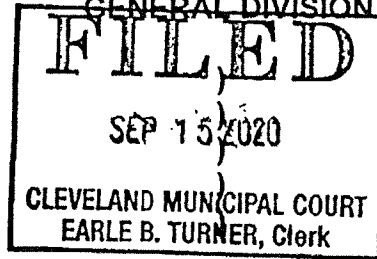


IN THE CLEVELAND MUNICIPAL COURT

GENERAL DIVISION



STATE OF OHIO
CUYAHOGA COUNTY

ADMINISTRATIVE ORDER
NO. 2020-008

IN RE: SUPPLEMENTAL JUDICIAL EMERGENCY ORDER

The Judges of the Cleveland Municipal Court – General Division make the following findings of fact:

1. On April 27, 2020, Governor Mike DeWine and Lt. Governor John Husted announced the Responsible Restart Ohio Plan which protects the health of employees, customers and their families; supports community efforts to control the spread of the virus; and responsibly gets Ohio back to work; and
2. The Director of the Ohio Department of Health, Dr. Amy Acton, signed the Director's Order that Reopens Businesses, with Exceptions, and Continues a Stay Health and Safe at Home Order; and
3. The Ohio Public Advisory System was created to supplement existing statewide orders through data-driven framework to assess the degree of the virus' spread and to engage and empower individuals, businesses, communities, local governments and others in their response and actions; and
4. It is necessary to continue Court operations in a safe manner for the Court's employees and the individuals who utilize the Court; and
5. The need exists to extend the Amended Order Declaring Judicial Emergency and Outlining Court Operations during the COVID-19 Pandemic dated April 9, 2020 and Order Extending Judicial Emergency and Continuity of Operations due to COVID-19 Pandemic dated June 6, 2020; and
6. Jury trials present a unique challenge during the COVID-19 Pandemic. The Court recognizes that jury selection in this jurisdiction involves a jury venire which may consist of individuals in the categories identified by the Center for Disease Control and Prevention as being particularly at risk, individuals involved in essential public functions, and individuals responsible for children unable to attend school or daycare due to the pandemic; and
7. Based on the recommendations from the Cuyahoga County Board of Health, it will be a challenge to conduct jury trials while taking the necessary precautions to reduce the possibility of exposure to COVID-19; and
8. The Cleveland Municipal Court is in the same complex as the Cuyahoga County Court of Common Pleas, General Division, hereinafter "Common Pleas Court". All jurors are summoned by the Common Pleas Court. Consideration regarding building capacity

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and cooperation with the jury calendar of the Common Pleas Court must be considered in scheduling jury trials.

Based upon these findings of fact, the Cleveland Municipal Court - General Division issues the orders, which are intended to protect public health, to maintain essential court functions and to continue to protect the rights of all individuals subject to the authority of this Court. These orders will remain in effect until such time as the response to the COVID-19 health crisis has resulted in the control of the spread of the disease or until further order of the Court.

9. This Order incorporates the prior Order, Amended Order Declaring Judicial Emergency and Outlining Court Operations during the COVID-19 Pandemic dated April 9, 2020 and Order Extending Judicial Emergency and Continuity of Operations due to COVID-19 Pandemic dated June 6, 2020, herein by reference. Where there is any discrepancy, this order supersedes those orders and is effective until further order of this Court.

THEREFORE, IT IS HEREBY ORDERED:

1. The local rules of Court for the General Division may be temporarily adapted to allow Court flexibility, within constitutional limits, in response to the public health emergency.
2. The Court's security policies may be temporarily amended or supplemented to protect public health while maintaining essential Court functions.
3. The Court's Personnel Policies and Procedures Handbook and other usual and customary human resource provisions may be temporarily adjusted to maintain essential court operations and functions.
4. The Court authorizes the use of audio-visual devices and technologies for all actions and proceedings including interpreter services.
5. The Court will have the lawful authority, within constitutional limits, to do and direct to be done all things necessary to ensure the orderly and efficient administration of justice for the duration of the declared public health emergency.
6. The following measures will be taken to reduce the community spread of COVID-19:
 - a. Personal Care:
 - i. All persons entering the Justice Center must wear a mask covering both their nose and mouth at all times except when they are alone in their designated work areas;
 - ii. Staff shall maintain the recommended 6 foot distance from others, to the extent possible, while in the building;
 - iii. It is recommended that all staff wash their hands at least once per hour during the work day;
 - iv. Sanitizing wipes or hand sanitizer will be provided in high-traffic areas for staff and public use;
 - v. Health screening will continue at each Justice Center entrance which is open for employee or public use;
 - vi. Any Court employee who exhibits signs of illness must notify his/her direct supervisor by telephone or email and shall not come into the Justice Center or report for duty. Any individual within the Justice Center who

exhibits signs of illness are directed to leave the building immediately and seek medical advice before being permitted to re-enter the building. Employees are required to notify his/her direct supervisor by telephone or email before leaving the building.

