

MEMORANDUM

TO: Members of the Bar in the 19th Judicial District (MCBA and RCBA)

FROM: Ross H. Hicks, Circuit Court Judge

RE: Circuit Court Part 1 (Judge Hicks) UPDATED Procedures through April 1, 2021

DATE: December 1, 2020

As all of you are aware, there has been a significant increase both locally and nationally in the number of Covid-19 cases and in hospitalizations and deaths as a result. The number of cases among the local bench and bar has increased exponentially and tragically resulted in the death of Judge Grimes. I know I join all of you in extending our condolences to Sharon and his family. Because of my own personal high risk, I have attempted from the beginning to follow all the CDC recommendations and to limit my contact with anyone outside my own home unless absolutely necessary. In view of the surge in the number of cases, I intend to double down on my efforts and I encourage all of you to do the same.

One thing we need to do is to avoid having anyone in the Court facilities unless their presence is absolutely necessary. Virtually every proceeding can be conducted without anyone being physically present in the courtroom. Obviously, there are exceptions for criminal matters.

NO IN-PERSON HEARINGS/TRIALS FOR THE FORESEEABLE FUTURE

Civil Matters

Due to the rise in Covid-19 cases, all in-person hearings that have been scheduled through April 1, 2021 will be heard via Zoom with invitations being sent at least a week prior to the hearing date. Whether in-person hearings will resume after April 1, 2021 will be determined later based on the Covid-19 numbers.

Any civil jury trials scheduled prior to April 1, 2021 must be rescheduled.

Criminal Matters

Any criminal jury trials which have been scheduled prior to April 1, 2021, will remain on the docket for now to encourage consideration of settlement offers and/or bench trials in lieu of jury trials. As you know the Supreme Court has issued an Order banning jury trials through January 31, 2021. I fully anticipate that Order will be extended. While we will be leaving these scheduled trials on the docket, for the time being, it is highly unlikely that any jury trials will actually occur. With regard to non-jury criminal proceedings, in Division I, there will be no requirement that an attorney or defendant actually appear for any proceeding other than an arraignment (remember those can and should be waived in writing), a settlement (consider arranging those by Zoom) or bench trial (those can also be conducted by Zoom if the parties agree). Appearances and announcements do not require anyone to be present provided the State and defense are in agreement. Those agreements can be communicated to the Court by the DA without the necessity of defense counsel or defendants actually being present. These procedures should cut down immensely on the number of people who are required to be in the building or the courtroom in the misdemeanor matters which are scheduled in Division I. This will require communication between the DA's office and defense attorneys well prior to the scheduled court date and I expect your cooperation to ensure that the necessary communication occurs.

Current COVID-19 Procedures to Continue

We will continue to follow the current procedures for setting and hearing cases that were set forth in my Memoranda of July 6, July 31 and September 11, 2020. All Memos regarding Part 1's Covid-19 requirements and procedures are located on the Montgomery County website under Circuit Court Clerk News.

All Matters will be heard initially on pleadings only

To summarize, you begin the process of setting a Motion or final hearing by filing a Motion with the Clerk of Court and setting the matter on a calendar available date at least 10 days further out. ***On that date, all matters will be heard on the pleadings only.*** If you believe there is need for a hearing, you should so indicate in the caption of your Motion (see example below). This request should be placed directly under the docket number.

Docket # 2020-CV-0000
(Movant requests an electronic hearing in this matter)

DO NOT USE THE HEARING REQUEST FORM USED IN PARTS III AND V (Judges Crozier and Olita).

If you are satisfied to have your Motion determined on the pleadings only, you do not need to make that request as ALL matters will first be reviewed on the pleadings before any hearings are set. If a Respondent wishes to request a hearing, that should be indicated under the docket number in the Response. Remember that if the Motion is opposed, a written response is required and must be made 3 days in advance of the date set for hearing. On that date, the Court will review all matters on the pleadings and you will be sent a Hearing Result Form. If the Court determines that a Zoom hearing is necessary, you will be advised and must then contact my assistant, Lisa Davis (ladavis@mcgtn.net) who will then work with you to schedule the appropriate hearing. While she will attempt to schedule the hearing at a date and time convenient for all the parties, it is imperative that when she offers you available dates, you respond promptly. It is also important that you advise her immediately if any matter previously set is to be continued or has been settled.

The Court will continue to determine the vast number of matters on the pleadings only and will Zoom for most matters that the Court determines require a hearing.

Notice of Hearings

We are also experiencing some problem with respect to the **requirement for Covid-19 Notices.** Please review the Memos of July 6 and July 31, 2020 for those **specific requirements.** Attached to the July 31st Memo is the required Covid-19 language which, among other things gives the opposing party **Notice that your Motions or matters will be heard first on a pleadings only basis.** Motions which fail to contain that Notice will not be considered and you will be required to reset the matter after appropriate Notice has been given.

Ex Parte Temporary Restraining Order Requirements

If you are seeking an Ex Parte Temporary Restraining Order, the proposed Order must contain both a notice of hearing (I will insert the date and time of hearing) **AND** the Covid-19 Notice.

When Proposed Findings of Fact/Conclusions of Law Required

When the Court schedules a Zoom hearing in complex matters or matters in which there are particular due process concerns, the Court will require submission of proposed findings of fact and conclusions of law prior to the hearing. Those will be limited to 15 pages and must be filed with the Court at least 2 days prior to the scheduled hearing. These will be required in all cases involving termination of parental rights, custody of children (with particular emphasis on best interest factors), alimony issues, GTLA, worker's comp, contract and tort bench trials and other contested cases as determined by the Court.

Please contact my office if you have questions. It is my hope that this will offer some clarity to you with regard to how we will proceed until April 1, 2021 and that it will not be necessary for me to revisit these procedures until then. Thank you for your cooperation.