

IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

IN RE: TEMPORARY AMENDMENT)
TO FIFTH JUDICIAL DISTRICT) No. 23 WM 2020
EMERGENCY OPERATIONS)
PLAN)
)

ORDER OF COURT

AND NOW, this 26th day of January 2021, this Court continues to recognize that, due to the high number of positive COVID-19 tests in Allegheny County, ongoing efforts must be made to reduce the amount of people present in court facilities while keeping the courts open to the public. Accordingly, the Court extends its January 7, 2021 temporary amendment of its August 31, 2020 Emergency Operations Order with some modifications and it is hereby **ORDERED** that the following measures be taken pursuant to Pa.R.J.A. No. 1952(B)(2) effective Monday, February 1, 2021 through Friday, February 26, 2021:

Court of Common Pleas

During this period of time, all matters shall be conducted remotely via Advanced Communication Technology (ACT) and no in-person hearings or proceedings shall occur in any division of the Court of Common Pleas other

than as set forth below. All proceedings that can be conducted remotely shall proceed as scheduled subject to the following provisions.

Postponements

- All proceedings scheduled on or prior to February 26, 2021 that cannot be conducted using ACT shall be postponed to a date certain after February 26, 2021 pursuant to the procedures for each division.
- All published Civil Division trial lists continue to be suspended subject to the Order of September 17, 2020 (AD 185 of 2020) concerning non-jury trials in the Civil Division, attached here as Exhibit A.
- Recognizing that the September 4, 2020 Center for Disease Control and Prevention's Order temporarily halting certain evictions nationwide (CDC Order) has been extended through March 31, 2021, all Civil Division Orders of Court staying a case pursuant to the terms of the CDC Order are hereby extended through March 31, 2021.
- All in-person arbitration hearings are suspended through February 26, 2021.
 - All previously scheduled remote arbitration hearings conducted using ACT shall proceed as scheduled. If an in-person hearing has been suspended pursuant to this Order, the parties may request a remote arbitration hearing using ACT. The parties requesting a remote ACT arbitration hearing shall do so utilizing the forms, instructions and protocols found on the Court's website at <https://www.alleghenycourts.us/civil/arbitration.aspx>.
 - If an arbitration hearing is continued pursuant to this Order and the parties do not seek a remote arbitration hearing, the Court will reschedule the arbitration and the Department of Court Records will send notice of the new arbitration hearing date to the parties.

In-Person Hearings

- ICC Hearings for incarcerated individuals shall proceed as scheduled in the Family Division, with as many participants appearing by ACT as possible, including witnesses and attorneys.
- Delinquency Adjudication Hearings for Juveniles who are detained and who request an in-person hearing may proceed in person.
- In the Criminal Division, only Non-Jury Trials and Motions which require witness testimony may proceed as scheduled in person with as many participants appearing by ACT as possible, including witnesses and attorneys. No other hearings or proceedings shall be conducted in person.
- The Court shall continue to evaluate the circumstances regarding the positive COVID-19 cases in Allegheny County to determine an appropriate time to resume jury trials which may occur during the month of February 2021 in the Criminal Division. No juries shall be selected on February 1, 2, 3 or 4th of 2021. No jury trials shall take place in the Civil Division during the month of February.

All Court of Common Pleas facilities shall remain open to the public and open for case filings including, but not limited to:

- The Criminal Division Miscellaneous Motions Counter, Room 534 for acceptance of filings;
- The Formal Arraignment section, Room 519, for those defendants with a scheduled formal arraignment who have not waived their presence;
- The Civil Division Housing Court Help Desk for assistance to landlords and tenants;

- The Family Law Center for the filing of Petitions for Protection from Abuse (PFA) and entry of Temporary PFA Orders per the August 31, 2020 Emergency Operations Order.

