

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

IN RE:) ADMIN ORDER. No. 2020-0010
TRANSITION TO RESUMPTION OF)
CERTAIN JUDICIAL BRANCH)
OPERATIONS.)
_____)

ADMINISTRATIVE ORDER

WHEREAS, on March 13, 2020, this Court issued an Administrative Order adopting precautionary measures in response to a novel coronavirus (“COVID-19”), which the United States Centers for Disease Control and Prevention (“CDC”) had determined presents a serious public health threat, and for which the President of the United States and the Governor of the Virgin Islands have declared a state of emergency; and

WHEREAS, the Judicial Branch of the Virgin Islands has continued to closely monitor COVID-19, including updated guidance provided by the CDC, United States Department of Health and Human Services, the Virgin Islands Department of Health, and other public health authorities; and

WHEREAS, on March 15, 2020, the CDC issued updated guidance which, in addition to social distancing and other precautionary measures previously recommended, directs that mass gatherings of 50 people or more not occur for the next eight weeks, for large numbers of people congregating together may contribute to the spread of COVID-19; and

WHEREAS, on March 16, 2020, the President of the United States stated that revised guidelines would be released which, among other things, recommend that gatherings of ten or more people be avoided for the next fifteen days, and that workplaces, schools, bars, restaurants, and other venues where such gatherings occur either close or enact measures to prevent the spread of COVID-19, particularly to vulnerable populations; and

WHEREAS, in a March 17, 2020 Administrative Order, this Court established additional precautionary measures in response to COVID-19, including cancelling virtually all in-person judicial proceedings, suspending the issuance of new marriage license and in-court marriage ceremonies, and authorizing judicial officers and court personnel to work from remote locations; and

WHEREAS, on March 19, 2020, the Governor of the Virgin Islands announced the escalation of emergency measures to further contain COVID-19, including ordering that all non-essential government services be suspended effective March 23, 2020, and directing that only essential government employees report to work; and

WHEREAS, in a March 20, 2020 Administrative Order, this Court ordered the suspension of all non-essential services effective March 23, 2020, and continuing through further order of the Court, and established interim procedures and extended certain filing and regulatory deadlines in matters pending before the Supreme Court of the Virgin Islands and the Superior Court of the Virgin Islands, to take effect through April 26, 2020; and

WHEREAS, on March 23, 2020, the Governor of the Virgin Islands issued a stay-at-home order, which among other things ordered the public to remain at home and ordered the closure of all in-person business operations at all non-essential businesses; and

WHEREAS, on March 29, 2020, the President of the United States extended the application of the CDC social distancing guidelines through April 30, 2020; and

WHEREAS, on March 30, 2020, the Governor of the Virgin Islands extended the state of emergency through May 12, 2020, and extended the stay-at-home order through April 30, 2020; and

WHEREAS, in an April 23, 2020 Administrative Order, this Court extended the provisions

of the March 20, 2020 Administrative Order, including the suspension of non-essential operations and extension of certain filing and regulatory deadlines, through May 31, 2020; and

WHEREAS, on April 29, 2020, the Governor of the Virgin Islands allowed the prior stay-at-home order to sunset on May 4, 2020, and replace it with a stay-safer-at-home order that, among other things, allowed some private businesses to reopen but required all individuals to wear face masks or facial coverings while in public; and

WHEREAS, the Governor of the Virgin Islands extended, and the Legislature subsequently ratified through Act No. 8293, an extension of the state of emergency to July 11, 2020; and

WHEREAS, in accordance with the April 23, 2020 Administrative Order of this Court, on May 17, 2020, the Presiding Judge extended the types of matters eligible to be heard remotely; and

WHEREAS, in a May 19, 2020 Administrative Order, this Court established the Virgin Islands Judicial Branch COVID-19 Task Force, and charged it with developing a proposed plan for the resumption of some or all of the operations of the Judicial Branch; and

WHEREAS, on May 27, 2020, the COVID-19 Task Force timely submitted its report and recommendations; and

