

20R 118

STATE OF NORTH CAROLINA
CATAWBA COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
JUDICIAL DISTRICT 25B

UPDATED AND REVISED
ADMINISTRATIVE ORDER FOR SUPERIOR COURT IN
CATAWBA COUNTY IN RESPONSE TO COVID-19

FILED
2020 APR -6 P
CATAWBA CO., C.S.
BY [Signature]

IN ORDER TO IMPLEMENT THE UPDATED ORDER OF THE CHIEF JUSTICE OF THE NORTH CAROLINA SUPREME COURT ENTERED APRIL 2nd, 2020, THE FOLLOWING PROCEDURES WILL BE IMPLEMENTED FOR CRIMINAL AND CIVIL SUPERIOR COURT THROUGH MAY 31st, 2020. THIS ORDER SHALL APPLY ONLY TO SUPERIOR COURT IN CATAWBA COUNTY.

1. No Jurys will be available for criminal or civil trials for any term of Superior Court until after May 31st, 2020.

2. All parties and victims to any case will be automatically entitled to a continuance from any criminal or civil Superior Court session and no individual will be called and failed or cases dismissed as a result of civil parties, criminal defendants, or victims failing to attend Superior Court through May 31st, 2020. New court dates will be available by visiting the website www.nccourts.org and clicking on the "find my court date" link or by calling the Catawba County Clerk of Court criminal division at 828-695-6102. New trial dates for Catawba County Superior Civil court may be obtained by contacting the Superior Court Trial Court Coordinator, Ms. Judy Sherrill at (828) 695-6116.

3. Each scheduled session of criminal Superior Court through May 31st, 2020 as scheduled on the Master Calendar shall be opened on the first day of each term and continue thereafter from day to day as needed in the discretion of the presiding Superior Court Judge. Such sessions shall be held for the disposition of first appearances or bond hearings, the appointment of counsel for indigent defendants, probation hearings, probable cause hearings, and other matters necessary to preserve the right to due process of law or where the defendant is in custody provided the presiding Judge determines that the proceeding can be conducted under conditions that protect the health and safety of all participants.

4. Each scheduled session of civil Superior Court through May 31st, 2020 as scheduled on the Master Calendar shall continue to be held, however, there will be no calendar call or opening of court in any courtroom. These sessions shall be held for the purpose of hearing motions only as hereinafter prescribed. All cases set for trial for any civil session of Superior Court through May 31st, 2020 that have not been previously continued are hereby continued by operation of the Chief Justice's emergency directives.

5. Motions in civil Superior Court shall be heard via video conference only upon consent of all parties. Parties must notify the Trial Court Coordinator, Ms. Judy Sherrill by email at Judy.H.Sherrill@nccourts.org at least five (5) days prior to the Monday of the applicable session of court as to whether they consent to having the hearing conducted remotely and the date and time for the week of court they are available to hear the motion. Unless special circumstances are present, motions shall be scheduled by Ms. Sherrill on Mondays during specific time slots. Parties who agree to a video conference shall be advised of the date, time and procedure for the same via email. The email sent by Ms. Sherrill to join the video conference motion hearing will be the only notice of hearing sent to parties. Parties that do not consent to having their motion heard via video conference may submit a calendar request to Ms. Sherrill, via email, for any calendar date beginning after May 31st, 2020. Notwithstanding the use of video conferencing, proper courtroom decorum as outlined in Rule 12 of the General Rules of Practice for the Superior and District Courts is required. However, business casual shall be the appropriate dress for counsel appearing via video conference.

6. After consultation with the District Attorney for the 36th Prosecutorial District, the sessions of the grand jury scheduled for the month of April, 2020 for Catawba County are hereby cancelled.

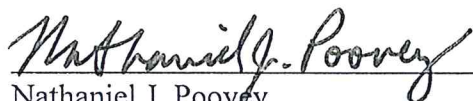
7. Additional accommodations shall be liberally granted to parties, witnesses, attorneys, and others with business before the courts who are at a high risk of severe illness from COVID-19.

8. The Court encourages the Catawba County maintenance department to provide to those working in the courthouse additional cleaning and sanitation resources, including, but not limited to, hand sanitizer and/or Clorox wipes for use at the front door and in the courtrooms. The Court encourages the janitorial staff working at the courthouse to provide extra cleaning and sanitation services in high traffic and high touch areas throughout the courthouse.

