

## IN THE SUPREME COURT OF THE VIRGIN ISLANDS

IN RE: ) ADMIN ORDER. No. 2021-0006  
LIMITED RESUMPTION OF IN- )  
PERSON PROCEEDINGS IN THE )  
JUDICIAL BRANCH OF THE VIRGIN )  
ISLANDS. )  
\_\_\_\_\_ )

### 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**, also on March 13, 2020, the Governor of the Virgin Islands declared a state of emergency due to the serious threat posed by COVID-19, which remains in place to this day; and

**WHEREAS**, for more than a year, the Judicial Branch of the Virgin Islands has continued to closely monitor COVID-19, and issued updated administrative orders and directives based on guidance provided by the CDC, the United States Department of Health and Human Services, the Virgin Islands Department of Health, and other public health authorities; and

**WHEREAS**, due to an increase in the number of positive cases of COVID-19 within the Territory as well as in the mainland United States following the Thanksgiving holiday, and well-publicized concern that a similar or greater increase may occur in the wake of the Christmas and New Year’s holidays due to increased travel and family gatherings, this Court, after consultation with the Administrator of Courts and the Presiding Judge, issued a December 17, 2020

administrative order which reverted the Judiciary to the “Cautious Operations” stage due to the potential for increased spread of COVID-19 during the holiday season, and directed that all Judicial Branch facilities be temporarily closed to both the public and court staff from December 20, 2020, through January 18, 2021, as a precautionary measure to ensure the safety of all judicial officers, court staff, and the public; and

**WHEREAS**, after further consultation with the Administrator of Courts and the Presiding Judge, this Court issued administrative orders on January 15, 2021, January 29, 2021, and February 26, 2021, which respectively extended the temporary limited closure through January 31, 2021, February 28, 2021, and March 31, 2021, with certain modifications to permit the gradual resumption of operations to the “Cautious Access” phase; and

**WHEREAS**, on March 19, 2021, recognizing the reduced number of COVID-19 cases in the Territory, as well as the growing percentage of Virgin Islands residents who have received the COVID-19 vaccination, this Court issued an administrative order establishing the Virgin Islands Judicial Branch Task Force on Restarting Jury Trials, and directed it to submit a report no later than April 28, 2021, which recommends when, and under what conditions, jury trials may resume in the Superior Court of the Virgin Islands; and

**WHEREAS**, after further consideration of the matter, this Court has determined that it is appropriate to extend the February 26, 2021 administrative order, but with several additional modifications to reflect the changing conditions in the Territory.

**NOW, THEREFORE, IT IS HEREBY ORDERED** that the following temporary emergency measures as to all Judicial Branch Facilities which previously went into effect at 12:00 a.m. on Sunday December 20, 2020, **SHALL BE EXTENDED, AS MODIFIED, SO AS TO REMAIN IN EFFECT THROUGH 11:59 p.m. on Friday May 14, 2021**, or until and unless

modified by further Order of the Court:

1. All Judicial Branch facilities shall be open to judicial officers, court staff, attorneys, litigants, and members of the public for the purpose of conducting official business. Unless excused for demonstrated medical reasons, **NO** individual, including court staff, shall be authorized to enter any Judicial Branch facility without wearing an appropriate face mask, submitting to a temperature check, and complying with all federal and territorial public health guidelines, as well as any other protocols adopted by the Administrator of Courts. All health and safety protocols previously adopted shall continue to remain in effect until and unless modified by the Administrator of Courts.
2. All judicial officers and court staff are strongly encouraged to continue to perform all work remotely to the greatest extent possible. The Administrator of Courts, in consultation with the Chief Justice, the Presiding Judge, Clerks of Courts and senior staff, may designate appropriate employees to work from a Judicial Branch facility to the extent necessary to ensure that the facility may operate at a level consistent with this order.
3. Unless ordered otherwise by the presiding judicial officer, all scheduled remote hearings shall occur remotely as scheduled. With the approval of the Presiding Judge or the Administrative Judge, the judges and magistrate judges of the Superior Court may schedule for an in-person hearing all matters other than criminal and civil jury trials and criminal non-jury trials, provided that the proceeding can be conducted in accordance with all pertinent health and safety orders, protocols, and administrative directives, including room capacity limits and social distancing. 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 or congregating in the buildings.

All Superior Court matters which the Presiding Judge or the Administrative Judge have not approved for an in-person hearing shall be heard remotely, except jury trials and other matters which are impractical to hold remotely. 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. Any delays in the hearing of matters attributable to the COVID-19 emergency shall not be attributed to any party for purposes of determining unnecessary delay under Rule 48 of the Virgin Islands Rules of Criminal Procedure, the Speedy Trial Clause of the United States Constitution, or other authorities.

