VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Monday the 22nd day of June, 2020.

IN RE: SIXTH ORDER EXTENDING DECLARATION OF JUDICIAL EMERGENCY IN RESPONSE TO COVID-19 EMERGENCY

On March 12, 2020, Governor Northam entered Executive Order 51 (2020) Declaration of a State of Emergency Due to Novel Coronavirus COVID-19. This state of emergency became effective March 12, 2020, and, as amended on May 26, 2020, is to remain in full force and effect until amended or rescinded by further Executive Order. On Monday, March 16, 2020, pursuant to Va. Code § 17.1-330, the Chief Justice issued an Order declaring a judicial emergency for all district and circuit courts of the Commonwealth to protect the health and safety of court employees, litigants, judges, and the general public ("First Order"). This First Order was effective from March 16, 2020 through April 6, 2020. On March 27, 2020, this Court entered an Order extending the Declaration of Judicial Emergency for a second twenty-one day period, effective April 6 through April 26, 2020, for all district and circuit courts of the Commonwealth ("Second Order").

On March 30, 2020, the Governor, through Executive Order 55 (2020), required Virginia residents generally to stay at home due to the public health threat. This Executive Order expired on June 4, 2020. On April 22, 2020, the Court entered an Order extending the Declaration of Judicial Emergency for a third twenty-one day period, effective from April 26 through May 17, 2020, for all district and circuit courts of the Commonwealth ("Third Order"). On May 1, 2020, the Court entered a Clarification Order Concerning Tolling of Statutory Speedy Trial Deadlines During the Judicial Emergency In Response To COVID-19 Crisis ("Clarification Order"). On May 6, 2020, the Court entered an Order modifying and extending the Declaration of Judicial Emergency from May 18 through June 7, 2020 ("Fourth Order"). Paragraph 4 of the Fourth Order was amended on May 12, 2020 ("Amended Fourth Order"). On May 26, 2020, Governor Northam entered Executive Order 63 (2020), effective May 29, 2020, requiring, among other things and with some exceptions, that face masks be worn inside buildings. On June 1, 2020 the

Court entered an additional Order modifying and extending the Declaration of Judicial Emergency from June 8 through June 28, 2020 ("Fifth Order"). The Fifth Order was amended June 8, 2020 to include a temporary stay of unlawful detainers and evictions ("Amendment to the Fifth Order"). The Fifth Order was further amended on June 22, 2020, to allow the issuance of unlawful detainers and writs of evictions for matters unrelated to failure to pay rent ("Second Amendment to the Fifth Order").

Under the constitutional, statutory, and inherent authority of the Supreme Court of Virginia, the Court unanimously EXTENDS the Declaration of Judicial Emergency from June 29 through July 19, 2020, and ORDERS the following:

l) As provided in the First, Second, Third, Fourth, and Fifth Orders, as amended and clarified, for all cases in district and circuit courts, the statutes of limitation and, except as otherwise provided in this Order, all other case-related deadlines, excluding discovery deadlines, shall continue to be tolled during the ongoing Period of Judicial Emergency (March 16, 2020, through July 19, 2020), pursuant to Va. Code § 17.1-330. Consistent with this Court's Fourth and Fifth Orders, in all civil cases, including jury trial cases that are currently suspended, deadlines and obligations arising out of Part Four of the Rules of Supreme Court of Virginia are not tolled and, upon notice to the parties or their counsel, courts may impose and enforce case-related pre-trial deadlines. Litigants are encouraged to resolve as many pretrial matters as possible with or without the assistance of the courts.

2) Courts shall continue to prioritize emergency matters including, but not limited to, quarantine or isolation matters, criminal arraignments, bail reviews, protective order cases, emergency child custody or protection cases, civil commitment hearings, petitions for temporary injunctive relief, proceedings related to emergency protection of elderly or vulnerable persons, petitions for appointment of a guardian or conservator, and proceedings necessary to safeguard applicable constitutional protections.

3) Effective June 29, 2020, courts may resume hearing all unlawful detainer actions and issuing writs of eviction. Commercial unlawful detainer actions and writs of eviction were not and are not affected by the Amendment to the Fifth Order issued on June 8, 2020.

