

IN THE DISTRICT COURT
62ND JUDICIAL DISTRICT
STATE OF TEXAS

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SERVING DELTA, FRANKLIN,
HOPKINS AND LAMAR COUNTIES

Bench filed per
Judge Will Biard
on 4/9/2020 at 10:20
am/pm

EMERGENCY STANDING ORDER

WHEREAS pursuant to Texas Government Code Sec. 22.0035(b), the Governor of the State of Texas has declared a Public Health Emergency, these Courts as indicated below, in accord with the Texas Supreme Court of Texas Misc. Docket Order No. 20-9042, hereby enter the following Emergency Standing Order related to proceedings occurring from its effective date throughout the duration of the Public Health Emergency. This Order is effective as of the date of execution.

The District Courts shall, subject to further order of the Constitutionally empowered authority, whenever possible, remain open in furtherance of the Judicial branch's Constitutionally created mandates, duties and responsibilities, and specifically to preserve and protect the people's Constitutionally guaranteed right to access of the Courts of this State, subject to the following restrictions:

Cases Set for Trial by Jury.

The utilization of Juries in the 62nd Judicial District Court is suspended until May 8, 2020, or until further Order. Cases which have been previously set on the respective District Courts' Jury dockets between the effective date of this Order and May 8; 2020 are hereby Continued *sua sponte* and shall be reset on future Jury Trial dockets of each of the respective Courts, consistent with the existing applicable rules and policies of each of said Courts.

Proceedings in the Courtroom.

1. Subject to the proper exercise of judicial discretion, evidence which typically would be presented via the testimony of live witnesses is generally to be discouraged. Rather, parties are hereby urged to make such presentment via affidavits or declarations. A party should seek leave of the Court in advance of any proceeding if that party believes that the presentment of live testimony is indispensable.

2. Requests for Oral Argument shall be made to the Court via submission to the Judge or Court Reporter. The Court may grant said request upon showing of good cause.

3. Any party needing to admit either exhibits or other evidence referred to above must electronically deliver same to the Court Reporter in PDF format in advance of the hearing already pre-marked with exhibit stickers and chronologically numbered for ease of reference (and directing a witness's attention) during remote proceedings. The pages of each Exhibit, deposition, declaration of other proffered evidence must be sequentially numbered for ease of

reference. Copies must contemporaneously be directed to opposing Counsel.

4. Wherever possible, when permitted by the Judge presiding, all Non-Jury trials and Motions shall proceed with the taking of all other testimonial evidence under oath either via telephonic means or through the use of ZOOM. A rebuttable presumption concerning admissibility of said testimonial evidence is thereby established.

5. The Presiding Judge or Court Reporter, regardless of her/his location is authorized to administer an oath for these purposes.

6. In any proceeding conducted remotely either by telephonic or technological means or by any other means which may be deemed appropriate by the Court, the moving Party shall, no less than 48 hours in advance of said hearing, email the Judge and Court Reporter the email address of all attorneys, (or self-represented parties), witnesses and others who may be participating in said proceeding so that information regarding the technological platform, any link, access code thereto and other pertinent information necessary to effectuate the remote connection may be effectuated. The attorneys and parties are directed to collaborate and transmit to the Court Reporter in a single submission with a copy to all counsel of record and self-represented parties.

Motions Currently and Prospectively Set for Hearing.

Effective immediately, Motions may be determined based upon submission of written pleadings and responses from the parties, without oral argument as shall be determined by each Judge presiding. Motions shall continue to be set for hearing by the Court Reporter, as is the customary practice of the Court. The date as reflected in a Motion's Fiat or Notice of Hearing shall be considered the date of submission to the Court for consideration. A Court's existing policy requiring the filing of any responsive pleading or objection by any date certain prior thereto remains in full force and effect.

Essential Matters.

The Supreme Court of Texas has, pursuant to its Miscellaneous Docket Order 20-9099, mandated as follows:

Courts must not conduct non-essential proceedings in person contrary to local, state or national directives; whichever is most restrictive, regarding maximum group size.

The District Courts have determined that the following matters may be deemed "Essential", on case-by case basis, for the purposes of the Declaration, and which may require a hearing in person as opposed to hearings conducted telephonically or technologically:

- a. Temporary Restraining Orders and Temporary Injunctions.
- b. Contempt citations.
- c. Requests for Emergency relief
- d. any other matter in which the Judge presiding determines that the physical presence of a

party, witness or other person is indispensable.

Depositions.

1. Any Deposition may be noticed to proceed technologically and remotely. Said Notice shall specifically advise of the location of the prospective Witness and the Court Reporter. It shall also advise all counsel of record and any other persons of the ability to participate remotely.

2. Any Notice shall include telephone number or other technological platform identification, access codes or other pertinent information to effectuate access to the proceedings by any interested individual or entity.

3. The desire of a party to appear in person or an objection relating to the location of the prospective Witness and/or Court Reporter and Court Coordinator for the purpose of taking said deposition shall not alone be sufficient grounds to quash a Deposition notice.

4. Any Party filing a Motion to Quash a Deposition pursuant to Tx.R.Civ.P. 199.4 in a manner to cause the immediate cancelling of said Deposition is responsible for ensuring that a hearing is calendared at the Court's earliest convenience.

Disposition dockets.

Unless otherwise advised by each Court's respective Coordinator, any Court's Disposition or Dismissal docket shall continue as regularly scheduled but without the requirement of Counsel personally appearing. Any party required to appear pursuant to such a notice is hereby required to telephone the Court on the date as previously noticed. Any case which does not reflect a completed Service of Process upon the Defendant(s) shall be removed from the Dismissal Docket and reset no sooner than thirty days after the expiration of the Governor's Declaration of Public Health Emergency. Otherwise, the disposition or dismissal of a matter will be decided based upon the pleadings and determined within the discretion of the Court.

Conference

There should be a meaningful conference between opposing counsel prior to the Court's intervention in any matter. Parties and counsel are hereby advised that the present Public Health Crisis demands that whenever possible, attorneys come to an agreement without necessitating an appearance in Court. Whenever such conference results in agreement between the parties, the Moving Party shall submit an Agreed Order reflecting agreement.

Mediation.

While any order referring a case to mediation remains in effect, any party may choose to appear at a mediation via technology or telephonically. However, any party or counsel participating remotely MUST remain present for the entirety of the Mediation process.

Miscellaneous.

Every participant in a proceeding; witness, counsel, paralegal, client or other individual who appears at the District Court is Ordered to alert the Court staff, specifically including the Bailiff, if the participant has, or knows of another participant who has COVID-19, or other flu-like symptoms or fever, coughing or sneezing. The Court may, upon notice, cancel any proceeding that requires the involvement of a person infected with COVID19, showing symptoms, waiting for test results, or under self or ordered quarantine if the person will be required to personally present in a setting that would expose others or violate quarantine standards set by Center for Disease Control or their health careprovider..

1. Private recording of any Court proceeding, including electronic proceedings, remains expressly prohibited without prior consent of the Presiding Judge of the Court.

2. Consistent with the State policy of open Courts, any member of the public wishing to listen/view and telephonically or technologically conducted proceeding may gain access to same by contacting the Court Reporter for dial-in info or access code/link information.. It is so

ORDERED

Signed 9 day of April, 2020.

A handwritten signature in black ink, appearing to read 'Will Biard', is written over a horizontal line. The signature is stylized and includes a large, sweeping flourish that extends to the right.

Will Biard
Judge Presiding