

28TH JUDICIAL DISTRICT

MAY 21, 2020 ADMINISTRATIVE ORDER

FOR PROCEEDINGS DURING KENTUCKY COURT OF JUSTICE

COVID-19 EMERGENCY RESPONSE

Pursuant to the 2020-39 Administrative Order of the Supreme Court of Kentucky, the 28th Judicial District adopts the following Order for all Court proceedings in Pulaski & Rockcastle District Courts for the applicable period of from June 1, 2020, until modified, amended, or rescinded (the “applicable period”):

1. Remote Attendance; Illness or High-Risk Persons

Any party so requesting shall be entitled to participate remotely in all hearings or at the Trial of the matter. Individuals who fall into a high-risk category as set forth in Supreme Court Order 2020-39 shall be allowed to participate in any proceeding remotely, by video conference or telephonically. Such requests shall be transmitted to the Clerk by email or in writing, providing the person’s name, case number, date and time of hearing, and contact information (including email address and telephone number). The Court will initiate contact to such persons prior to the hearing. Per Supreme Court Order 2020-39, any proceeding requiring the remote attendance of a party or his or her counsel shall have the same effect as if requiring attendance in person, and failure to appear remotely as ordered by the Court may be grounds for sanctions.

2. Criminal & Traffic Divisions

The Court hereby determines that, unless otherwise directed herein, or if requested by a Defendant or their counsel or by the Commonwealth, proceedings in the Criminal and Traffic Divisions require in-person attendance. Monday and Wednesday Traffic and Criminal Division dockets shall be divided into sections, alphabetically by the first letter of the defendants’ last names. For all matters currently scheduled or noticed for hearing, the Clerk shall send Court Notices to all Parties and any persons under subpoena issued in such cases, advising of the following times for such matters:

For Pulaski District Court:

A-F 9:00 a.m. G-L 11:00 a.m. M-R 1:00 p.m. S-Z 3:00 p.m.

For Rockcastle District Court:

A-L 9:30 a.m. M-Z 1:00 p.m.

Court Security shall deny admission into the respective Judicial Center to any defendant who appears at a time or for a section other than the defendant’s appointed time. Per Supreme Court Order 2020-39, at no time shall the number of persons in the respective

District Courtroom exceed 33% of the Courtroom's occupancy capacity. Should the number of persons whose presence is required or who may have cases scheduled during the section exceed 33% of the Courtroom's occupancy capacity, Court Security shall allow admission into the Judicial Center as soon as permitted, or as may be directed by the presiding Judge.

For all persons who are subsequently cited by law enforcement to appear remotely for hearing or arraignment, the citing officer shall advise such persons by citation, at the time of its issuance, of the date and time of the Court hearing, per the above alphabetical sections.

3. Civil Division

All Civil Division proceedings shall be conducted remotely unless the Court determines an in-person hearing is necessary.

For all civil complaints, counterclaims, and motions filed after the date of this Order, the filing party shall, at the time of filing, furnish the Clerk with the contact information (including email address) for such party or counsel, to enable the party or counsel to attend a hearing or trial remotely. The party may use the form, provided by the Clerk, for so doing. The Clerk shall advise as to the procedure for remote participation at the hearings and trial of the matter.

For all motions (other than forcible detainer proceedings), in which a hearing has been scheduled or noticed, the Clerk shall mail and furnish to any party whose contact information has not been previously provided, a form to provide the party's contact information, including a telephone number and email address, so that the party may remotely participate in any hearing. The Clerk shall record the date of mailing or hand delivery of the form, and the form shall be returned to the Court at least 72 hours prior to the scheduled hearing. The Clerk shall advise as to the procedure for remote participation at hearings.

The Clerk is directed to attach to any summons issued in Civil Division cases, a form requesting contact and access information for the party being served, and advising such persons of the procedure for remote participation. The failure of a person to return the form to the Clerk may constitute a waiver of attendance at future hearings.

4. Admittance to Courtrooms

Per Supreme Court Order 2020-39, entrance to court facilities and the District Courtroom is limited to attorneys, parties, witnesses, and persons ordered by the judge to appear at in-person hearings. Access to view any courtroom proceeding that is not otherwise confidential shall be provided by the Clerk to any requesting member of the public and media, by live audio or video or digital recording.

5. In-custody defendants.

The arraignments and preliminary hearings of in-custody defendants will take place by video conferencing, **per the alphabetical sections and times set forth in Paragraph 1 above**. Counsel wishing to enter an appearance in such matters should contact the Clerk or Judge's office at the earliest opportunity, for arrangements to be made for said counsel to join by video conferencing. Counsel is encouraged to arrange for a workable location at which testimony of witnesses may be introduced electronically and are encouraged to test the technology prior to the hearing.

