

To: Counsel and parties in civil cases pending in Hennepin County District Court
From: Laurie J. Miller, Presiding Judge, Civil Division
Re: Update on partial suspension of Civil Division court operations due to COVID-19
Dated: June 1, 2020

Introduction:

The Chief Justice's May 15, 2020 Order allows for a "planned, methodical, and gradual" approach to increasing in-person proceedings. Currently, it predicts a September 1, 2020 date for resuming civil jury trials, although that date is not certain. Because resuming in-person proceedings in high-priority criminal cases will take precedence over civil cases, the Fourth District's Civil Division will continue to manage pretrial motions and case conferences remotely, to the greatest extent feasible, while beginning to allow for limited appearances of parties in court on a case-by-case basis. Any in-person appearances should be scheduled to avoid times when many people are arriving for morning or afternoon criminal calendars.

This plan addresses how different types of civil proceedings will proceed during the present transitional period.

Civil Jury Trials:

Civil jury trials are suspended until September 1, 2020, in accordance with the May 15, 2020 Order of Chief Justice Gildea. Each judge will reschedule to a later date all civil jury trials currently scheduled to begin before September 1, 2020.

Pending and Future Motion Hearings and Telephonic Conferences:

1. Informal Telephone Conferences. Each judge may continue to hold informal telephone conferences to address scheduling, discovery, and other non-dispositive issues. The judge may request counsel to initiate the telephone conference. *See* Minn. Gen. R. Prac. 115.09. Informal telephone conferences are not on the court record.

2. Motion Hearings. The Court anticipates that either remote oral argument or no oral argument will continue to be the presumptive means to address motions through the end of August 2020. The means of submission will be for each judge to decide, in consultation with the parties.

a. Parties may contact the judge's clerk to schedule a hearing date. If no remote oral argument is going to be scheduled, the hearing date will establish briefing deadlines and the date when the matter will be taken under advisement.

b. If a remote oral argument is to be scheduled, the Court may provide for appearance by telephone, Zoom, Skype, or other means that are accessible to all parties.

c. If the parties have a specific reason for requesting an in-person appearance at a motion hearing, they may present their request to the judge, who has discretion to grant or deny the request. In general, if a remote proceeding is feasible, a request for an in-person appearance should not be granted.

3. Default Motions or Motions/Petitions with Non-Appearing or Unrepresented Party: Judges may begin to schedule hearings on these types of motions for dates after June 1, 2020, under conditions that provide for remote appearance by the moving parties, and allow the responding parties to appear by whatever means may be feasible for them. Judges should consider that pro se parties may not have access to technology to appear remotely, through means as Zoom or Skype. The moving party will be required to provide additional notice to the other parties regarding how the court has determined that they may appear at the hearing, either by remote means or in person.

In-Person Appearances, Evidentiary Hearings, Court Trials

1. Emergency Hearings: In-person hearings will continue to be permitted at the courthouse for housing/eviction matters when there is a showing of individual or public health or safety at risk, and for garnishment exemption hearings requested under Minn. Stat. § 571.914, subd. 1 (2018). For other emergency matters, including temporary restraining order hearings and temporary injunction hearings, the Court will consider whether an emergency exists and whether remote or in-person participation for these hearings is appropriate on a case-by-case basis.

2. Name Changes: Judges may schedule name change hearings to occur remotely, by Zoom, Skype, or other means accessible to the name change applicant and witnesses that will allow for video presentation of sworn testimony. Arrangements must be made for copies of required documents to be submitted in advance of the hearing. If a name change applicant has no access to the technology required to allow a remote video appearance, the judge may schedule the hearing to occur in person, but should avoid overlapping with common criminal calendar times.

3. Implied Consent Hearings: Discussions are underway with representatives of the Attorney General and the private criminal defense bar to outline a timeline and process that will permit the resumption of implied consent hearing calendars remotely, to the extent feasible, including possible evidentiary hearings via Zoom or other remote technology.