WHEREAS, this Court thanks the COVID-19 Task Force for its work, and shall use its recommendations as the basis for directing the transition to resumption of certain operations of the Judicial Branch of the Virgin Islands;

NOW, THEREFORE, IT IS ORDERED, that the Administrator of Courts, in consultation with the Chief Justice and the Presiding Judge, shall adopt and implement the protocols necessary to permit in-person hearings to resume in facilities operated by the Judicial

Branch of the Virgin Islands **beginning June 15, 2020**. Such protocols shall include but are not necessarily limited to health screenings; implementation of federal and territorial public health guidelines, such as social distancing and use of personal protective equipment; sanitation of common and high-traffic areas; erection of appropriate physical barriers and placement of social distancing tape; and appropriate training for judicial officers and court personnel in the proper use and implementation of such protocols. It is further

ORDERED that in-person hearings in the courts of the Virgin Islands **SHALL RESUME** in accordance with the following schedule:

1. **Through 11:59 p.m. on May 31, 2020**, in accordance with the March 23, 2020, and April 23, 2020 Administrative Orders of this Court and the May 14, 2020 Administrative Order of the Presiding Judge, no in-person court proceedings shall be held, and the following matters shall be eligible to be heard remotely:

- a. Advice of Rights;
- b. Arraignments;
- c. Change of plea;
- d. Sentencing, but only if the defendant is either already in the custody of the Bureau of Corrections or incarceration is not impending or immediate;
- e. Emergency abuse and neglect proceedings;
- f. Any other matter assigned to the Family Division, except for adjudicatory hearings and trials;
- g. Any hearing in any matter which has been designated as emergency or expedited by the Presiding Judge; and
- h. Any hearing in any civil, criminal, or probate case, whether or not designated as

an emergency or expedited, if the matter to be heard has already been fully briefed by the parties.

All previously adopted protocols to govern remote hearings, including those promulgated by the Presiding Judge with respect to advice of rights, arraignments, and juvenile matters, shall remain in effect until superseded or modified.

2. Beginning 12:00 a.m. on June 1, 2020, the prohibition on in-person court proceedings shall continue, but all matters may be heard remotely other than bench trials, jury trials, and substantive hearings which are impractical to hold remotely, i.e. a hearing with numerous testifying witnesses. Judicial officers and court clerks shall give calendar preference to cases that warrant priority consideration, including but not necessarily limited to criminal cases in which the defendant is incarcerated.

3. Beginning 12:00 a.m. on June 15, 2020, all in-person court proceedings besides jury trials may resume, provided that it is possible to hold the in-person proceeding while complying with social distancing protocols, federal and territorial public health regulations, and the policies enacted by the Judicial Branch Administrative Office. Judicial officers and court clerks are encouraged to stagger cases on calendars, to adhere strictly to the allotted time, and to take other measures to minimize the number of individuals waiting in court. However, while in-person proceedings are authorized, remote hearings shall continue to be held, and a remote hearing must be held in lieu of an in-person hearing if a judicial officer, attorney, party, or witness is not physically present in the U.S. Virgin Islands, or belongs to a vulnerable population who have been encouraged by public health authorities to remain at home.

4. Beginning 12:00 a.m. on August 1, 2020, jury trials may be held in-person at the discretion of a judicial officer with the approval of the Presiding Judge and the Administrator of

Courts, provided that all phases of the trial, including jury selection, can be held while complying with social distancing protocols, federal and territorial public health regulations, and the policies adopted by the Judicial Branch Administrative Office.

It is further

ORDERED that the automatic tolling, suspension, or extension of certain deadlines or acts first ordered in the March 20, 2020 Administrative Order of this Court and later extended by the April 23, 2020 Administrative Order of this Court **SHALL BE EXTENDED through 11:59 p.m. on Sunday, June 14, 2020, and that NO FURTHER AUTOMATIC EXTENSIONS SHALL BE GIVEN.** All attorneys, litigants, and members of the public are hereby advised that the effect of this final extension shall be as follows:

1. All documents that were due to be filed in the Supreme Court, the Superior Court, the Board on Professional Responsibility, the Board on the Unauthorized Practice of Law, the Commission on Judicial Conduct, or any other entity within the Judicial Branch between March 23, 2020, and June 14, 2020, shall be due on June 15, 2020. However, to reduce strain on Clerks' Offices, attorneys and litigants who do not need this further extension of time are strongly encouraged to file documents prior to June 15, 2020.