4) Courts should continue to conduct as much business as possible by means other than in-person court proceedings. In all civil and criminal matters, courts are encouraged to continue and even increase the use of video conferencing, teleconferencing, email, or other means that do not involve in-person contact. These methods are preferred over in-person court proceedings.

5) Notwithstanding the ongoing preference for conducting business by video conferencing or telephone, all courts may hear in-person non-emergency matters and non-jury cases if they determine it is safe to do so, and provided they comply with (i) the guidance for transitioning from emergency to routine operations provided by the Office of the Executive Secretary ("OES") and (ii) information from the Centers for Disease Control and Prevention ("CDC") in order to minimize the risk of the spread of COVID-19 from in-person court proceedings.

6) Whether criminal or civil, whether the case is one that is handled in-person or by video or telephone, it is not necessary for a party to obtain the agreement of any other party to bring a pre-trial motion before the court or set a non-jury trial. The parties are not relieved of notice requirements or other duties under pre-trial orders and compliance with applicable rules and statutes.

7) All courts and security personnel shall take reasonable measures to prohibit individuals from entering the courthouse if they have, within the previous fourteen days:

i. traveled internationally;

ii. been directed to quarantine, isolate, or self-monitor;

iii. been diagnosed with, or have had contact with anyone who has been diagnosed with, COVID-19;

iv. experienced a fever, cough, or shortness of breath; or

v. resided with or been in close contact with any person in the above-mentioned categories.

8) The court and security personnel shall direct such individuals to contact the clerk's office by telephone or other remote means to inform the clerk of their business before the

court so they may receive further instruction regarding alternate arrangements for court access. Judges shall take reasonable steps to minimize the risk of the spread of COVID-19 through social and physical distancing. In doing so, it may be necessary to limit the number of people present in the courthouse or a particular courtroom at any given time to ensure that those present can remain six feet apart.

9) In order to further minimize the risk of the spread of COVID-19, in addition to recommended social and physical distancing, all persons aged 10 or over entering the courthouse must wear a face covering that covers the nose and mouth. This includes judges, attorneys, deputy sheriffs, court reporters, employees, members of the public, contractors, and all others who work in or visit the courthouse. Individuals without a face mask will not be permitted to enter the courthouse except for those who cannot safely wear a face mask because of a health-related condition. Within a courtroom, the presiding judge may authorize removal of a face mask to facilitate a proceeding. The requirement to wear a face mask shall not apply to: (i) judges or magistrates to the extent they determine it inhibits their ability to effectively communicate, (ii) individuals who have difficulty breathing, who cannot remove a face mask without help, or have other medical issues that make wearing a face mask unsafe, or (iii) any person whom the presiding judge determines should be excused from the requirement to wear a face mask.

10) Court clerks are charged with ensuring that their offices remain open and functions continue.

11) As provided in the Clarification Order, deadlines imposed by the Speedy Trial Act, Va. Code § 19.2-243, are tolled during the ongoing Period of Judicial Emergency (March 16, 2020, through July 19, 2020).

12) All courts are authorized to accept pleadings, orders and other documents that are electronically signed, including those where the electronic signature is accomplished by scanning.

13) Continuances and excuses for failure to appear shall be liberally granted for any cause resulting from the impact of the ongoing COVID-19 crisis.

14) Without regard to when any scheduling order was entered, all civil and criminal jury trials are suspended and shall be continued, and no jury trials shall occur in the Commonwealth for the duration of this Order. Notwithstanding this suspension, upon notice to the parties or their counsel, courts may impose discovery deadlines, and other pre-trial deadlines in jury trial cases that are currently suspended. All jury trials scheduled for a date after July 19, 2020, are subject to a further period of suspension if the Declaration of Judicial Emergency is extended for additional periods as provided in Va. Code § 17.1-330(E).

