

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
THE STATE OF FLORIDA

ADMINISTRATIVE ORDER: A-2020-12-I

FOURTH AMENDED ADMINISTRATIVE ORDER REGARDING
COURT OPERATIONS DUE TO COVID-19 PANDEMIC

(declaring Citrus County, Lake County, and Sumter County as now meeting the benchmarks to transition and declaring the entirety of the Fifth Judicial Circuit of Florida as transitioned to Phase 2, limited in-person contact is authorized for certain purposes and/or requires use of protective measures)

WHEREAS, because of the continuing public health crisis related to corona virus, COVID-19, country and state officials continue to request the public follow certain safety precautions.

WHEREAS, Florida Governor, Ron DeSantis, and Florida Supreme Court Chief Justice, Charles Canady, have issued orders restricting certain usual activities; and

WHEREAS, on March 16, 2020, the undersigned Chief Judge Daniel B. Merritt, Jr. issued Administrative Order No. A-2020-12, "*Administrative Order Regarding Court Closure Due to COVID-19 Pandemic*", and the undersigned having since amended that order when appropriate, and issued several other orders in response to the ongoing public emergency, and;

WHEREAS, subsequent to March 16, 2020 Chief Justice Charles T. Canady and Governor Ron DeSantis have issued several orders addressing the ongoing public health emergency and made changes to normal practices and procedures, including Governor's Executive Order 20-94, as amended, and Governor's Executive Order 20-180 dated July 29, 2020, regarding residential foreclosures and evictions, and Executive Order 20-111 which extends Executive Order 20-180 until October 1, 2020 at 12:01a.m., and;

WHEREAS, the most recent administrative orders, both dated August 12, 2020, from the Florida Supreme Court are AOSC20-23 *In Re: Comprehensive COVID-19 Emergency Measures for the Florida State Courts, Amendment 6*; and AOSC20-32 *In Re: Covid-19 Public Health and Safety Precautions for Operational Phase Transitions, Amendment 3, (with updated Workgroup Court Operations Subgroup Report attached and incorporated)*.

DBM Jr

WHEREAS, there is currently a continuing and substantial concern regarding the COVID-19 corona virus across the State and within the Fifth Circuit, such as to constitute a legitimate and manifest safety concern to members of the public and judicial stakeholders, and;

WHEREAS, it is, and remains, the goal of the Fifth Judicial Circuit's judges and court staff to protect the public and participants involved in our justice system and provide safe and effective access for those seeking justice through our court system, and;

WHEREAS, at this time in order to protect the citizens and residents of the State of Florida and the Fifth Judicial Circuit it remains necessary to continue practices that mitigate the effects of COVID-19 across the state, such as the suspension of jury trials and proceedings, and to have in place additional safety precautions, and;

WHEREAS, Pursuant to Article V, Section 2(d) of the Florida Constitution, and Section 43.26, Florida Statutes, the Chief Judge of each judicial circuit is charged with the authority and the power to do everything necessary to promote the prompt and efficient administration of justice, and;

WHEREAS, Florida Rule of Judicial Administration 2.215(b)(3) states the Chief Judge "shall, considering available resources, ensure the efficient and proper administration of all courts within this circuit". Due consideration having been given all relevant Florida Supreme Court Administrative Orders, in particular AOSC20-23, Amendment 6; AOSC20-32 Amendment 3, (with updated Workgroup Court Operations Subgroup Report attached and incorporated), **AND** Florida Governor's Executive Order 20-211, dated August 31, 2020, regarding the Limited Extension of Mortgage Foreclosure and Eviction Relief; and in an effort to continue mitigating the effects of COVID-19 on the courts, court participants, and other stakeholders as well as to promote the efficient and proper administration of the Courts, and;

WHEREAS, Citrus County, Hernando County, Lake County, Marion County, and Sumter County, have met the benchmark criteria as required by Administrative Order of the Supreme Court of Florida AOSC20-32 *In re: COVID-19 Public Health and Safety Precautions for Operational Phase Transition, Amendment 3*, in order to transition to Phase 2, limited in-person contact is authorized for certain purposes and/or requires use of protective measures;

IT IS THEREFORE, ORDERED and ADJUDGED as follows:

1. All counties encompassing the Fifth Judicial Circuit, namely Citrus County, Hernando County, Lake County, Marion County and Sumter County are hereby deemed as transitioned to Phase 2 in accordance with Florida Supreme Court Administrative Orders AOSC20-23 *In Re: Comprehensive COVID-19 Emergency Measures for the Florida State Courts, Amendment 6*; and AOSC20-32, *In Re: COVID-19 Public Health and Safety Precautions for Phase 2, Amendment 3, (with updated Workgroup Court Operations Subgroup Report attached and incorporated)*.
2. Florida Supreme Court Administrative Orders AOSC20-23 *In Re: Comprehensive COVID-19 Emergency Measures for the Florida State Courts, Amendment 6*; and AOSC20-32 *In Re: COVID-19 Public Health and Safety Precautions for Phase 2, Amendment 3, (with updated Workgroup Court Operations Subgroup Report attached and incorporated)* are hereby re-adopted in full and shall be followed in the Fifth Judicial Circuit. All Judges, Magistrates, and Hearing Officers of the Fifth Judicial Circuit are hereby directed to comply with all provisions of the above referenced Orders.
3. All circuit and county courts shall continue to perform essential court proceedings, including but not limited to: first appearance; criminal arraignments; hearings on motions to set or modify monetary bail for individuals who are in custody; juvenile dependency shelter hearings; juvenile delinquency detention hearings; hearings on petitions for injunctions relating to safety of an individual; hearings on petitions for risk protection orders; hearings on petitions for the appointment of an emergency temporary guardian; hearings to determine whether an individual should be involuntarily committed under the Baker Act or the Marchman Act; and hearings on petitions for extraordinary writs as necessary to protect constitutional rights.
4. The following proceedings are amenable to being conducted remotely:
 - a. Alternative dispute resolution proceedings;
 - b. Status, case management, and pretrial conferences in all case types;

- c. Non-evidentiary and evidentiary motion hearings in all case types;
 - d. Pleas in absentia in county court misdemeanor cases;
 - e. Hearings in juvenile delinquency cases;
 - f. Hearings in noncriminal traffic infraction cases
 - g. Hearings in involuntary commitment of sexually violent predator cases;
 - h. Non-jury trials in all case types, except for:
 - i. Criminal cases unless the parties in such case agree to the remote conduct of a non-jury trial; or
 - ii. Termination of parental rights or juvenile delinquency cases, unless the chief judge or the presiding judge in the case determines that the non-jury trial should proceed remotely.
5. Each of the proceedings listed in paragraph 4 shall be conducted using telephonic or other electronic means available unless a judge determines that one of the following exceptions applies:
- i. Remote conduct of the proceeding is inconsistent with the United States or Florida Constitution, a statute, or a rule of court that has not been suspended by administrative order; or
 - ii. Remote conduct of the proceeding would be infeasible because the court, the clerk, or other participant in a proceeding lacks the technological resources necessary to conduct the proceeding or, for reasons directly related to the state of emergency or the public health emergency, lacks the staff resources necessary to conduct the proceeding.
6. If practical, hearings related to essential or critical proceedings should be conducted by remote electronic audio/visual means.

7. Judges may resolve any legal filing not necessitating or requiring a hearing as otherwise authorized by law. No proceedings, other than those previously designated essential court proceedings or critical proceedings related to the state of emergency or public health emergency by circuit-wide administrative order or by Florida Supreme Court order, shall be conducted by in-person hearings, **except those authorized by the Chief Judge, Daniel B. Merritt, Jr.**

8. It is in the best interest of the health and safety of the public and judicial stakeholders to continue to utilize the safety protocols established by the Florida Supreme Court in AOSC20-32, as amended, *(with updated Workgroup Court Operations Subgroup Report attached and incorporated)*. Therefore, the following health and safety procedures shall remain in effect in each of the courthouse facilities of the Fifth Judicial Circuit.
 - a. All members of the public entering the courthouse shall undergo a health screening (see screening questionnaire below) with a required temperature check. Persons who have a fever of 100.4 degrees or greater, answer affirmatively to any of the symptoms in Question 1, or answer affirmatively to Question 2, 3, or 4 shall not be allowed to enter the facility. Alternative arrangements should be made for this person, such as handling their business over the phone, rescheduling a hearing, or other means as appropriate.
 - b. Judges and Court employees, courthouse security, and constitutional officers with offices in the courthouse have been advised to self-check for symptoms. If they present symptoms, they will remain home and consult their doctor or other medical professional.
 - c. To safeguard against release of sensitive health information in communicating to the court that a person was not allowed to enter the facility, a simplified notification or form will be used that solely indicates "Court participant was not admitted based on refusal to comply with the guidelines or based on the screening/temperature check."
 - d. The following screening questionnaire is used to determine whether a person is allowed entry in the courthouse facility.

Question 1: Do you have any of the following symptoms (excluding those due to a known medical reason):

- i. Fever/body temperature of 100.4 degrees or greater
- ii. Cough
- iii. Shortness of breath or difficulty breathing
- iv. Chills
- v. Muscle pain
- vi. Sore throat
- vii. New loss of taste or smell

Question 2: Are you currently awaiting the results of a test to determine if you have COVID-19?

