

**COURTS ISSUE CASE MANAGEMENT GUIDELINES
IN RESPONSE TO COVID-19**

March 17, 2020 [UPDATED May 26, 2020]. O'Meara Leer Wagner & Kohl, P.A. attorneys practice in several jurisdictions across the country. The COVID-19 pandemic is resulting in mass closures of public gathering locations and severe restrictions on access to governmental spaces. Judicial response to COVID-19 remains fluid, and can change at any time. For information specific to your matter or for further information on these developments, please contact your OLWK attorney.

The following is an overview of current information about how various courts where OLWK lawyers represent clients are attempting to reduce the community spread of COVID-19:

ADMINISTRATIVE LAW COURTS

Minnesota Office of Administrative Hearings and Minnesota Department of Labor and Industry: (March 13, 2020) With respect to Minnesota Workers Compensation cases, the Office of Administrative Hearings has suspended all Stipulation Status Conferences until further notice. Evidentiary hearings will still be scheduled for in-person attendance, except for hearings on attorney fees which will be handled by telephone. In addition, settlement conferences, “.239” and “.106” conferences, pretrial conferences, and motion hearings will be held by telephone until further notice. Finally, if the parties and Judge agree, Mediations may also be completed with all parties appearing by telephone.

The Minnesota Department of Labor and Industry sent out a notice on March 12 indicating that until further notice the Department of Labor and Industry “prefers administrative conferences and mediations be conducted by telephone.” The Department also reminded parties that they have the option of rescheduling events to a later date.

In addition to these limitations on physical appearances, our attorneys are already working with opposing counsel to adhere to the CDC-recommended guidelines when planning non-court appearances, like depositions and Independent Medical Examinations.

STATE COURTS

Minnesota State Courts: The Minnesota Supreme Court issued an updated [Order](#) on May 15, 2020, superseding all prior orders of the Court regarding the response to COVID-19 by the Judicial Branch. The following summarizes the current Order.

Appellate Courts. All proceedings in appeals before the Court of Appeals and Supreme Court will continue as scheduled and conducted per the Court's [Preparedness Plan](#). The Courts are permitted to grant reasonable extensions, up to 30 days.

District Courts. The districts courts are directed to implement the Transitional Case Strategies approved by the Judicial Council for the return to full capacity in [civil](#), [criminal](#), [juvenile](#) and [probate](#) matters. No civil jury trials shall commence before September 1, 2020, unless otherwise ordered by the Court, and depending on a pilot program involving criminal jury trials beginning June 1, 2020 in certain counties. Criminal trial shall not begin before July 6, 2020. With limited exceptions, all proceedings shall be held by remote technology if practicable and feasible. Grand jury proceedings shall not proceed until a pilot program has been submitted and approved by the Judicial Council.

Court Facilities, Public Access and Court Administration. Courtrooms shall remain open on a limited basis, with access to court facilities subject to conditions imposed by county officials. The clerk's counter shall be limited to electronic and telephone assistance. Emergency email contact information is available, with consistent monitoring by court staff. Filings in all courts shall be by the court's electronic filing system, or if not required to e-File, by email, mail, or drop box. The State Law Library will not re-open before June 1, 2020.

Access to courtrooms for any in-person proceedings shall be limited to the parties, their attorneys, necessary court staff, and others designated by the presiding judge as necessary. Any person attending a hearing by remote means may not record the proceedings, as required by standard court rules. Media may attend in-person hearings if granted permission by court officials, and may record hearings consistent with standard court rules. The intention of these limitations is to comply with guidelines issued by public health officials for public gatherings.

The Court's May 15 Order also directed that as of May 18, the courts are directing judges and employees to return to work on a gradual basis, to support in-person, remote and other work as provided in the Transitional Case Strategies and consistent with the [Preparedness Plan](#).