4. Court Trials and Other Evidentiary Hearings:

Court trials and other non-emergency evidentiary hearings may be scheduled for remote court appearances through use of technology such as Zoom, Skype, telephone or other means where all parties and all witnesses are able to appear remotely and to present evidence effectively through remote means. In cases where one or more parties or witnesses have no access to the technology required to allow a remote appearance, the judge may allow such parties or witnesses to appear in person in a proceeding that is otherwise conducted by remote means.

In recognition of the value of in-person evidentiary hearings and the Chief Justice's expressed intent to increase in-person hearings during this transition period, resuming court trials during this transition period will be addressed on a case-by-case basis, taking into account the number of parties and witnesses and whether they can be accommodated safely and in compliance with all COVID-related health and safety protocols, and access to courtroom facilities given the precedence of criminal jury trials.

5. Housing Court:

Until the peacetime emergency is lifted, Housing Court will hold in-person hearings only when there is a showing of individual or public health, or safety, at risk. Matters considered high priority for a hearing include: Emergency Tenant Remedy Actions, Lockout Petitions, and Expedited Eviction Requests. Hearings will be held remotely, by Zoom or telephone, whenever possible. Remote trials are preferred. All hearings will be scheduled at individual times, with a limited number of initial appearances per calendar and with hearing times staggered to limit the number of people in the courtroom at any given time. Housing Court will continue to handle expungement requests administratively. When the peacetime emergency is lifted, Housing Court will schedule and hold hearings as follows:

- a. Previously scheduled trials and initial appearances.
- b. Newly filed initial appearances on cases not subject to the CARES Act.
- c. Trials on newly filed cases.

6. Harassment Cases:

Harassment Restraining Order hearings continue to be held if public or safety concerns are paramount. Non-emergency cases requiring hearings will not resume until the peacetime emergency is lifted. At that point, the option for remote hearings will be offered, and hearings will be scheduled at individual times, with a limited number of initial appearances per calendar, and with hearing times staggered to limit the number of people in the courtroom at any given time.

7. Conciliation Court Hearings:

Conciliation Court calendars will resume with a pilot of remote hearings in June. We will gradually add additional calendars with remote appearance options. The number of cases scheduled each hour will be limited, to keep the numbers of in-person appearances low enough to allow social distance to be maintained in the courtroom.

Miscellaneous

1. Email Preferred. Please contact the judge's clerks to address scheduling. Email is preferred. The judge's clerks will continue to work primarily from home, to the extent feasible.
2. Courtesy Copies. DO NOT deliver any papers to a judge's chambers without first confirming that someone will be there to receive them. If you have been requested by a judge to send hard copies of documents for motions, please check with the judge's clerks to confirm that someone will be present to receive documents before sending them to be delivered.
3. Unavailability: If, due to the COVID-19 pandemic and related closures, an attorney or party is unable to meet briefing deadlines for submission of a scheduled motion, the judges will consider suspending or rescheduling motions, depending on individual circumstances.
4. Scheduling Orders: The Court will continue to be liberal in entertaining requests to extend scheduling orders, briefing deadlines, or motion scheduling, depending on individual circumstances and constraints resulting from the COVID-19 pandemic.

We are committed to safeguarding the safety of court users and personnel, while making our best efforts to move civil matters forward, within the parameters permitted by Chief Justice Gildea's orders. The situation we all face is fluid and subject to change. Like all of you, the Court and its personnel may be affected by closures or the spread of the virus. For general information about the Court's response to the pandemic, please refer to our COVID-19 Information Guide on the Fourth Judicial Court website for the most current version of the document, available via this link:

http://www.mncourts.gov/mncourtsgov/media/fourth_district/documents/4thDist-COVID-19-Info-Guide.pdf

We hope that parties and counsel exercise patience with any delays encountered in responses to their inquiries to the Court.