

**IN THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR THE STATE OF FLORIDA**

IN RE:           MITIGATING MEASURES IN  
                  RESPONSE TO COVID-19

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ADMINISTRATIVE  
ORDER  
NO. 2.39  
- Amended -

**WHEREAS**, in response to the outbreak of the Coronavirus Disease 2019 (COVID-19), the Governor of Florida has declared that a state of emergency exists and the Surgeon General and State Health Officer have declared that a public health emergency exists; and

**WHEREAS**, in AOSC20-12 (issued March 11, 2020) and AOSC20-13 (issued March 16, 2020), the Florida Supreme Court expressed that preparing for the impact of COVID-19 on court operations is a high priority for the Florida State Court System, and directed that all chief judges of the circuit courts take such mitigating measures as may be necessary to address the effects of the COVID-19 outbreak on their respective courts, while keeping the courts open to the fullest extent consistent with public safety; and

**WHEREAS**, in AOSC20-13, the Florida Supreme Court temporarily suspended grand jury proceedings, jury selection proceedings, and criminal and civil jury trials, and temporarily suspended all time periods involving the speedy trial procedure, in criminal and juvenile court proceedings; and

**WHEREAS**, in AOSC20-13, the Florida Supreme Court temporarily suspended all rules of procedure, court orders, and opinions applicable to court proceedings that limit or prohibit the use of communication equipment for the conducting of proceedings by remote electronic means; and

**WHEREAS**, on March 17, 2020, the Florida Supreme Court issued AOSC20-15, which: (1) required that all circuit and county courts continue to perform specifically designated essential court proceedings and proceedings critical to the state of emergency or the public health emergency, and permitted the chief judge to determine that additional proceedings are essential or critical to the state of emergency or the public health emergency; (2) required circuits to employ all methods practicable to minimize the risk of COVID-19 exposure to individuals involved in essential court proceedings and proceedings critical to the state of emergency or the public health emergency, or the general public; and (3) directed that all non-essential and non-critical court proceedings and events be rescheduled, postponed, or cancelled unless the chief judge determines that such other specific proceedings or events can be effectively conducted remotely using telephonic or other electronic means available without the necessity of in-person court appearances; and

**WHEREAS**, on March 18, 2020, the Florida Supreme Court issued AOSC20-16, which relaxed the requirements for oaths and permitted parties and witnesses to be sworn in remotely; and

**WHEREAS**, on March 18, 2020, in response to the prior Florida Supreme Court Administrative Orders, I, as Chief Judge, issued local Administrative Order 2.39, In re: Mitigating Measures in Response to COVID-19, to establish essential and critical court proceedings and the manner in which to handle them, preferably remotely, but, if not possible, in person with precautions taken. Also, in accordance with the prior Florida Supreme Court Administrative Orders, local Administrative Order 2.39 directed that all non-essential and non-

critical court proceedings be suspended, *unless* the matter could effectively be conducted remotely using communication equipment and *with the approval of the Chief Judge*; and

**WHEREAS**, on March 24, 2020 the Florida Supreme Court issued AOSC20-17, which was intended to combine and extend the temporary measures implemented in the previous Administrative Orders involving COVID-19, specifically AOSC20-13, AOSC20-15, and AOSC20-16. In AOSC-17, the Florida Supreme Court included a section entitled “MAINTAINING WORKFLOW AS FEASIBLE,” which stated that “[t]o maintain judicial workflow to the maximum extent feasible, *chief judges are directed to take all possible steps to facilitate conducting proceedings with the use of technology*,” and further stating that “[t]hese emergency measures are necessary to ensure public health and safety during this unprecedented pandemic; however, *the constitutional right of access to the courts by the public must be considered by the presiding judge in all cases*.” (emphasis added); and