Despite these limitations on court settings and appearances, we are moving forward with our files, other than these limitations on court appearances, because the Minnesota Supreme Court has not indicated that Court Administration activities or non-court appearance matters are affected by this Order. Because Court Administration will continue to accept e-filing and other submissions, we must adhere to the various non-court appearance deadlines set in current case Scheduling Orders. We recognize, however, that adherence to current Scheduling Order deadlines on a given file will likely require additional motion practice and other activities to best protect our clients.

Iowa State Courts: (March 24, 2020). At the current time, all Iowa Judicial Branch clerk of court offices remain open to the public, though some may close or reduce hours. The public is advised to call the local courthouse beforehand to understand access protocols. The Judicial Branch Building, however, is closed to the public; provisions for electronic filing will be provided.

By Orders of [March 14](#) and [March 17](#), 2020, the Iowa Supreme Court has directed that all civil trials that have not commenced and that are scheduled to begin before May 4, 2020 shall be continued to a later date to be determined. Civil non-jury trials and other hearings may proceed as scheduled, and may be held by video or phone conference. Exceptions exist for emergency matters. Any mediations scheduled at a courthouse before May 4 are continued or held remotely. Motions to continue shall be freely granted where unfair prejudice would not result. With respect

to all appeals, there will be no in-person oral arguments in the Supreme Court and Court of Appeals through May 15, and cases currently scheduled for oral argument may be submitted non-orally in the court's discretion, or be argued by videoconference or teleconference. **Importantly, any statute of limitations, statute of repose or similar deadline for commencing an action in district court is tolled from March 17 to May 4 (48 days).**

Attorneys and parties must notify the Court and opposing counsel if any participant in any trial, hearing, conference or deposition has an elevated risk of transmitting the virus that causes COVID-19. Counsel must inquire of clients and witnesses whether they have an elevated risk. Anyone with an elevated risk may attend any hearing, trial, conference, deposition other proceeding without prior authorization from the court.

General COVID-19 updates are posted from the Iowa Judicial Branch [here](#).

North Dakota State Courts: The North Dakota Supreme Court has [declared](#) a state of emergency statewide for the North Dakota Judicial Branch, and issued an [Order](#) on April 15, 2020 updating prior orders. All civil (and criminal) trials not in progress are suspended through July 1, 2020. Bench trials are not suspended, but presiding judges are granted discretion until June 1, 2020 to cancel hearings. All deadlines between March 16 and 24, 2020 are stayed, and continuance requests related to COVID-19 should be presumptively granted. All civil hearings in Grand Forks are cancelled through May 5, 2020 (with some exceptions). The dates covered by the Order are deemed legal holidays for time computation under North Dakota's court rules. Deadlines to file appeals and statutes of limitations are not suspended or stayed.

The Supreme Court Clerk's office will remain open for filing documents, but alternative means of delivery (e.g., electronic or mail) is preferred. The Court will be hearing oral arguments by electronic means. Further information can be found [here](#).

On April 8, 2020, the Court entered [Order 31](#), extending the deadline to hold traffic violation hearings to 150 days, and has permitted hearings to be conducted remotely.

Wisconsin State Courts: (May 22, 2020). By [Order](#), the Wisconsin Supreme Court has ordered that the Temporary Mailbox Rule is extended in the circuits courts until further order. Remote hearings shall continue and all jury trials shall be suspended until such circuit has adopted an operational plan for the safe resumption of in-person proceedings and such plan is approved by the chief judge, which shall also be submitted to the chief judge of the applicable judicial administrative district. Once approved, such circuit must follow the approved operational plan until further order of the Wisconsin Supreme Court.

By [Order](#) of May 22, 2020, the Wisconsin Supreme Court has ordered that essential operations of the appellate courts will continue, but will expand remote working capabilities. The Court has encouraged filings to be accomplished by mail; in-person filings will be accepted, but only by calling the clerk's office upon arrival, as the building is closed. By [Order](#) of April 8, 2020, Notices of Appearance, Motions and Responses to Motions filed in the Court of Appeals and Supreme Court may now be filed as attachments to emails, with the original and one copy sent by U.S. Mail. Non-emergency motions are discouraged.