6. Show Cause and fine reviews.

All cases and matters scheduled through October 31, 2020, for review of payment or contempt for nonpayment of fines and court costs are rescheduled and shall be continued for hearing as follows:

Pulaski District Court:

Division I:

November 17, 2020. The Clerk shall evenly divide the docket into 8 or more sections, the same to be noticed at 15-minute intervals beginning at 1:00 p.m.

Division II

December 7, 2020 and December 14, 2020, at 9:00 a.m.

Rockcastle District Court:

Division I: December 7, 2020. The Clerk shall evenly divide the docket into 4 sections, the same to be noticed at 15-minute intervals beginning at 1:00 p.m. that date.

Division II: November 9 and November 16, 2020, at 9:30 a.m.

The Clerk shall send Court Notice advising all parties of their respective dates and times.

7. Juvenile.

All Juvenile matters and hearings shall be conducted remotely. Should a party or counsel request an in-person hearing, a motion shall be filed with the Court, setting forth the grounds for same and the reasons supporting such request.

8. Emergency Guardianship and Conservatorship.

Such hearings shall be conducted remotely. Petitions filed in Pulaski District Court shall be scheduled by the Clerk for hearing on the Mental Health Division Docket (Tuesday and Thursday at 1:30 p.m., or as may be otherwise assigned by the Court). Petitions filed in Rockcastle District Court shall be assigned for hearing by the Court on a case-by-case basis. Petitioners, at the time of filing, shall provide the clerk with a telephone number and email address, to enable the parties and counsel to participate remotely by video conferencing or telephone.

9. Probate.

All Probate Division proceedings shall be conducted remotely unless the Court determines an in-person hearing is necessary. In cases in which the appointment of fiduciaries or for the dispensation of administration is sought, such petitions may be filed with the Clerk for submission to the Court without hearing. In matters in which a hearing may be waived, in addition to the petition, parties shall include, when appointment is sought, an executed fiduciary bond, an oath of office, and all necessary waivers.

Any Probate Division matters which were scheduled for hearing prior to June 1, 2020, shall be re-noticed for hearing by the moving party or by the attorney of record. For all petitions and motions filed after the date of this Order, the petitioner or movant, at the time of filing, shall, to the extent possible, provide the clerk with a telephone number and email address for all parties and persons entitled to notice, so that all persons and counsel may participate remotely by video conferencing or telephone. The Clerk is directed to review all petitions filed after the date of this Order, and mail to all persons entitled to notice, a form prepared by the Court, requesting contact and access information, and advising such persons of the procedure for remote participation. The failure of a person to return the form to the Clerk may constitute a waiver of attendance at future hearings.

For all cases in which an in-person hearing has been approved or ordered by the Court, the Clerk shall assign such cases in ten (10) minute intervals on the docket, and inform the parties and persons entitled to notice of the appointed time(s).

10. Small Claims.

For all Small Claims complaints, counterclaims, and motions filed after the date of this Order, the Clerk shall furnish the filing party with a form, to be completed by the party at the time of the filing of the complaint or motion, which requests the party's contact information, including a telephone number and email address. The form shall also advise as to the procedure for remote participation at hearings and the trial of the matter.

The Clerk is directed to attach to any summons issued in Small Claims cases, a form requesting contact and access information for the party being served and advising such persons of the procedure for remote participation. The failure of a person to return the form to the Clerk may constitute a waiver of attendance at future hearings.

If the Court so directs, a pretrial settlement conference may be ordered in a Small Claims matter, with remote or in-person attendance and participation required of all parties. The failure of a party to participate in such conference may be grounds for dismissal or default.

Parties in Small Claims proceedings shall, at least 48 hours prior to trial, file with the Clerk any documents and photographs which are intended to be introduced or considered by the Court at trial. The Clerk is directed to, by close of business on the day prior to trial, scan such documents and distribute them electronically to the opposing party. The trial shall be

conducted remotely, unless the Court determines that in-person attendance is necessary. The Court shall determine, by close of business on the day prior to trial, whether the trial requires in-person attendance or may be conducted remotely. If remotely, the parties shall be notified at said time; if not so notified, in-person attendance shall be required.

May 27, 2020


HON. JEFFREY SCOTT LAWLESS
CHIEF JUDGE, 28TH JUDICIAL DISTRICT