

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

In re:)
)
REMOTE HEARINGS IN BANKRUPTCY)
CASES DUE TO THE COVID-19) Standing Order 20-21
PANDEMIC,)
)

ORDER REGARDING REMOTE HEARINGS IN BANKRUPTCY CASES DUE
TO COVID-19 PANDEMIC

The recent outbreak of Coronavirus Disease 2019 (COVID-19) has required significant changes to court operations to ensure the safety of the public, court employees, and other stakeholders. One of the primary changes to court operations has been the cessation of in-person proceedings. All of the divisions of the United States Bankruptcy Court for the Eastern District of Virginia (the “Bankruptcy Court”) have entered Standing Orders, beginning in March 2020, and extending through the present, which implement temporary protocols intended to minimize the number of hearings held and enable parties to appear remotely at any required hearings (the “Divisional Protocols”).¹

The United States District Court for the Eastern District of Virginia (the “District Court”) likewise temporarily suspended all non-critical and non-emergency in-person proceedings.² On May 26, 2020, the District Court entered General Order 20-16 (“General Order 20-16”), which

¹ The following are the most recent Divisional Protocols: Alexandria, https://www.vaeb.uscourts.gov/wordpress/?wpfb_dl=856; Richmond, https://www.vaeb.uscourts.gov/wordpress/?wpfb_dl=847; Norfolk/Newport News, https://www.vaeb.uscourts.gov/wordpress/?wpfb_dl=846.

² See U.S. Dist. Ct. Gen. Order 20-12, <http://www.vaed.uscourts.gov/notices/Gen%20Order%202020-12%20Court%20Operations%20Updated%20Notices.pdf>; see also U.S. Dist. Ct. Gen. Order 20-1, <http://www.vaed.uscourts.gov/pdf/General%20Order%20No.%202020-01.pdf>; U.S. Dist. Ct. Gen. Order 20-2, <http://www.vaed.uscourts.gov/pdf/General%20Order%202020-02.pdf>; U.S. Dist. Ct. Gen. Order 20-3, [http://www.vaed.uscourts.gov/pdf/General%20Order%202020-03\(1\).pdf](http://www.vaed.uscourts.gov/pdf/General%20Order%202020-03(1).pdf); U.S. Dist. Ct. Gen. Order 20-7, <http://www.vaed.uscourts.gov/notices/2020-07%20-%20Court%20Operations.pdf>.

sets forth the actions the District Court is taking as part of its phased expansion of operations. General Order 20-16 permits certain in-person proceedings to resume on June 11, 2020, which include civil and criminal bench trials; misdemeanor, traffic, and petty offense proceedings; and grand jury proceedings.³ A critical element of General Order 20-16 is the requirement that strict social distancing guidelines be observed for all in-person proceedings in the District Court.⁴ In support of this initial step toward expansion of its operations, General Order 20-16 provides a detailed description of the plan for the phased expansion of in-person proceedings, which is informed by guidance from the Judiciary's Administrative Office, the Governor's timeline for phased reopening in the Commonwealth of Virginia, and the trends in statewide COVID-19 data.⁵

The District Court's expansion of operations is grounded in available guidance and data and demonstrates considered judgment given the nature of the District Court's cases and proceedings. The volume and nature of the cases pending in the Bankruptcy Court, however, prohibits the implementation of a similar expansion of in-person bankruptcy proceedings. Presently, there are approximately 24,000 pending bankruptcy cases in the Eastern District of Virginia. The result of the high case volume is a constant flow of matters requiring adjudication, necessitating consistently large motions dockets in all divisions of the Bankruptcy Court. General Order 20-16 is based on the District Court's ability to maintain necessary social distancing for in-person proceedings. Scheduling bankruptcy hearings in a manner that would enable adequate social distancing is not feasible because each hearing typically requires multiple parties and/or attorneys to appear. In addition, the increased traffic in the courthouses resulting from in-person

³ See U.S. Dist. Ct. Gen. Order 20-16 at 1-2, 4, <http://www.vaed.uscourts.gov/notices/Gen%20Order%202020-16%20Phased%20Expansion%20of%20Court%20Operations.pdf>.

⁴ See *id.*

⁵ See *id.* at 6-17.

hearings in bankruptcy cases would pose an unjustified health and safety risk to the public, court employees, and other stakeholders. Accordingly, the Bankruptcy Court will not expand its operations, and all Bankruptcy Court proceedings shall be convened remotely until further notice. However, the presiding Judge in a particular case may enter an order directing that an in-person hearing be convened in conformance with strict social distancing requirements⁶ where the facts and circumstances of the case necessitate an in-person hearing.

Accordingly, it is hereby ORDERED that, until further notice, all Bankruptcy Court proceedings shall be convened remotely unless the presiding Judge makes an exception in a particular case on the basis that the facts and circumstances of the case necessitate an in-person hearing and strict social distancing guidelines will be observed. Each division of the Bankruptcy Court shall continue to maintain a remote hearing protocol until this Standing Order is amended or vacated. The most recent versions of the Divisional Protocols may be viewed on the Bankruptcy Court's website on the COVID-19 Court Operations and Information Page.⁷

IT IS SO ORDERED.

FOR THE COURT:



FRANK J. SANTORO
Chief United States Bankruptcy Judge

Dated: May 29, 2020

⁶ See *id.* at 1, n.2.

⁷ See https://www.vaeb.uscourts.gov/wordpress/?page_id=8679 (last visited May 28, 2020).