

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

COUNTY OF BUNCOMBE

IN THE MATTER OF THE OPERATION
OF THE SUPERIOR COURT DIVISION
IN JUDICIAL DISTRICT 28

ORDER CONCERNING COURT
OPERATIONS FOR THE
April 6th through May 25, 2020
CIVIL SESSIONS

This matter comes on before Alan Z. Thornburg, Senior Resident Superior Court Judge, in the exercise of the Court's in chambers jurisdiction. The undersigned judge makes the following order subject to an order previously entered by Chief Justice Cheri Beasley of the Supreme Court of North Carolina.

1. On March 13, 2020, Chief Justice Cheri Beasley entered an order pursuant to N. C. Gen. Stat. 7A-39(b)(2) determining that catastrophic conditions resulting from a public health threat posed by COVID-19 exist in all counties of this state. That order was updated pursuant to an order issued by the Chief Justice dated March 19, 2020, further extending deadlines.
2. On March 27, 2020, Governor Roy Cooper issued Executive Order 121 directing all individuals in the state to stay in their place of residence subject to limited exceptions. North Carolina's courts are a critical government function and are therefore exempt from the order. Nevertheless, the courts are directed, to the extent practicable, to maintain social distancing requirements, including "facilitating online or remote access by customers if possible."
3. Pursuant to the Chief Justice's most recently updated order of April 3, 2020, all superior court proceedings shall be scheduled or rescheduled for a date no sooner than June 1, 2020.
4. The Chief Justice's original order of March 13, 2020, order of March 19, 2020, and order of April 3, 2020, (collectively "orders") permit proceedings to be held when "the proceeding will be conducted remotely." Emergency Directive 1, Exception 1.
5. The Chief Justice's orders permit proceedings when "the proceeding is necessary to preserve the right of due process of law." Emergency Directive 1, Exception 2.
6. The Chief Justice's orders permit proceedings when "the proceeding is for the purpose of obtaining emergency relief." Emergency Directive 1, Exception 3.
7. Finally, the Chief Justice's orders permit proceedings when the Senior Resident Superior Court Judge "determines that the proceeding can be conducted under conditions that protect the health and safety of all participants." Emergency Directive 1, Exception 4.
8. Chief Justice Beasley further ordered the Clerk of Superior Court to post notices on the doors at all courthouse entrances directing persons who have likely been exposed to COVID-19 not to enter the courthouse.

Pursuant to the provisions of the orders entered by Chief Justice Cheri Beasley, it is hereby ordered for the purposes of the April 6, April 13, April 20, April 27, May 4, May 11, May 18, and May 25, 2020, Civil Calendars in Buncombe County that:

1. All trials will be continued to a future date no sooner than June 1, 2020, to be determined by counsel for the parties and the Trial Court Coordinator Marc Shimberg.
2. No calendar call will be held for these sessions of court.
3. All motions on the calendars will be heard either by conference call or remotely where consented to by all parties. If the parties request that the remote proceedings be recorded, the presiding judge and clerk will be present in District Court 1A courtroom (or equally equipped courtroom) and approved courtroom recording equipment will be utilized. Mr. Shimberg will contact the parties to make the necessary arrangements for scheduling these hearings. In accordance with Section 18 of Article I of the Constitution of North Carolina these proceedings are open to the public. Any individual interested in accessing the proceedings may do so by contacting the Trial Court Administrator for a link to the proceedings.
4. If the parties cannot agree to having the matter heard by conference call or remotely, the matter will be rescheduled by the Trial Court Administrator or, if the presiding judge believes that the matter can be heard safely utilizing social distancing and the calendaring of only one motion at a particular time period, the matter may be heard at the originally-scheduled time. Any individuals in the courtroom shall maintain appropriate social distancing (at least six feet apart).
5. Hand sanitizer, sanitizing wipes and gloves will be provided in the courtroom and shall be utilized by all individuals handling documents.
6. Any party or attorney who is expressing symptoms of the coronavirus or believes that he/she has been exposed to COVID-19, shall contact Marc Shimberg for further instructions.
7. No individual who has been exposed to COVID-19, is otherwise banned from the courthouse by virtue of Chief Justice Beasley's order or is expressing symptoms consistent with the Coronavirus shall be required to be present in court and shall not enter the courthouse.
8. Nothing in this Order conflicts with or is inconsistent with the Buncombe County "Declaration of a Local State of Emergency Stay Home – Stay Safe" effective March 26, 2020, as this order is consistent with the operations of the state courts as an essential government function pursuant to Article I, Section 18 of the North Carolina Constitution.
9. Nothing in this order conflicts with or is inconsistent with Governor Roy Cooper's Executive Order 121.

This the 3rd day of April, 2020.

Alan Z. Thornburg
Senior Resident Superior Court Judge