**WHEREAS**, subsequent to issuing local AO 2.39, and being mindful of the subsequently issued Florida Supreme Court Administrative Orders, I, as Chief Judge, issued memorandums dated March 20, 2020 (Re: COVID-19 – Essential Court Proceedings – Jail Management), March 27, 2020 (Re: COVID-19 – Courts Remain Open with Limitations to Mitigate effects of COVID-19), April 16, 2020 (Re: COVID-19 – Courts Remain Open with Limitations to Mitigate effects of COVID-19 – AMENDED), and April 24, 2020 (Re: COVID-19 – Courts Remain Open with Limitation to Mitigate effects of COVID-19 – SECOND AMENDED), for the purpose of clarifying and modifying the prior list of essential or critical court proceedings, as well as non-essential and non-critical proceedings, with instructions as to how those proceedings should be handled; and

**WHEREAS**, subsequent to issuing AOSC20-17, the Florida Supreme Court issued several more Administrative Orders related to COVID-19, which culminated in the issuance on April 6, 2020, of AOSC20-23, In re: Comprehensive COVID-19 Emergency Measures for the Florida State Courts; and

**WHEREAS**, on May 4, 2020, the Florida Supreme Court issued an amended version of AOSC20-23, In re: Comprehensive COVID-19 Emergency Measures for the Florida State Courts which revised portions of the original AOSC20-23;

**NOW, THEREFORE**, in accordance with the authority vested in the Chief Judge pursuant to Fla. R. Jud. Admin. 2.215, and pursuant to the Florida Supreme Court’s Administrative Orders relating to COVID-19, and specifically the amended version of AOSC20-23, and for the continued purpose of mitigating the impact of COVID-19, while keeping the courts operating to the fullest extent consistent with public safety, and with the express intent of combining and modifying the temporary measures that I, as Chief Judge, instituted via local AO 2.39 and the subsequently issued memorandums, it is ordered that local Administrative Order 2.39 is hereby amended and shall provide as follows:

1. **ESSENTIAL OR CRITICAL COURT PROCEEDINGS** – The following matters are deemed essential or critical court proceedings which the circuit and county courts are required to continue performing:
  - a) First appearance hearings;
  - b) Criminal arraignments, as necessary;

- c) Hearings on motions to set or modify monetary bail for individuals who are in custody;
- d) Juvenile dependency shelter and arraignment hearings, including shelter reviews;
- e) Juvenile delinquency detention and arraignment hearings, as necessary;
- f) Hearings on petitions for temporary injunctions relating to safety of an individual;
- g) Hearings on petitions for risk protection orders;
- h) Hearings on petitions for the appointment of an emergency temporary guardian;
- i) Hearings to determine whether an individual should be involuntarily committed under the Baker Act or the Marchman Act;
- j) Hearings on petitions for extraordinary writs as necessary to protect constitutional rights;
- k) Hearings on petitions for judicial waiver of notice pursuant to section 390.01114(4), Florida Statutes; and
- l) Hearings related to the state of emergency or the public health emergency, including but not limited to proceedings related to violation of quarantine or isolation, violation of orders to limit travel, violation of orders to close public or private buildings, and enforcement of curfew orders.
- m) For Jail Management Purposes:
  - In-custody change of plea hearings that may result in a release from incarceration.
  - In-custody hearings on motions to modify a sentence that may result in a release from incarceration.
  - In-custody VOP Advisement hearings that may result in a plea and release from incarceration.

## 2. HANDLING OF ESSENTIAL OR CRITICAL COURT PROCEEDINGS

- a) Essential or critical court proceedings shall be handled by the divisional judge, magistrate, hearing officer, or duty judge who would normally hear the matter.
- b) When possible, essential court proceedings shall be held remotely using communication equipment.
- c) However, these essential or critical court proceedings do allow for in-person court appearances as long as all available methods of “social distancing” are being taken to minimize the risk of COVID-19 exposure to

individuals involved in the proceedings or the general public.

