

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE: UPDATED GUIDANCE TO COURT OPERATIONS
UNDER THE EXIGENT CIRCUMSTANCES CREATED BY
COVID-19

**GENERAL ORDER
No. 28**

WHEREAS, the Court has issued a series of General Orders re: Court Operations Under the Exigent Circumstances Created by COVID-19, which are available on the Court's website at www.mnd.uscourts.gov.

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency in response to COVID-19 and on February 26, 2021, the President published formal notice in the Federal Register continuing the national emergency concerning the COVID-19 pandemic.

WHEREAS, the Governor of the State of Minnesota declared a peacetime emergency to coordinate Minnesota's strategy to protect Minnesotans from COVID-19 and the Governor has continued to extend the COVID-19 peacetime emergency through the date of this order.

WHEREAS, the Governor of the State of Minnesota has issued a series of emergency executive orders which impose certain restrictions on Minnesota residents to prevent and respond to the COVID-19 pandemic.

WHEREAS, the Governor's emergency executive orders do not limit, prohibit, or restrict in any way the operations of the federal government or the movement of federal officials in Minnesota while acting in their official capacity, including federal judicial staff and personnel.

WHEREAS, local detention facilities continue to implement several COVID-19 related restrictions that impact the ability of pretrial detainees to consult with legal counsel and appear in-person at a U.S. Courthouse; and the Bureau of Prisons continues to impose modified operations.

FILED 4/29/2021
KATE M. FOGARTY
JUDGMENT ENTD
DEPUTY CLERK Jok

WHEREAS, Minnesota continues to be an area of risk for further COVID-19 spread and there are concerns about the potential increased transmissibility of emerging strains of the COVID-19 virus.

WHEREAS, the Judges of the United States District Court, District of Minnesota, have considered and extensively discussed the various interests implicated by the COVID-19 outbreak and any court response to the outbreak, including: the health of jurors, witnesses, parties, attorneys, the public, court staff, and judges; the constitutional rights of criminal defendants and other parties, and the ability to conduct certain criminal proceedings via videoconference or telephone conference under the CARES Act; and the public's interest in, and the court's duty to ensure, the effective and expeditious administration of justice.

NOW THEREFORE, to continue to protect public health, reduce the size of public gatherings, reduce unnecessary travel, and respond to the COVID-19 outbreak, **IT IS HEREBY ORDERED**, that:

Criminal Matters:

1. The Court will continue to hold criminal proceedings using videoconferencing, or telephone conferencing if videoconferencing is not reasonably available when the defendant consents to appearing at the proceeding remotely. Unless otherwise authorized by law, only the criminal proceedings outlined in General Order No. 27 may be conducted by videoconference, or telephone conference if videoconferencing is not reasonably available. The Court encourages the use of videoconferencing for criminal proceedings.
2. For criminal proceedings where a defendant declines to consent to conducting the proceeding using videoconferencing, or telephone conferencing if videoconferencing is not reasonably available, the Court will hold limited in-person proceedings, starting on May 3, 2021.
 - a. In-person criminal proceedings may only take place when proper social distancing can be maintained for all courtroom participants and when masks are worn when social distancing cannot be maintained. The Court has developed a protocol for the courtroom to ensure the health and safety of all participants and that protocol must be followed.
 - b. To safely conduct in-person court proceedings and to comply with the COVID-19 restrictions in place at local detention facilities, only a limited number of in-person criminal proceedings may be held each day.

Accordingly, criminal proceedings may be continued until the date that the criminal proceeding takes place. All existing pretrial deadlines remain in place, unless otherwise ordered by the presiding judge.

- c. If the proceeding must be continued, the Court finds that the time of the continuances implemented by this order will be excluded under the Speedy Trial Act, as the Court specifically finds that the ends of justice are served by ordering the continuances and outweigh the best interests of the public and of the criminal defendants under 18 U.S.C. § 3161(h)(7)(A). Absent further order of the Court or any individual judge, the period of exclusion shall be from March 17, 2020, or the date of the indictment, whichever is later, to the date that the criminal proceeding takes place. The Court may extend the period of exclusion as circumstances may warrant.
 - d. Where appropriate, the presiding judge will enter orders in individual cases to extend deadlines and exclude time under the Speedy Trial Act. The presiding judge may extend deadlines and exclude time under the Speedy Trial Act in cases even when certain proceedings are held using videoconferencing or telephone conferencing to address delays attributable to COVID-19.
2. The Court will resume criminal jury and bench trials, starting on May 3, 2021. All jury trials must be conducted with appropriate safeguards, including social distancing and personal protective equipment. The Court has developed a protocol for jury trials to ensure the health and safety of all participants and that protocol must be followed.
- a. To safely conduct criminal jury trials and to comply with the COVID-19 restrictions in place at local detention facilities, only a very limited number of jury trials may take place at the same time. Accordingly, criminal jury trials may be continued until the date that the criminal jury trial commences.
 - b. If the criminal jury trial must be continued, the Court finds that the time of the continuances implemented by this order will be excluded under the Speedy Trial Act, as the Court specifically finds that the ends of justice are served by ordering the continuances and outweigh the best interests of the public and of the criminal defendants under 18 U.S.C. § 3161(h)(7)(A). Absent further order of the Court or any individual judge, the period of exclusion shall be from March 17, 2020, or the date of the indictment, whichever is later, to the date that the criminal jury trial commences.
 - c. Where appropriate, the presiding judge will enter orders in individual cases to extend deadlines and exclude time under the Speedy Trial Act.