Question 3: Are you under instructions to self-isolate or quarantine due to COVID-19?

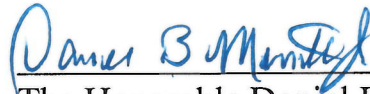
Question 4: Have you had close contact with someone with a COVID-19 diagnosis or is awaiting test results for COVID-19?

- e. **Social Distancing:** Persons must maintain 6 feet of social distancing from each other while waiting to enter the courthouse and during their stay in the courthouse. Markers on the floor throughout the courthouse will assist visitors with maintaining 6 feet of social distancing.
- f. **Face Coverings:**
 - i. Face coverings are required for everyone entering the courthouse building, with no exceptions. Face coverings shall be worn at all times throughout the public areas of the courthouse building, including inside the courtroom.
 - ii. Judges and court staff, as well as other constitutional officers and their staff with offices in the courthouse, do not have to wear a face covering in their private chambers or office.
 - iii. If visitors do not have a face covering, one should be provided to them at no cost.

- iv. Alternative face covering protocols or additional social distancing measures should be a consideration for those participants involved in a court proceeding where facial expressions or features must be observed or where audio is hampered and jeopardizes the creation of an accurate court record.
9. The following previously entered circuit wide local administrative orders shall remain in effect as below indicated:
- Administrative Order A-2020-27, Administrative Order Regarding Court Ordered Supervised Department of Children and Families Visitation During the Public Health Emergency Related to Covid-19 And Vacating Administrative Order A-2020-18
 - Administrative Order A-2020-20-B, entitled “Amended Administrative Order Regarding Suspension of Execution of Outstanding Inmate Transfer Orders”, dated April 16, 2020, shall remain in effect until further order of the Court.
 - Administrative Order A-2020-21-B, entitled “2nd Amended Administrative Order Regarding Emergency Temporary Standing Order Regarding Parenting in Domestic Relations Cases”, dated April 6, 2020, shall remain in effect until further order of the Court.
 - Administrative Order A-2020-22, entitled “Administrative Order Concerning No Bond for Quarantine/Isolation Violation Related to Covid-19 Pandemic”, dated April 10, 2020, shall remain in effect while the State of Florida remains under a declared public health emergency for Covid-19.
 - Administrative Order A-2020-23, entitled “Administrative Order Suspending Execution of Writs of Bodily Attachment in Department of Revenue Child Support Enforcement Cases Unless Secondary to a Criminal Arrest”, dated April 20, 2020, shall remain in effect until such time as the Florida Supreme Court lifts the restrictions currently in effect and the courts resume normal business.

10. Excepting “*final action*” at the conclusion of certain residential foreclosure and eviction proceedings as referenced in Governor’s Executive Order 20-180 amending and extending Governor’s Executive Order 20-94, Clerks of Courts of the Fifth Judicial Circuit may issue Summons, Clerk’s Defaults, Writs, and other court related process and continue scheduling judicial sales as previously authorized. For purposes of uniformity within the Fifth Circuit, “*final action*” shall be construed to mean entry by the Courts of an order authorizing issuance of a writ of possession by the Clerk of Court and subsequent issuance of such a writ by the Clerk with respect to a foreclosure or eviction referenced in Governor’s Executive Order 20-180. All other action not expressly prohibited by Governor’s Executive Order 20-180 or this order may proceed as provided by the Florida Rules of Civil Procedure, Florida Statutes, and substantive Florida law.
11. Authorized court employees shall telecommute and work remotely during the present health emergency.
12. Additional orders extending or modifying these measures will be issued as warranted by changing circumstances during the public health emergency.
13. Such other orders extending, modifying, or rescinding the measures set forth herein shall be issued as the changing circumstances of the public health emergency may require and as additional findings and recommendations of the Florida Supreme Court Workgroup on the Continuity of Operations and Proceedings During and After COVID-19 may suggest and/or as other governmental health and public safety directives or order(s) of the Florida Supreme Court may dictate.
14. Administrative Orders A-2020-13-D regarding foreclosure sales and A-2020-15-D regarding writs of possession are hereby rescinded.
15. Vacation or rescission, of any administrative order does not re-instate any force or effect of any prior related administrative order. Likewise, with any superseded administrative order.

DONE and ORDERED in Chambers at Brooksville, Hernando County,
Florida this 22nd of September 2020.

A handwritten signature in blue ink that reads "Daniel B. Merritt, Jr." The signature is written in a cursive style and is positioned above a horizontal line.

The Honorable Daniel B. Merritt, Jr.
Chief Judge, Fifth Judicial Circuit