9. This order supersedes the order entered by the undersigned on March 13, 2020. To the extent that this order conflicts with the order of the Chief Justice of the North Carolina Supreme Court entered on April 2nd, 2020, the order of the Chief Justice shall apply. Said Order is attached hereto and incorporated herein by reference.

10. This order shall be effective until and terminate at 5:00 pm, May 31st, 2020

This the 6th day of April, 2020.



Nathaniel J. Poovey

Senior Resident Superior Court Judge

**ORDER OF THE CHIEF JUSTICE
OF THE SUPREME COURT OF NORTH CAROLINA**

On 13 March 2020, I issued an order with two emergency directives affecting the North Carolina Judicial Branch in response to the emerging public health threat posed by the COVID-19 outbreak. On 19 March 2020, I issued another order extending time and periods of limitation for documents and papers due to be filed and acts due to be done in the trial courts.

On 27 March 2020, Governor Roy Cooper issued Executive Order 121 directing all individuals in the state to stay in their place of residence subject to limited exceptions. North Carolina's courts are a critical government function and are therefore exempt from the order. Nevertheless, we are directed, to the extent practicable, to maintain social distancing requirements, including "facilitating online or remote access by customers if possible."

Additional emergency directives under N.C.G.S. § 7A-39(b)(2) are now necessary to reduce the spread of infection and to ensure the continuing operation of essential court functions.

Accordingly, I hereby determine and declare under N.C.G.S. § 7A-39(b)(2) that catastrophic conditions resulting from the COVID-19 outbreak have existed and continue to exist in all counties of this state.

Emergency Directive 1

All superior court and district court proceedings, including proceedings before the clerks of superior court, must be scheduled or rescheduled for a date no sooner than 1 June 2020, unless:

- a. the proceeding will be conducted remotely;
- b. the proceeding is necessary to preserve the right to due process of law (e.g., a first appearance or bond hearing, the appointment of counsel for an indigent defendant, a probation hearing, a probable cause hearing, etc.);
- c. the proceeding is for the purpose of obtaining emergency relief (e.g., a domestic violence protection order, temporary restraining order, juvenile custody order, judicial consent to juvenile medical treatment order, civil commitment order, etc.); or
- d. the senior resident superior court judge, chief business court judge, or chief district court judge determines that the proceeding can be conducted under conditions that protect the health and safety of all participants.

The examples provided above are not exhaustive.

This emergency directive does not apply to any proceeding in which a jury has already been empaneled.

Emergency Directive 2

The clerks of superior court shall post a notice at the entrance to every court facility in their county directing that any person who has likely been exposed to COVID-19 should not enter the courthouse. A person who has likely been exposed to COVID-19 and who has business before the courts shall contact the clerk of superior court's office by telephone or other remote means, inform court personnel of the nature of his or her business before the court, and receive further instruction. For purposes of this order, a person who has likely been exposed to COVID-19 is defined as any person who:

- a. has travelled internationally within the preceding 14 days;
- b. is experiencing fever, cough, or shortness of breath;
- c. has been directed to quarantine, isolate, or self-monitor;
- d. has a known exposure to COVID-19;
- e. has been diagnosed with COVID-19; or
- f. resides with or has been in close contact with any person in the abovementioned categories.

Emergency Directive 3

Judicial officials throughout the state are hereby authorized to conduct proceedings by remote audio and video transmissions, notwithstanding any other North Carolina statutory or regulatory provision.

Judicial officials who conduct a remote proceeding pursuant to this directive must safeguard the constitutional rights of those persons involved in the proceeding and preserve the integrity of the judicial process. To this end:

- a. A remote proceeding may not be conducted without the consent of each party.
- b. If a criminal defendant's right to confront witnesses or to be present is implicated by the proceeding that is to be conducted, then the defendant must waive any right to in-person confrontation or presence before that proceeding may be conducted remotely.
- c. If the proceeding is required by law to be conducted in a way that maintains confidentiality, then confidentiality must be maintained in the remote proceeding.

- d. If the proceeding is required by law to be recorded, then the remote proceeding must be recorded.
- e. Each party to a remote proceeding must be able to communicate fully and confidentially with his or her attorney if the party is represented by an attorney.