On May 22, 2020, the Wisconsin Supreme Court issued its [Final Report](#) on the Wisconsin Courts COVID-19 Task Force. The purpose of the Task Force was to recommend criteria for counties and circuit courts throughout the state to safely re-engage in-person proceedings, including jury trials.

FEDERAL COURTS

United States Court of Appeals – Eighth Circuit: The Eighth Circuit issued a [Notice](#) advising that the public is no longer being admitted to the Eighth Circuit’s clerk’s offices in St. Louis or St. Paul. On March 20, 2020, the Court has temporarily suspended the filing of paper copies of briefs.

United States District Court- District of Minnesota: On May 15, 2020, the Court entered [General Order No. 14](#), which vacated the prior order of April 15, 2020. The new Order provide as follows:

Civil Matters. All civil jury trials and trial-specific deadlines are continued through July 5, 2020. Civil hearings that cannot be conducted by videoconference or telephone are continued through July 5, 2020. Obligations of the U.S. Marshals Service to effect personal service is suspended through July 5, 2020.

Criminal Matters. All proceedings that cannot be conducted using videoconferencing or telephone conferencing (with the consent of the defendant) are continued to July 5, 2020. The Court will implement videoconferencing for proceedings as soon as possible, consistent with [General Order No. 5](#). If a proceeding must be continued, the time of continuance is excluded under the Speedy Trial Act, subject to orders entered by individual judges where appropriate. All criminal trials and trial specific deadlines are extended through July 5, 2020. Grand Jury proceedings are continued until further order of the Court. Central Violations Bureau and petty offense hearings are continued until July 5, 2020. By [General Order No. 11](#) (April 22, 2020), the Court provided further guidance on the use of pre-plea investigation and consolidated plea alternatives to the standard sentencing process.

General Matters. The Clerk’s Office intake desk remains closed to the public, and will not accept cash payments. The obligation to provide paper courtesy copies of motions is suspended until further notice. Exceptions to the Order may be approved by the Chief Judge if special circumstances warrant. The Court will amend or vacate the Order no later than July 5, 2020.

By [Administrative Order](#) entered May 18, 2020, all persons entering United States Courthouses in the District of Minnesota must wear masks.

By [Order](#) of March 26, 2020, in response to Governor Walz’ [Stay At Home Order](#), the Chief Judge directed that the Clerk’s Office intake desks in Minneapolis, St. Paul, Duluth and Fergus Falls are closed to the public, but remains open to assist by phone, email or chat from 8:00 – 4:30 p.m., Monday to Friday. Electronic filings and online payment will continue to be accepted. All mail should be directed to the Minneapolis courthouse. Paper document may be submitted at drop

boxes in Minneapolis, St. Paul and Duluth. This Order takes effect on March 30, 2020, at 8:00, until further order of the Court.

By [Order](#) of March 30, 2020, in response to the federal CARES Act, the Court is allowing videoconferencing and teleconferencing in certain criminal proceedings.

By [Order](#) of March 31, 2020, the Court ordered that during the emergency created by the COVID-19 outbreak members of the press and the public may attend certain court proceedings remotely by teleconference, through teleconference lines made available by the Court. The public and media are prohibited from recording the proceedings.

By [Order](#) of April 3, 2020, the Court imposed certain protocols related to the submission of motions to reconsider in criminal detention matters.

While federal courthouses in Minnesota remain open, visitors, parties and their counsel must inform Court Security Officers if they are in certain risk categories for exposure to COVID-19, and may thereafter be denied entry. The Court's entrance protocols may be reviewed [here](#).

United States District Court - Northern District of Iowa: By [Order](#), all jury trials shall begin as of June 1, 2020, though parties may request a continuance due to public health reasons. Non-jury trial and other non-jury proceedings (e.g., bench trials and hearings) shall proceed as scheduled, unless continued by the presiding judge. The parties are encouraged to appear by phone or video conference when feasible. All deadlines in pending civil cases shall remain in place, pending adjustments sought by motion or on the Court's own motion. The parties are encouraged to engage in discovery by phone or video conference. All other court business will proceed as usual, to the extent possible consistent with public health guidelines. Regular business hours shall begin again as of June 1, 2020.