3. All trial-specific deadlines in criminal cases may be continued as ordered by the presiding judge.

Civil Matters:

1. The Court will resume in person civil jury trials sometime after May 3, 2021 as courtroom space becomes available. All in person jury trials must be conducted with appropriate safeguards, including social distancing and personal protective equipment. The Court has developed a protocol for the courtroom to ensure the health and safety of all participants and that protocol must be followed. The Court has also developed a protocol for virtual civil jury trials that may be utilized for trials at any time.
2. All civil jury trial-specific deadlines may be continued as ordered by the presiding judge.
3. The Court continues to encourage the use of videoconferencing or telephone conferencing for civil hearings and bench trials. At the presiding judge's discretion, in-person civil hearings or bench trials may resume, starting May 3, 2021. All in-person civil hearings and bench trials may only take place when proper social distancing can be maintained for all courtroom participants and when masks are worn when social distancing cannot be maintained. The Court has developed a protocol for the courtroom to ensure the health and safety of all participants and that protocol must be followed.

Other:

1. The Continuity of Operations (COOP) Plan for the United States District Court for the District of Minnesota continues to be activated, effective March 23, 2020, through and including September 6, 2021. The COOP Plan may be extended or inactivated as necessary. The activation of the COOP Plan is necessary to ensure the continuous performance of essential functions and operations of the Court.
2. Concerning the Clerk's Office:
 - a. The Clerk's Office intake desk will reopen on May 3, 2021 and be open during normal business hours (8:00 a.m.-4:30 p.m., Monday-Friday).
 - b. The Clerk's Office will continue to not accept cash payments; persons needing to make payment may do so by check, money order, credit card, debit card, or online (where applicable).

- c. The Clerk's Office will continue to accept electronic filings in civil and criminal cases through electronic case filing system (CM/ECF) and online payments through www.pay.gov.
- d. Mail to the District Court should be directed to:

Diana E. Murphy U.S. Courthouse
300 South Fourth Street, Suite 202
Minneapolis, MN 55415

- e. To reach the Clerk's Office:

- Main line: 612-664-5000
- Electronic Case Filing (ECF) Helpdesk: 866-325-4975 or 612-664-5155
- Electronic Case Filing (ECF) Helpdesk email: ecfhelpdesk@mnd.uscourts.gov
- Online chat: www.mnd.uscourts.gov

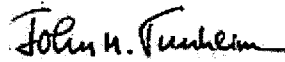
3. The requirement that the filing party must provide courtesy copies to the judge hearing the motion, as required in the Civil and Criminal ECF Guides, continues to be suspended from March 23, 2020, until further order of the Court.

Please note that courtesy copies are required when filing sealed documents with HSI, as specified in General Order No. 1, In Re: Procedures for the Filing, Service, and Management of Sealed Documents with Highly Sensitive Information (January 8, 2021), and General Order No. 2, In Re: Procedures to Ask the Court to Remove Sealed Documents with Highly Sensitive Information (HSI) from CM/ECF (January 28, 2021).

4. In-person attorney admission ceremonies are continued through September 6, 2021; the Court will continue to hold attorney admission ceremonies using videoconference. Attorneys that must be admitted on an emergency basis may contact the Clerk's Office for assistance.
5. Exceptions to this order may be approved by the Chief Judge or the presiding judge if special circumstances so require.
6. This order vacates General Order No. 26, entered on February 12, 2021; General Order Nos. 7-8, 10-13, 15, 23, and 27 remain in effect, except for any changes addressed in this order.

7. The Court will vacate or amend this order no later than September 6, 2021.

Dated in Minneapolis, Minnesota, April 29, 2021 at 4:00 p.m.

Handwritten signature of John R. Tunheim in cursive script.

JOHN R. TUNHEIM
Chief Judge
United States District Court