

**UNITED STATES DISTRICT COURT  
DISTRICT OF VERMONT**

In re: Court Operations under the Exigent  
Circumstances created by COVID-19 and  
Related Coronavirus Health Conditions

GENERAL ORDER NO. 86

This General Order No. 86 supersedes General Order No. 85 dated March 16, 2020. It describes in greater detail the procedures and restrictions under which the District Court and the Bankruptcy Court will operate while emergency measures necessary to reduce the spread of the COVID-19 infection remain in place.

**I. Criminal Cases**

1. The CM/ECF system remains open for motions and other filings in criminal cases.
2. Defendants will continue to appear in person in court with counsel for initial appearances or arraignments, detention hearings and supervised release arrest and appearance. Unless otherwise ordered by the presiding judge, all other hearings are postponed. These include motions to suppress, motions related to discovery, changes of plea, trials, and sentencings.
3. All misdemeanor, CVB violations, and petty offense hearings scheduled through April 30, 2020 are continued. New dates for these cases shall be rescheduled without the need to file any motions with the court.
4. At present, electronic facilities for the appearance of a defendant by video from jail are not in place. If these become available, the court will modify the procedure for in-person hearings.
5. Court-ordered deadlines in criminal cases will need to be revised in many cases. Counsel shall communicate and submit revised scheduling orders on

a case-by-case basis as appropriate. Scheduling orders now in place remain in effect until further order of the court.

6. Waiver of appearance

With the assistance of counsel, a defendant may waive his or her appearance at any proceeding, including the initial appearance. In the event of a waiver, the judge will enter an order on the basis of the papers filed in the case.

7. Conditions of release

The court will continue to set conditions of release for defendants released prior to trial or sentencing and to modify these upon motion. A defendant may acknowledge his or her receipt and understanding of conditions of release by signing a statement that he or she has received, read and understands the conditions.

8. In cases in which a sentence of additional incarceration is unlikely, a judge may permit a defendant who is released to proceed to sentencing in a telephone hearing following execution of a waiver of appearance.

9. All grand jury proceedings in this District remain postponed until April 23, 2020. Compliance with subpoenas where appropriate may be accomplished by electronic means. Further postponement will be ordered as necessary.

10. As previously ordered in ¶ 4 of General Order No. 85, the time period of the postponements implemented by this Order will be excluded under the Speedy Trial Act, as the court specifically finds that the ends of justice served by ordering the postponements outweighs the best interests of the public and any defendant's right to a speedy trial, pursuant to 18 U.S.C. § 3161(h)(7)(A). The 30-day period for indictment pursuant to 18 U.S.C. § 3161(b) is also subject to this exclusion.

11. Any person in the custody of the U.S. Marshal's Service shall wear a protective mask as directed by USMS during transport, holding in the courthouse, or appearance in the courtroom. Any member of the USMS shall wear appropriate protective clothing and equipment while accompanying a person in custody.

## **II. Civil Cases**

1. The CM/ECF system remains open for motions and other filings in civil cases.
2. The judges will consider the majority of motions on the papers without conducting a hearing. If a hearing is necessary, it will be conducted by telephone. The judge will make a case-by-case determination of whether a motion hearing requiring evidence will be conducted by phone or on the basis of the written filings.
3. Parties and their attorneys remain free to request an in-person motion hearing if evidence is required as in the case of a preliminary injunction. Such requests will be resolved on a case-by-case basis by the assigned judge.
4. Civil trials are postponed at this time except as specifically scheduled by the court.
5. Depending on the length of the current emergency and its effect in particular cases, counsel are encouraged to communicate and submit joint revised discovery schedules which reflect the needs of their cases. In the absence of a motion or joint proposal, the existing pre-trial order remains in effect.

## **III. Bankruptcy**

1. The CM/ECF system remains open for bankruptcy filings and motions.
2. The court will decide matters on the papers whenever possible, expand the circumstances under it will waive parties' appearances, and address any matters which require a hearing via telephone hearing. The court will schedule an in-person hearing only under emergency circumstances and upon a showing that there is no sufficient alternative.

#### **IV. Probation and Pretrial Services**

The United States Probation and Pretrial Services Office will continue to supervise individuals as ordered by the Court. The Office will continue to prepare pre-sentence reports although procedures for interviews of defendants may be modified at the discretion of the Chief Probation Officer.

#### **V. Entry to the courthouse**

The Burlington courthouse remains open subject to the exclusion of certain high-risk individuals described below. The Rutland courthouse will open only for the purpose of holding an emergency court hearing. In-person visits are discouraged unless absolutely necessary. In the event of a hearing, the courtroom remains open to the public.

The court will continue to post a notice excluding people at elevated risk of spreading the COVID-19 infection. This group now includes:

- All persons who have traveled internationally within the last 14 days;
- All persons who have come into contact with someone who suffers from the COVID-19 virus or is suspected of being infected.
- All persons who have been asked to self-quarantine by any doctor, hospital, or healthcare provider.
- All persons with an elevated temperature or other signs of a viral infection.

To ensure the implementation of this provision, the Court Security Officers are authorized to screen any visitors entering the courthouses and shall deny entry to anyone attempting to enter in violation of this General Order.

#### **VI. Expiration of this Order**

The Court will monitor the Covid-19 emergency and the guidance offered by the CDC and the Vermont Department of Health and make necessary adjustments in the interest of public health and the administration of justice. The Court will vacate, extend or amend this order no later than April 23, 2020.

SO ORDERED this 23<sup>rd</sup> Day of March, 2020.

/s/ Geoffrey W. Crawford

Chief Judge

U. S. District Court