Court News ...

The Supreme Court of South Carolina

DONALD W. BEATTY
CHIEF JUSTICE

POST OFFICE BOX 3543
SPARTANBURG, SOUTH CAROLINA 29304-3543

MEMORANDUM

TO: Clerks of Court
Circuit Court
Family Court

FROM: Chief Justice Beatty

RE: Court Operations During the Six Week Period, May 4 – June 12, 2020

DATE: April 24, 2020

As our state and nation continue to battle this ongoing health crisis, our legal system is facing unprecedented challenges. In an attempt to mitigate the effects of COVID-19, and in response to actions taken by other entities, the South Carolina Judicial Branch has been forced to alter our courts' normal operating procedures in numerous respects. The Judicial Branch has changed routine practices, schedules, and traditional methods of operation. During this time, we all need to be patient, cooperative, and practice civility and professionalism.

Despite these alterations to court operations, it is critically important that every reasonable effort is made to provide access to the courts, protect the constitutional rights of individuals, and ensure that justice is served. Even, and most especially in the midst of a crisis, we must uphold the rule of law to maintain an orderly and just society. Our courts must be ready to address and resolve disputes, as emergency matters will inevitably arise. Alterations in criminal procedures in particular are intended to empower the court and the participants to proceed with matters to safeguard the rights of defendants.

We recognize many lawyers and litigants will encounter difficulties beyond their control that will hinder their ability to obtain documents, meet with clients and witnesses, and pursue investigations in a timely matter. Some may fear this will result in a procedural default, particularly where there is limited access to courthouses. While it is impossible to predict all potential scenarios, there is a need for uniformity and some measure of certainty during this uncertain time. We expect the justice system, and those persons who operate within it, to react with compassion, empathy, and understanding, and not take punitive actions that hinder the ability to act justly and fairly. Our laws favor the resolution of cases on the merits, and this public health crisis will not cause us to abandon that principle.

The South Carolina Judicial Branch remains dedicated to fulfilling its role in the government of this state. Our resolve to do so will not waver during times of crisis.

Notwithstanding these difficult times, we must still maintain a certain degree of uniformity in our practices and procedures. Lawyers, litigants, and the public need to know what those practices and procedures are and what to expect when they engage the judicial system.

In preparation for the anticipated resumption of normal court activity at some point in the near future, the Chief Judge for Administrative Purposes in each circuit for Common Pleas, General Sessions and Family Court should work with the Clerks of Court to create a comprehensive plan to schedule and dispose of all status conferences, pre-trial hearings, and pre-trial motions during this time. Additionally, judges may hear any non-jury matter currently pending. All local administrative orders must be approved by the Chief Justice and filed with Court Administration prior to implementation. **Every judge not previously scheduled for vacation should operate on a normal schedule.**

All status conferences, pre-trial hearings and pre-trial motions previously set, as well as newly scheduled hearings pursuant to the directives in this Memorandum, may be conducted using remote communication technology to avoid the need for a physical appearance of all or some of the parties, counsel or witnesses. I encourage you to use WebEx, the conferencing platform supported by the Judicial Branch. Videoconferencing should be hosted by the judge and not by a party to the case. In cases where members of the press request to observe a remote hearing that ordinarily would be open to the public, an invitation to the videoconference should be provided to them. If an in-person hearing is conducted, only attorneys, the parties, necessary witnesses, and a limited number of members of the press will be allowed to appear. Hearings must be staggered to minimize the number of people appearing at the same time. These hearings should begin no later than May 4, 2020.

Judges will return to handling as much of the previously scheduled dockets within their circuit as is practical. In doing so, judges shall adhere to the guidance set forth in the April 22, 2020 order of the Supreme Court. Some of you are already hearing a variety of matters and you are to be commended for your diligence.

Please take note of the following:

1. Clerks of Court, in consultation with the Chief Judges for Administrative Purposes, shall prepare a docket for the ensuing six terms of court. A docket is required for Common Pleas, General Sessions, and Family Court. The Clerk of Court will provide Court Administration with each week's schedule as soon as it is available. The first week's schedule should be provided to Tiffany Raines at Court Administration by 5:00 pm on April 29, 2020.

2. Status conferences shall be held in all cases on the trial docket, criminal and civil, and pre-trial motions should be disposed of.

3. During the six weeks set forth above, Judges will not travel but will handle cases in the circuits where they reside. Matters will be assigned at the direction of the Chief Judges for Administrative Purposes.

4. Notwithstanding any prior guidance, continuances on pre-trial matters are discouraged during this six weeks period and should be granted only in exceptional circumstances with good cause shown.

Clerks of Court should make publicly available on their websites, if available, a regular docket or roster of all matters scheduled to be heard and the chief judges should assist them in doing so. If the courthouse is closed to the public the docket or roster should additionally be posted on the courthouse door. Information posted about the docket or roster should include contact information for members of the public seeking to view the hearing.

Please let me know if you have any questions or concerns.