United States District Court - Southern District of Iowa: The Court has [ordered](#) that all civil and criminal trials currently scheduled through July 6, 2020 are continued pending further order of the Court. The Court will assess all postponed cases in mid to late June to review whether further postponement is appropriate. Non-jury proceedings may be conducted at the discretion of the presiding judge, giving deference to the concerns of litigants and witnesses. On [March 24](#) and [March 30](#), 2020, the Court ordered certain criminal proceedings to be held remotely, to the greatest extent possible. By [Order](#) of March 31, 2020, all Grand Jury proceedings for April 2020 were canceled.

United States District Court – District of North Dakota: Chief Judge Peter Welte issued an updated [Order](#) on May 12, 2020 (replacing prior orders), stating that certain persons shall not enter North Dakota District Courthouses, including persons asked to self-quarantine or self-isolate, persons diagnosed with COVID-19 (until completion of quarantine / isolation period), and persons with COVID-19 related symptoms. Court personnel are authorized to question visitors and determine entry. All jury trials scheduled through July 3, 2020 are continued. Trial specific deadlines in criminal cases are continued, but remain as scheduled in civil matters, though counsel may request modifications and individual judges may continue deadlines in their discretion. Pursuant to the CARES Act, the use of video conferencing is authorized for certain criminal

proceedings. Grand jury proceedings are continued until June. Consult the Court’s website for further information (www.ndd.uscourts.gov).

The General Services Administration issued a [Memo](#) on May 19, 2020, explaining that the Fargo Federal Courthouse was closed on May 18 and 19 for enhanced cleaning, and reopened on May 20, 2020. Effective immediately, all visitors, employees, and contractors are required to wear face masks per CDC regulations when in common spaces, including courtrooms, and to maintain CDC suggested social distancing.

United States District Court - Eastern District of Wisconsin: (March 16, 2020). Chief Judge Pamela Pepper issued an [Order](#) continuing all trials scheduled to begin before May 1, 2020, and directed that all civil hearings and settlement conferences shall be conducted by telephone or video conference. The presiding judges may make case-specific exceptions to continuances upon consultation with counsel, and the Order does not affect motions that can be resolved without oral argument. Naturalization proceedings are cancelled, as are any non-core activities including school visits, tours and ceremonial functions.

In a separate [Order](#), Court stated it will deny access to persons infected with COVID-19 or who appear to pose a public health risk. As of March 23, 2020, per [Order](#), the Milwaukee Federal Courthouse will be temporarily closed to the public. There will be no in-person deliveries to the courthouse.

United States District Court - Western District of Wisconsin: (March 12, 2020). The Chief Judge issued a [statement](#) indicating that the Court will endeavor to continue full operations, and all cases will proceed as scheduled. Persons who feel ill are directed to stay away from the Courthouse, and attorneys and parties may request a health-related accommodation by motion. Paper copies of documents are no longer accepted in person for filing, but may be filed via drop box in the courthouse lobby. In response to the federal CARES Act, the Court has authorized the use of video and telephone conferencing for certain criminal matters. All civil and jury trials have been postponed through May 18, 2020.

* * * * *

We continue to monitor the ever-changing landscape of this current global crisis. For the most up-to-date information, be sure to connect with your OLWK attorney. If you are unable to reach your contact, you can try to connect OLWK at (952) 831-6544 or info@OLWKlaw.com, both of which are monitored 24-hours per day.

O’MEARA, LEER, WAGNER & KOHL, P.A.

Relationships • Reliability • Results®

7401 Metro Boulevard | Suite 600 | Minneapolis | Minnesota | 55439-3034
OLKWLaw.com | 952-831-6544