- d) For essential court proceedings involving in-custody defendants, the in-custody defendants shall appear remotely utilizing communication equipment. No inmate housed in any jail facility is to be transported to any courthouse or court facility absent a written order from the Chief Judge.
- e) Baker Act and Marchman Act proceedings may be conducted remotely utilizing communication equipment, as long as the judicial or quasi-judicial officer finds that holding the hearing remotely would not cause a violation of a party's right to due process.
- f) For in-person hearings, the only persons allowed in the courtrooms are attorneys, parties, witnesses, court personnel (including deputy clerks and bailiffs) and the media, subject to the approval of the presiding judge and subject to all available social distancing methods.
- g) In addition, at this time, the only persons (other than employees) allowed entry into the courthouse itself or court facility, for in-person hearings or otherwise, are attorneys, parties, witnesses, the media, and persons with official court business. No one shall be permitted to accompany persons who are otherwise allowed in the courthouse, and there shall be no loitering. Any person, regardless of status, who is exhibiting symptoms consistent with COVID-19, or any person who has traveled or has knowingly been in contact with another person who is suffering from the effects of the COVID-19 virus, is prohibited from entering any court facility. Court Bailiffs and local Sheriff Deputies are hereby granted the authority to screen and eject persons from courtrooms, courthouses, or court facilities in accordance with this Administrative Order.

**3. NON-ESSENTIAL OR NON-CRITICAL COURT PROCEEDINGS –**

The following non-essential or non-critical court proceedings are deemed amendable to being conducted remotely:

- a) Alternative dispute resolution proceedings;
- b) Status, case management, and pretrial conferences in all case types;
- c) Non-evidentiary and evidentiary motion hearings in all case types;
- d) Arraignments and pleas in absentia in county court misdemeanor cases;
- e) Hearings in juvenile delinquency cases;
- f) Hearings in noncriminal traffic infraction cases;
- g) Problem-solving court staffings, hearings, and wellness checks; and
- h) Non-jury trials in all case types, except for criminal, juvenile delinquency, and termination of parental rights petitions in dependency cases unless the

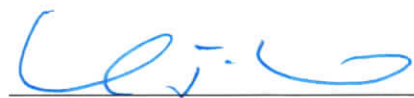
parties in an excepted case agree to the remote conduct of a non-jury trial.

4. **HANDLING OF NON-ESSENTIAL OR NON-CRITICAL PROCEEDINGS**

- a) Non-essential or non-critical court proceedings shall be handled by the divisional judge, magistrate, hearing officer, or duty judge who would normally hear the matter.
  - b) All of the above-listed non-essential or non-critical court proceedings shall proceed and shall be held to the fullest extent possible.
  - c) In accordance with the directive of the Florida Supreme Court, each of the above-listed non-essential or non-critical proceedings shall be conducted using telephonic or other electronic means available, unless a judge determines that remote conduct of the proceeding is inconsistent with the United States or Florida Constitution, a statute or a rule of court that has not been suspended by administrative order or would be infeasible because the court, the clerk, or other participant in a proceeding lacks the technological resources necessary to conduct the proceedings or, for reasons directly related to the state of emergency or the public health emergency, lacks the staff resources necessary to conduct the proceeding.
  - d) The above-listed non-essential or non-critical proceedings shall not be conducted through in-person hearings.
5. In accordance with the directives of the Florida Supreme Court, all grand jury proceedings, jury selection proceedings, and criminal and civil jury trials are to remain suspended through July 2, 2020, or through such other date established by further order of the Florida Supreme Court.
  6. All other remedial measures established by the Florida Supreme Court or by this local Administrative Order shall remain in effect until the close of business on May 29, 2020, unless a different end date is provided by subsequent order by either this Court or the Florida Supreme Court.
  7. This amended Administrative Order supersedes the original Administrative Order and all of this Court's subsequently issued memorandums relating to COVID-19, and shall be effective immediately and shall remain in effect until the dates established herein or until superseded by further order of this Court or the Florida Supreme Court.

**DONE AND ORDERED** in chambers in Fort Myers, Lee County, Florida, this 8<sup>th</sup>

day of May, 2020.



Michael T. McHugh  
Chief Judge

History. – Administrative Order 2.39 (March 18, 2020)