- a. Building Care:
 - i. All high-traffic areas will be thoroughly disinfected on a daily basis;
 - ii. All high-touch areas will be thoroughly disinfected several times per day;
 - iii. Courtrooms will be sanitized during the day and thoroughly cleaned in the evening;

7. All persons entering the Justice Center will be required to state their business in the building, and will be directed to the appropriate location.
 - a. Individuals accessing floors 1 through 4 will be directed to use the escalators. For those individuals who need ADA accommodation, the lower level elevators may be used;
 - b. Elevators will be limited to two occupants;
 - c. Due to social distancing requirements, courtroom occupancy will be limited to the number of people that permits the observance of the physical distance of six feet for everyone in the courtroom.
 - d. All persons accessing any floor after the 1st floor will be required to sign in at the security desk on the floor of their courtroom so that a record is maintained for contact tracing purposes.

8. Arraignment Docket:
 - a. Jail arraignments: The Court will continue to hold arraignments via videoconference in Courtroom 3D. As the Cuyahoga county jail has several confirmed cases of COVID-19, it is necessary for the Court staff to eliminate, when possible, all in-person contact with defendants in custody to protect the staff and the defendants. All documentation that warrants the signature of anyone in custody will be signed by the Public Defender/Private Attorney representing the Defendant with the Defendant's consent. The Defendant's consent to an attorney signing on his/her behalf must be obtained on the record in open court (via video conferencing).
 - b. Bail arraignments: Individuals with non-violent offenses are encouraged to utilize the Not Guilty Waiver Form found on the Court's website. Bail arraignments will be set on a staggered time schedule according to the agency issuing the citation/complaint.

9. Criminal Docket: The Judges will continue limited operations in the Justice Center using the following rotation for cases assigned to his/her criminal docket. Limited operations contemplate that, until further notice, case management and hearings of criminal dockets will be conducted remotely in a manner determined by the assigned judge. When represented by counsel, the defendant's presence is waived at all pretrial hearings. A disposition docket for criminal cases may be conducted remotely. In-person dispositions and other required in-person hearings will be conducted in the courtroom on the assigned rotation schedule:
 - a. All "A" Courtrooms will operate on Mondays;
 - b. All "B" Courtrooms will operate on Tuesdays;
 - c. All "C" Courtrooms will operate on Wednesdays;
 - d. All "D" Courtrooms will operate on Thursdays;

- e. On Fridays, the judges on each floor will work by agreement to choose one operational courtroom per floor, if necessary;
 - f. The court will set all pretrial hearings with counsel (when the defendant is represented) or with defendant, by remote access as determined by the court;
 - g. All first pretrials scheduled by Central Scheduling and cases rescheduled at the Cleveland Clerk of Court's front counter shall be set for a remote hearing;
 - h. Appearance by criminal defendants will only be required when it is necessary to conduct an on-the-record hearing. The court will determine whether an on-the-record appearance be in-person in the courtroom or remote with the consent of all parties;
 - i. Bench trials will be conducted using proper safety protocols;
 - j. No criminal jury trials will be held until November 15, 2020.
10. Criminal Jury Trials:
- a. To accommodate trials and public health recommendations regarding trials, the period of the continuances implemented by this Order are excluded under O.R.C. 2945.72 and Ohio Constitution I, Sec. 10. The Court specifically finds that the ends of justice and safety served by ordering the continuances outweighs the interest of the public and any defendant's right to a speedy trial.
 - b. Further, this Court finds that a continuance of trial which supersedes a defendant's speedy trial right is hereby considered permissible in the Cleveland Municipal Court under the Ohio Constitution and O.R.C. 2945.72(H) as a "reasonable continuance granted other than upon the accused's own motion," due to the current pandemic levels.
 - c. Due to these emergency circumstances and based upon the foregoing reasons, the Court may reset trials from time to time on its own motion.
 - d. Any continuance of a jury trial will be docketed with the COVID-19 Trial Continuance Order, as follows:

"The trial of this matter is continued to a future date. This continuance is required for the administration of justice. Due to the continued risk of community spread of the COVID-19 virus, and in order to maintain the safety of the public, Court employees, litigants, attorneys, and others whose business is at the Cleveland Municipal Court, the Court, by Supplemental Judicial Emergency Order dated September 15, 2020, has limited its operations and set parameters for the selection of cases for jury trials. The Supplemental Judicial Emergency Order is intended to allow the Court to safely and responsibly continue operations. The Court has considered reasonable alternatives to conducting jury trials in areas other than the courthouse. However, the serious threat to the public health is good cause to continue this jury trial. Cases of COVID-19 continue to remain at high levels, placing Cuyahoga County in the Public Alert Level of Yellow. Further, on July 13, 2020, Chief Justice Maureen O'Connor provided guidance to the courts and stated, "We must be cautious about who we require to appear, and we should require in-person appearance only in cases with immediate need. We must remember those vulnerable populations and their risk to appear." This order considers both the Defendant's statutory and constitutional rights to a speedy jury trial, and determines that a continuance of trial which supersedes a defendant's speedy trial right is hereby considered permissible by the Cleveland Municipal Court under the Ohio Constitution and O.R.C. 2945.72 (H) as a "reasonable continuance granted other than upon the accused's own motion." Based upon the foregoing, and for good cause shown, I) if a trial date has been journalized, the time between the journalized trial date through the day before the next

scheduled trial date will not be counted when calculating defendant's speedy trial time, or 2) if a trial date has not previously been journalized, the time between the date of the last journalized pre-trial, including a video-conferenced or telephonic pre-trial, or any other pre-trial hearing through the day before the next scheduled trial date will not be counted when calculating defendant's speedy trial time."

11. Summons: To the extent possible, no summons should be issued with less than a 21 day court date notice based on limited staffing in the Cleveland Clerk of Court due to the pandemic and the delay in the United States Postal mail delivery. This increased time is necessary to provide adequate notice to the defendant and to avoid wrongful issuance of warrants for defendant's failure to appear. The additional time allotted for summons to be issued shall toll speedy trial time as the Court specifically finds that the ends of justice served by permitting more time to summons the defendant to protect their Due Process rights outweighs the interest of the public and any defendant's right to a speedy trial pursuant to ORC 2945.72(H).

12. Civil Dockets: The Judges will continue limited operations in the Justice Center using the above courtroom rotation for cases assigned to his/her civil docket. Limited operations contemplate that, until further notice, all events in civil cases will be held using remote technology.

- a. The rotation identified above will determine which judge is utilizing their courtroom on any given day. Any civil matter that must be conducted in-person, will be scheduled on the judge's designated day only;
- b. Because of the unique challenges jury trials present, no civil jury trials will be held until November 15, 2020.

13. Media requests: Media requests will be accommodated to the best of the Court's abilities balancing the public's right and the safety of the individuals required to be in the courtroom. When courtroom capacity is limited (by number of individuals in the courtroom or social distancing requirements), the court will accommodate media requests by permitting unmanned audio/visual equipment to be placed in the courtroom.

14. Garnishment filings and processing will continue.

15. Weddings: Weddings may be conducted via Zoom to limit the community spread of COVID-19. Weddings via Zoom will be set up with the Judge assigned to do weddings that week. The Zoom weddings will be scheduled in 15 minute intervals. The couple must connect via Zoom during their designated time slot. Parties may request a courthouse wedding. In-person courthouse weddings will take place on Fridays only, to be mindful of building capacity limitations. Individuals wishing to get married will be given a date and time slot for their ceremony. Courthouse wedding parties will be limited to the two individuals getting married and two witnesses. Additionally, the wedding party must arrive within their assigned time slot.

16. Each department, in accordance with the directives of their department head and/or supervisor, may continue to do the following: work remotely when possible in accordance with the Court's telework policy, continue a rotation of staff when possible, or stagger employee arrival time to minimize congestion in the Justice Center.

17. The effect of this order is retroactive to August 27, 2020, and shall remain in effect until further order of the Court.

18. This order shall be provided to the Supreme Court of Ohio, Ohio Judicial Conference, Cleveland Municipal Clerk of Courts, Cleveland Metropolitan Bar Association, Cleveland Mayor Frank Jackson, Cleveland City Council, Cuyahoga County Prosecutor's Office, Cuyahoga County Public Defender's Office, Cuyahoga County Criminal Defense Lawyers Association, Cuyahoga County Sheriff, Cuyahoga County Board of Health, Cuyahoga County Executive, the website of this Court, and distributed to the media.

IT IS SO ORDERED.

CLEVELAND MUNICIPAL COURT - GENERAL DIVISION

September 15, 2020
DATE

Michelle D. Earley
JUDGE MICHELLE D. EARLEY
ADMINISTRATIVE & PRESIDING JUDGE