The authorization in this emergency directive does not extend to proceedings that involve a jury.

Nothing in this emergency directive prevents judicial officials from conducting in-person proceedings consistent with Emergency Directive 1.

Emergency Directive 4

Attorneys and other persons who do not have business in a courthouse should not enter a courthouse, and those who do have business in a courthouse should not prolong their visit once their business has concluded. Attorneys are strongly encouraged to submit filings by mail rather than in person.

Emergency Directive 5

When it is required that any pleading, motion, petition, supporting affidavit, or other document of any kind to be filed in the General Court of Justice be verified, or that an oath be taken, it shall be sufficient if the subscriber affirms the truth of the matter to be verified by an affirmation or representation in substantially the following language:

“I (we) affirm, under the penalties for perjury, that the foregoing representation(s) is (are) true.

(Signed) _____”

This emergency directive does not apply to wills to be probated, conveyances of real estate, or any document that is not to be filed in the General Court of Justice.

Emergency Directive 6

Notwithstanding the manner of service described in Rule 5 of the Rules of Civil Procedure, service required by Rule 5 may be made electronically on a party or a party’s attorney as follows:

If the party has consented in writing to service by electronic mail (“email”), then service may be made on the party by email to an address that is either included in the consent or is otherwise on record with the court in the case. The email must be timestamped before 5:00 P.M. Eastern Time on a regular business day to be

considered served on that day. If the email is timestamped after 5:00 P.M., then service will be deemed to have been completed on the next business day.

If the attorney has consented in writing to service by email, then service may also be made on the attorney by email to an address that is either included in the consent or is otherwise on record with the court in the case. The email must be timestamped before 5:00 P.M. Eastern Time on a regular business day to be considered served on that day. If the email is timestamped after 5:00 P.M., then service will be deemed to have been completed on the next business day.

If one or more persons are served by email, then the certificate of service shall show the email address of each person so served.

Nothing in this emergency directive is intended to modify electronic service in the North Carolina Business Court, which continues to be governed by Business Court Rule 3.

Emergency Directive 7

For all monies owed pursuant to a judgment or order entered by a court prior to 6 April 2020 in a criminal or infraction case with a payment due date on or after 6 April 2020 and before or on 1 May 2020, the date by which payment must be made is hereby extended 90 days. Nonpayment of monetary obligations in such cases shall not be deemed a willful failure to comply, and the clerks of superior court are directed not to enter or report a failure to comply as a result of nonpayment during the 90-day extension period.

The clerks of superior court also are directed not to enter or report, until after the expiration of this order, a failure to comply for a criminal or infraction case with a payment due date before 6 April 2020 where the 40th day following nonpayment falls on or after 6 April 2020 and before or on 1 May 2020.

If a court enters a judgment or order on or after 6 April 2020 and before or on 1 May 2020 in a criminal or infraction case, then the payment due date must be at least 90 days after the date of entry of the judgment or order, and the installment fee of N.C.G.S. § 7A-304(f) shall not be assessed until after the due date has passed.

Monetary obligations owed pursuant to a term of probation which is scheduled to end within 30 days after the date that this order is issued are excluded from the operation of this emergency directive.

* * *

**Expiration of this Emergency Order and
Guidance to Judicial System Stakeholders**

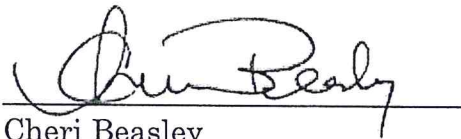
Pursuant to N.C.G.S. § 7A-39(b)(2), the emergency directives contained in this order are effective immediately and expire on 1 May 2020.

Nevertheless, given the current severity of the COVID-19 outbreak, I fully expect to extend these directives for an additional 30-day period. Accordingly, judicial system stakeholders should plan for these directives to last through the month of May 2020.

These emergency directives are crucial to ensuring that our court system continues to administer justice while protecting the health and safety of court officials, court personnel, and the public.

I encourage all court officials to liberally grant additional accommodations to parties, witnesses, attorneys, and others with business before the courts, as they deem appropriate.

Issued this the 2nd day of April, 2020.

A handwritten signature in black ink, appearing to read "Cheri Beasley", is written over a horizontal line.

Cheri Beasley
Chief Justice
Supreme Court of North Carolina