2. The period from March 23, 2020, through June 14, 2020, representing 84 calendar days, shall be excluded when determining the time to file a notice of appeal; the time to effectuate service of process; or when calculating any other legally-significant date as provided by law.

3. All temporary restraining orders, injunctions, and stays set to expire between March 23, 2020, and June 14, 2020, shall automatically be extended to June 15, 2020, unless the presiding judicial officer orders that the temporary restraining order, injunction, or stay be terminated earlier.

4. All individuals whose special or other admission to practice law in the Virgin Islands

was set to expire between March 23, 2020, and June 14, 2020, shall automatically have that admission extended to June 15, 2020. This provision shall not apply to extend the admission of those who have been ordered suspended or disbarred from the practice of law in the Virgin Islands. It is further

ORDERED that all orders of foreclosure and orders of eviction not executed prior to March 23, 2020, shall remain stayed through 11:59 p.m. on June 14, 2020. Beginning at 12:00 a.m. on June 15, 2020, in all pending foreclosure and eviction matters, including matters where orders of foreclosure or orders of eviction have been entered but not executed, the plaintiff shall file with the court and serve on the defendant a certification that the foreclosure or eviction is not prohibited by federal Public Law 116-136 (the “CARES Act”) or any other law. The defendant may respond to the notice within the time ordinarily permitted by the applicable court rules. If the court, upon reviewing the parties’ filings, determines that a foreclosure or eviction would not be prohibited by the CARES Act or any other law, shall adjudicate the foreclosure and eviction proceeding consistent with ordinary procedures or, if an order of foreclosure or order of eviction had previously issued, shall permit enforcement of the order by writ of execution. Otherwise, the court shall hold the matter in abeyance, dismiss the complaint, or take other appropriate action to effectuate the CARES Act or other applicable law. The Presiding Judge may enact a plan for the orderly disposition of foreclosure and eviction cases, including determining which cases if any shall receive calendaring priority. It is further

ORDERED that the Office of the Clerk of the Superior Court **SHALL RESUME** the issuance of marriage licenses and may do so remotely if available technology allows licenses to be properly issued. It is further

ORDERED that, until further order, the Office of the Clerk of the Superior Court **SHALL**

CONTINUE TO ACCEPT ELECTRONIC FILINGS BY E-MAIL pursuant to the procedure set forth in the April 23, 2020 Administrative Order of this Court. It is further

ORDERED that the following court rules **SHALL BE SUSPENDED OR MODIFIED** as indicated until further order of this Court:

1. The phrase “open court” as used in any court rule, including but not necessarily limited to Rule 43 of the Virgin Islands Rules of Civil Procedure, Rule 26 of the Virgin Islands Rules of Criminal Procedure, Rules 27 and 32 of the Virgin Islands Rules of Family Division Procedure, and Rule 16 of the Virgin Islands Rules for Probate and Fiduciary Proceedings, shall be construed so as to encompass a remote hearing.

2. The portions of Rules 26(f)(2) and 37-1(c)(2) of the Virgin Islands Rules of Civil Procedure which require or encourage in-person attendance at discovery conferences are suspended.

3. Rule 30(b)(4) of the Virgin Islands Rules of Civil Procedure, which in the absence of a stipulation requires court-approval of depositions taken by telephone or other remote means, is suspended.

4. Any deposition may be noticed to proceed technologically and remotely without a stipulation or court approval. For purposes of Rules 30 and 45 of the Virgin Islands Rules of Civil Procedure, a notice of a remote deposition or a subpoena to command attendance at a remote deposition states the “place” of the deposition if it includes the telephone number or other technological platform identification, access codes, or other pertinent information to effectuate access to the proceedings. Notaries and other persons qualified to administer an oath in the Virgin Islands may swear the deponent remotely, provided they can positively identify the deponent through the remote connection. Any writing or exhibits sought to be used at the deposition shall

be electronically exchanged no later than 24 hours prior to the deposition. The desire of a party to appear in person at a deposition or to conduct the deposition using a different technological platform is not, standing alone, sufficient grounds to quash a deposition notice.

