

May 21, 2020

Members of the Bar,

The Fourth Judicial District Courts will resume public access May 26, 2020. It is my understanding the courthouses in Coffey, Franklin, and Osage counties will be open to the public. I understand Anderson county intends to be by appointment only until June 1, 2020 when it will open to the public.

In this letter I hope to explain our plan and how I hope we can work together to resume court operations. The COVID-19 response continues to be fluid. Please be patient with us as we adapt to meet the court needs.

Throughout this letter I reference Kansas Supreme Court Administrative Order 2020-PR-48 ("AO 2020-PR-48"). If you have not read this order yet, I encourage you to go the Kansas Supreme Court website and review it.

#### **Remote and In-Person Hearings (AO 2020-PR-48 ¶1 Bullet 5)**

The single biggest change in our operation is the migration to remote hearings. The days of in-person first-appearance, review, and status conference dockets are over for the foreseeable future. The judges are directed by AO 2020-PR-48 ¶1 Bullet 5:

“weighing the health risks versus the need for a hearing and determining whether in-person hearings are necessary. Any hearing should be conducted by remote means, if possible.”

Generally, this means status conferences, reviews and the like will be remote. Evidentiary hearings and felony matters may be done in person. The judges will evaluate each case and determine whether an in-person hearing is necessary.

Please review your cases and keep the courts informed about which hearings can be held remotely. You MUST communicate how the hearing will be held to your client, including the Zoom Meeting link or telephone conference information.

#### **Safety Precautions (AO 2020-PR-48 - multiple)**

Our safety plan includes requirements and recommendations issued by multiple agencies including the Office of the Governor, Supreme Court, and local public health officials.

##### *Entering the Court Area*

Individuals entering the court common area, courtroom, or clerk's office must:

1. Pass the current COVID-19 screening questions.
2. Wear a mask.

3. Use hand sanitizer.
4. Maintain six feet social distance

If you have an in-person hearing please bring your own mask and encourage your client to do the same. The Court has a limited supply of disposable masks, but they are still expensive and difficult to acquire.

#### *Transacting Business with the Clerk*

The preferred method of contact with the clerk's office is phone or e-mail. If you do need to come to the office, please queue six feet apart.

#### *Courtroom Arrangement (AO 2020-PR-48 ¶1 Bullet 5)*

The areas to stand and sit are now marked and spaced six feet apart. The physical distancing drastically reduced the number of individuals our galleries can hold. In addition, the Supreme Court placed a limit of 10 total people, including court staff, in the courtroom.

#### *Courtroom Flow*

If the in-person hearing is of limited duration, the judges may request the parties remain standing. This is because court staff must disinfect surfaces touched by individuals, such as the litigant table, between each new person. You should expect a delay between cases if disinfection is required. While "sit down hearings" will still occur, standing during hearings will reduce turnaround time.

#### **Orders for Hearing (AO 2020-PR-48 ¶1 Bullet 6; 2020-PR-48 ¶3)**

All orders for hearing are required to have a COVID-19 notice incorporated or attached. The language of the notice is found in 2020-PR-48 ¶3. Any proposed order for hearing you submit for judicial review MUST include this language.

#### **Time Limits are Still Tolloed (AO 2020-PR-47)**

Although the Fourth District is re-opening, Kansas Supreme Court Administrative Order 2020-PR-47 still tolls "all statutes of limitation and statutory time standards or deadlines applying to the conduct or processing of judicial proceedings". The Supreme Court accepted public comment through May 20, 2020 on this matter.

I estimate the Supreme Court will give notice and a date in the future when the tolling will be lifted. Note that a separate order, 2020-PR-46, deals with speedy trial in criminal matters. The Supreme Court indicated it will take up the issue of speedy trial tolling at a later date.

## **Attempt to Resolve Cases**

The judges will be swamped as we re-open to the public. I encourage prosecutors and the defense bar to communicate now and attempt to resolve cases where possible. I also encourage opposing counsel in all other case types to do the same.

## **Questions and Answers**

I received a few inquiries about how things might work. I attempted to summarize them below.

1. Am I expected to come in for big dockets like before (I don't want to get COVID-19)?

As mentioned above, the Supreme Court directed us to do hearings remotely when possible. We believe this will greatly reduce the in-person dockets. Additionally, the judges are spacing out in-person hearings to limit the number of people crossing paths at court.

2. How will I meet with my clients at the courthouse?

My hope is that you communicate with your client before you arrive. The conference rooms are still available in the courthouses, but the seating is reduced to two chairs at each table. If you use a conference room, I must ask you to disinfect the table and chairs before you leave. We simply do not have the staff to assist with this.

3. How will I communicate with my clients during a hearing?

We can provide a sheet of paper and pen upon request for your client to write notes to you. If you need to speak with your client confidentially, simply notify the presiding judge and request a recess for a private conference.

4. Can my client's family or the public attend a hearing?

Yes. We are currently limited to 10 total people in the courtroom, including court staff, by the Supreme Court. If you believe your case may exceed that number contact the court to either reschedule or request the hearing be made available by video.

5. When will jury trials resume?

I am unsure. The Supreme Court put together a task force to discuss jury selection and trials during COVID-19. Even if courtroom capacity limits were raised by the Supreme Court, none of our courtrooms could support jury selection and trial while remaining six feet apart. I have

spoken with community partners, and I believe we may be able to use a larger facility for selection and trial when the Supreme Court lifts the moratorium.

**Zoom Meeting 05/26/2020 at Noon**

I will send out an invite for a district wide bar Zoom meeting 05/26/2020 at noon. This meeting is not required, but I intend to be available to answer questions you may have as we resume public operations.

If you have a question you want me to address at the Zoom meeting, please send it to me ahead of time. As always, you can reach me through my assistant, Sally, at [swilk@coffeycountks.org](mailto:swilk@coffeycountks.org).

Thank you,

*/s/ Taylor Wine*

Taylor Wine

Chief Judge, Fourth Judicial District