the emergency proceedings authorized in the April 22, 2020 Second Amended Order, directed to take place or any act required to be done on any day falling within the period of judicial emergency, remain stayed until May 15, 2020. Upon the May 15, 2020 expiration of the judicial emergency:

- Statutes of limitations and statutes of repose that would otherwise expire during the period of judicial emergency between March 23, 2020, and May 15, 2020, shall expire on May 18, 2020;
- Deadlines created by, or in response to, the Court's April 24, 2020 Temporary Order Regarding Civil Litigation and Rules of Civil Procedure in Circuit Court are not modified by this Order;
- Deadlines set forth in court rules, statutes (excluding statutes of limitation and repose), ordinances, administrative rules, scheduling orders, or otherwise that expired between March 23, 2020, and April 17, 2020, are hereby extended to May 29, 2020, unless otherwise ordered by the presiding judicial officer;
- Deadlines set forth in court rules, statutes (excluding statutes of limitation and repose), ordinances, administrative rules, scheduling orders, or otherwise that expired between April 18, 2020 and May 15, 2020, are hereby extended to June 12, 2020, unless otherwise ordered by the presiding judicial officer;
- Deadlines, statutes of limitations, and statutes of repose that do not expire during the period of judicial emergency between March 23, 2020, and May 15, 2020, are not extended or tolled by this or prior orders;
- All non-emergency, in-person proceedings previously scheduled between March 23, 2020, and May 15, 2020, are continued until on or after May 18, 2020 as shall be directed by the presiding judicial officer.

Consistent with the directives and guidance set forth in the Protocols, all authorized proceedings should utilize available technology to limit person-to-person contact whenever possible, unless otherwise directed.

It is further ORDERED that, to the extent they do not impermissibly infringe upon the constitutional rights of a party or litigant, any West Virginia state or local rules, including but not limited to criminal rules, civil rules, or administrative rules, that limit or preclude a judicial officer or court clerk's ability to utilize remote, telephonic or video technology to limit in-person contact, are suspended. Such suspension shall survive the expiration of the judicial emergency, and will remain in effect until otherwise ordered.

It is further ORDERED that it is the responsibility of each Chief Circuit Judge and each Chief Family Court Judge to notify the employees of all offices under their supervision of the content of this Order.

It is further ORDERED that this ORDER supersedes any local administrative order issued by a judicial official to the extent such order is inconsistent herewith.

The Clerk of Court is hereby directed to distribute copies of this Administrative Order by appropriate means to all circuit judges, family court judges, and magistrates.

ENTERED: May 6, 2020

Tim Armstead, Chief Justice

Edythe Nash Gaiser, Clerk of Court