Magisterial District Courts

The operations in the Magisterial District Courts are temporarily modified as follows:

- Summary Non-Traffic/Traffic proceedings scheduled during the period from February 1, 2021 through February 26, 2021, in which all parties agree and are able to conduct the proceeding using ACT, may be conducted remotely. If the proceedings cannot be conducted using ACT, the proceedings shall be postponed to a date certain after February 26, 2021. Special hardship requests by a defendant for an in-person hearing in a summary case may be granted at the discretion of the Magisterial District Judge, provided that all COVID protocols, including occupancy restrictions on courtrooms and waiting rooms, are strictly followed.
- Landlord-Tenant proceedings based upon non-payment of rent or end of lease scheduled during the period from February 1, 2021 through February 26, 2021 shall be postponed to a date certain after February 26, 2021. Landlord-Tenant proceedings based only upon breach of lease (other than breach due to end of lease) may proceed as scheduled, in-person, beginning February 1, 2021 provided that all COVID protocols, including occupancy restrictions on courtrooms and waiting rooms, are strictly followed. Parties shall be given the option to appear remotely.
- Civil proceedings scheduled during the period from February 1, 2021 through February 26, 2021, in which the defendant has notified the

Court that they intend to defend the case pursuant to Pa.R.C.P.M.D.J. 304(4)(a), shall be postponed to a date certain after February 26, 2021.

- Civil proceedings scheduled during the period from February 1, 2021 through February 26, 2021, where the defendant has not notified the Court that they intend to defend the case pursuant to Rule 305(4), shall remain on the docket. In such cases:
 - A. If prior to the scheduled hearing date, the defendant notifies the Court that they intend to defend the case, the case shall be postponed to a date certain after February 26, 2021; or
 - B. If the defendant appears on the scheduled hearing date, the case shall be postponed to a date certain after February 26, 2021.

If the defendant fails to comply with (A) or (B) above, then a judgment may be entered against the defendant by default pursuant to Rule 319(B).

- Civil proceedings in which all parties agree to conduct the hearing using ACT may be conducted remotely.
- Preliminary Hearings for non-incarcerated individuals where one of the offenses on the criminal complaint is graded as a felony (other than a Retail Theft) may proceed as scheduled, with as many participants appearing by ACT as possible, including witnesses and attorneys. Participants that cannot appear by ACT are permitted to appear in person.
- Preliminary hearings for non-incarcerated individuals scheduled during the period from February 1, 2021 through February 26, 2021 which do not fall within the immediately preceding paragraph shall be postponed to a date certain after February 26, 2021.
- Preliminary Hearings for incarcerated individuals shall proceed as scheduled, with as many participants appearing by ACT as possible,

including witnesses and attorneys. Participants that cannot appear by ACT are permitted to appear in person. Incarcerated participants will appear by ACT.

- Emergency PFA Petitioners may appear in person to present their petitions per the August 31, 2020 Emergency Operations Order.
- Preliminary Arraignments will proceed per the August 31, 2020 Emergency Operations Order.

The Magisterial District Courts shall remain open to the public and open for case filings, payments and case processing.

Pittsburgh Municipal Court

The operations in Pittsburgh Municipal Court are temporarily modified as follows:

- Non-Traffic summary proceedings scheduled during the period from February 1, 2021 through February 26, 2021 shall be postponed to a date certain after February 26, 2021.
- Traffic summary proceedings scheduled during the period from February 1, 2021 through February 26, 2021 shall be postponed to a date certain after February 26, 2021.
- Preliminary Hearings for both non-incarcerated and incarcerated individuals shall proceed as scheduled, with as many participants appearing by ACT as possible, including witnesses and attorneys. Participants that cannot appear by ACT are permitted to appear in person.
- Summary hearings for incarcerated individuals shall proceed as scheduled, with as many participants appearing by ACT as possible,

including witnesses and attorneys. Participants that cannot appear by ACT are permitted to appear in person. Incarcerated participants will appear by ACT.

- Emergency PFA Petitioners may appear in person to present their petition per the August 31, 2020 Emergency Operations Order.
- Preliminary Arraignments will proceed per the August 31, 2020 Emergency Operations Order.

Pittsburgh Municipal Court shall remain open to the public and open for case filings, payments and case processing.

All other provisions of the Emergency Operations Plan Order entered on August 31, 2020 as amended shall remain in effect until further Order of Court. All Court facilities shall remain open to the public and open for case filings and other business except as described above.

BY THE COURT:



, P. J.

Kim Berkeley Clark
President Judge