An in-person deposition may occur only with the stipulation of all parties or an order of the court mandating an in-person deposition. A court may order an in-person deposition over the objection of a party only if it finds (1) that the deposition can be conducted in full compliance with all social distancing protocols and federal and territorial public health regulations; none of the individuals participating in the deposition is an individual vulnerable to COVID-19 as defined by either federal or local public health authorities; and (3) no individual will need to travel to the deposition by airplane or other means of transportation in which effective social distancing is not possible.

5. Rule 40.3(h) of the Virgin Islands Rules of Appellate Procedure, which requires the filing of paper copies of briefs and appendices that have been filed electronically, is suspended.

6. Any other court rule that could be construed to impede the ability of a court, judicial officer, or clerk to use available technologies to eliminate or limit in-person contact in the course of judicial proceedings, or which mandates the filing of paper documents or prohibits the filing of documents electronically, is suspended.

It is further

ORDERED that, pending further order, all individuals required to report to or check-in with the Office of Probation and Parole shall do so by telephone or other approved remote connection, without the need for an in-person appearance. It is further

ORDERED that notwithstanding any court rule to the contrary, the Virgin Islands Bar Association **MAY GRANT** discretionary waivers, exemptions, or deadline extensions to

individual attorneys with respect to payment of Bar dues and compliance with mandatory continuing legal education requirements. The Bar Association **SHALL NOTIFY** the Office of Bar Admissions of any such waiver, exemption, or deadline extension it has granted within fourteen (14) days of granting the request. If the Bar Association determines that a waiver, exemption, or extension of a particular requirement should be granted to all attorneys, it **MAY FILE** a petition with the Supreme Court to request that such relief be ordered. It is further

ORDERED that notwithstanding any court rule to the contrary, the Office of Disciplinary Counsel **MAY GRANT** discretionary waivers, exemptions, or deadline extensions to individual attorneys with respect to the filing of the Annual Registration Statement and payment of the annual assessment. The Office of Disciplinary Counsel **SHALL NOTIFY** the Office of Bar Admissions of any such waiver, exemption, or deadline extension it has granted within fourteen (14) days of granting the request. If the Office of Disciplinary Counsel determines that a waiver, exemption, or extension of a particular requirement should be granted to all attorneys, it **MAY FILE** a petition with the Supreme Court to request that such relief be ordered. It is further

ORDERED that the Administrator of Courts and the Presiding Judge are **HEREBY AUTHORIZED** to take any other action not inconsistent with this Order to ensure the health and safety of judicial officers, court staff, and the public, and to otherwise facilitate the transition to the full resumption of Judicial Branch operations. It is further

ORDERED that copies of this order be directed to the appropriate parties.

SO ORDERED this 28th day of May, 2020.


RHYS S. HODGE
Chief Justice

ATTEST:

VERONICA J. HANDY, ESQ.
Clerk of the Court

By: /s/ Jessica Grant
Deputy Clerk

Dated: May 28, 2020

Copies to:

Justices of the Supreme Court
Judges & Magistrate Judges of the Superior Court
Judges & Magistrate Judges of the District Court
The Honorable Albert Bryan, Governor of the Virgin Islands
The Honorable Novelle Francis, President, 33rd Legislature
Nesha R. Christian-Hendrickson, Esq., President, V.I. Bar Association
Hinda Carbon, Executive Director, V.I. Bar Association
Denise Counts, Esq., Attorney General of the Virgin Islands
Samuel Joseph, Esq., Chief Public Defender
Regina D. Petersen, Administrator of Courts
Veronica J. Handy, Esq., Clerk of the Supreme Court
Tamara Charles, Clerk of the Superior Court
Glenda L. Lake, Esq., Clerk of the District Court
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