4. The Office of the Clerk of the Supreme Court and the Office of the Clerk of the Superior Court, as well as the Office of Bar Admissions and the Office of Disciplinary Counsel, shall remain open for the acceptance of filings. The Supreme Court and the Superior Court will continue to accept electronic filings and payments through the Virgin Islands Judiciary Electronic Filing System (VIJEFS) in all eligible cases. Any filings which cannot be made through the VIJEFS may be deposited into the drop boxes located at the exterior of the entrance at all Supreme Court and Superior Court buildings or mailed to the appropriate court. Any payments which cannot be made online may also be made by certified check or money orders deposited into the drop boxes or submitted in-person or through the mail. Each Clerk's Office shall maintain staff schedules to ensure prompt processing of electronic and conventional filings and payments, and to

otherwise support court operations.

5. The Superior Court shall continue to hold in-person marriage ceremonies performed by a judge or magistrate judge of the Superior Court. Such ceremonies shall comply with all federal and territorial public health guidelines, as well as any other protocols adopted by the Administrator of Courts, including, but not necessarily limited to, room capacity limits, social distancing, and the wearing of appropriate face masks. Judicial officers and court clerks shall schedule marriage ceremonies on a staggered basis, shall adhere strictly to the allotted time, and shall take all other measures to minimize the number of individuals waiting in court or congregating in the buildings.
6. The Superior Court, upon the authorization of the Presiding Judge, may resume full or partial consideration of all foreclosure and eviction matters to the extent not prohibited by federal or territorial law. If such authorization is granted, in all cases in which a defendant believes that the foreclosure or eviction is prohibited by federal or territorial law, including but not limited to Public Law 116-136 (the “CARES Act”), Public Law 117-2 (the “American Rescue Plan Act”), CDC orders or regulations issued pursuant to the Public Health Service Act (42 U.S.C. § 264), or executive order of the Governor, the defendant shall affirmatively plead such a defense or otherwise provide notice to the court and the plaintiff of their entitlement to such assistance and protection at the earliest opportunity. The plaintiff may respond to such pleading or 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 federal or territorial law, it 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 applicable federal or territorial law. The court shall not have the affirmative obligation to *sua sponte* determine if federal or territorial law warrants a stay of the proceeding if the issue has not been raised by any of the parties. 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.

7. The Supreme Court of the Virgin Islands, with the approval of the Chief Justice of the Virgin Islands, may in its discretion hold in-person oral arguments and bar admissions ceremonies, provided that the proceeding can be conducted in accordance with all pertinent health and safety orders, protocols, and administrative directives, including room capacity limits and social distancing. All Supreme Court matters which have not been approved for an in-person argument or ceremony shall continue to be heard remotely.
8. The Board on Professional Responsibility, the Commission on Judicial Conduct, the Board on the Unauthorized Practice of Law, the Committee of Bar Examiners, and the Office of Disciplinary Counsel may, in their discretion, hold any hearing and other meeting in-person, provided, however, that if the hearing or meeting is to occur at a Judicial Branch facility, the entity must receive the prior approval of the Administrator of Courts and conduct the proceeding in accordance with all pertinent health and safety orders, protocols, and administrative directives, including room capacity limits and social distancing. Notwithstanding this authorization, a remote hearing must be held

in lieu of an in-person hearing if an entity member, 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.

It is further

**ORDERED** that litigants, attorneys, and the public are **ADVISED** that all filing and other deadlines **SHALL REMAIN IN EFFECT**, and are not automatically suspended, tolled, or extended by virtue of this order. Any individual whose personal circumstances require an extension of time or other accommodation is urged to file an appropriate motion with the court, which shall be liberally granted. It is further

**ORDERED** that all orders, protocols, and administrative directives issued by the Presiding Judge and the Administrator of Courts **SHALL REMAIN IN EFFECT** to the extent they are not inconsistent with this Order. It is further

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

**SO ORDERED** this 30th day of March, 2021.

/s/ Rhys S. Hodge  
**RHYS S. HODGE**  
Chief Justice

**ATTEST:**

**VERONICA J. HANDY, ESQ.**  
Clerk of the Court

By: \_\_\_\_\_  
Deputy Clerk

Dated: \_\_\_\_\_

**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 Donna Frett-Gregory, President, 34th Legislature  
Charlotte Perrell, 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  
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