15) The Chief Justice has created a Jury Task Force to address the reinstatement of jury trials throughout the Commonwealth. The Jury Task Force includes the following members: Chief Justice Donald W. Lemons, Justice S. Bernard Goodwyn, Justice D. Arthur Kelsey, Chief Judge Lisa Kemler (Alexandria), Chief Judge William T. Newman Jr. (Arlington), Chief Judge William Chapman Goodwin (Augusta), Chief Judge Bruce White (Fairfax), Chief Judge Richard S. Wallerstein Jr. (Henrico), Judge John Marshall (Henrico), Chief Judge Douglas L. Fleming Jr. (Loudoun), Chief Judge Mary Jane Hall (Norfolk), Judge Jerrauld Jones (Norfolk), Chief Judge Joi Jeter-Taylor (Richmond), Judge W. Reilly Marchant (Richmond), Chief Judge David Carson (Roanoke City), Chief Judge Tracy Hudson (Prince William), Judge Victoria Willis (Stafford), Edward F. Jewett (Clerk, Richmond Circuit Court), Captain James Jenkins (Richmond Sheriff's Office), Jovo Skoro (IT, Richmond Sheriff's Office), Karl Hade (Executive Secretary), Eddie Macon (Assistant Executive Secretary and Legal Counsel), and Kristen L. Mynes (Law Clerk to Chief Justice Donald W. Lemons, Jury Task Force Reporter). The Jury Task Force is also consulting with the Virginia Department of Health in its effort to determine best practices and how to safely resume jury trials.

16) Notwithstanding the current suspension of civil and criminal jury trials, each chief circuit court judge shall develop a plan for their circuit that describes how and when they will be able to safely conduct jury trials, either in their existing courtrooms or in alternate space that may be made available. In creating the plan, each chief judge shall consult with the other judges in the circuit, as well as local sheriffs, public health officials, attorneys, and the clerk of court. In making this plan, chief judges should consider resources and guidance provided by OES and the CDC, as well as relevant factors, including but not limited to the following:

i. Consider requirements for personal protective equipment or "PPE" (such as face shields, face masks, and gloves) necessary for the protection of the public, attorneys, press, witnesses, and jurors, and whether the local department of emergency services or other local entity will supply it;

ii. Consider developing a questionnaire to prescreen prospective jurors regarding health concerns, vulnerability to coronavirus, and issues concerning family exposure, vulnerability, or risk;

iii. Consider designating appropriate paths of juror travel from the entrance into the courthouse to rooms within the courthouse. Consider placing social distancing markers around courthouse, in and near restrooms, and near elevators, and limiting the number of riders per elevator, which may necessarily delay juror travel around the courthouse. Consider use of stairwells as alternatives to elevators and have stairwells marked with appropriate signage to ensure safe use. Consider frequent cleaning of restrooms and handrails. Create a plan for courtroom(s) to allow for social distancing. Consider using multiple rooms with video connections between rooms so that visitors, family and the press may view proceedings.

iv. Consider staggering times for jurors to arrive in smaller groups (i.e., alphabetically by last name or by number) to enable social distancing. Consider best methods for jurors to check in once they have arrived.

v. Consider using large areas or rooms in the courthouse for jury assembly, including the jury assembly room or large courtrooms. Consider how jury movement will be impacted within the courthouse. In some courthouses, the jury assembly area could be bypassed by bringing jurors directly to the courtroom and have them check-in immediately outside the courtroom. Consider having assigned seats for jurors, even during jury selection.

vi. Plan for a higher number of jurors requesting to be excused based on COVID-19 symptoms, exposure, and related health concerns.

Each plan should include (i) a statement of the criteria the judges have considered to determine if they can safely conduct jury trials in their courts, and (ii) guidelines and restrictions each court in the circuit is prepared to implement (recognizing that circumstances may be different for different jurisdictions within each circuit) to protect jurors, attorneys, clerks, judges, court staff, members of the press, and others present from the risk of the spread of COVID-19 from in-person court proceedings. The written plan may include different guidelines and restrictions for different courthouses or localities within a judicial circuit, and localities within a circuit may be

prepared to begin jury trials at different times. The written plan shall be submitted to the Chief Justice on or before August 17, 2020. No jury trials shall be held in a particular locality until the plan is approved.

17) Judges should continue to exercise their discretion with regard to holding grand jury proceedings.

18) To the extent that the content of this Order is different from the preceding orders, this Order shall control.

This Order shall be in effect from June 29, 2020, through July 19, 2020. The Declaration of Judicial Emergency may be extended for additional periods as provided in Va. Code § 17.1-330(E).

It is so ORDERED.

CHIEF JUSTICE DONALD W. LEMONS