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DISTRICT COURT
EIGHTEENTH JUDICIAL DISTRICT
SEDGWICK COUNTY COURTHOUSE
525 NORTH MAIN, 6th FLOOR
WICHITA, KANSAS 67203

April 8, 2020

SEDGWICK CO. CIVIL DEPARTMENT
SUMMARY and APPLICATION OF SUPREME COURT ADMINISTRATIVE ORDER
2020-PR-32 Issued April 3, 2020
Amending 2020-PR-16 Issued March 18, 2020

Members of Civil Bar Practicing in Sedgwick County:

Friday, Apr. 3, 2020, the Kansas Supreme Court issued Administrative Order 2020-PR-32. It amends Ks. Sup. Ct. A.O. 2020-PR-16 issued Mar. 18, 2020. The most significant modifications for civil court address new Foreclosure and Eviction cases and are covered on page 2.

The new A.O. 2020-PR-32 gives further directions on what actions district courts must, can and cannot do. Almost all civil matters are “non-essential” functions. Paragraph 6 of the Order states, “Nonessential functions may be performed in a manner consistent with this **order as local resources and circumstances allow.**”

JUDICIAL DISCRETION As implied in A.O. 2020-PR-32 Section 2, prospective scheduling of hearings or trials is subject to the decision of the assigned judge. The decision of the assigned judge will also be subject to “local resources and circumstances”, including the need for a record and the availability of court personnel.

CIVIL JURY TRIALS Section 3 of A.O. 2020-PR-32 states, “All jury trials, both civil and criminal, scheduled to begin in any Kansas state court on or after March 18, 2020, are continued until further order of the Chief Justice.” Rescheduling jury trials which were set to start between March 18, and the resumption of normal court operations will not have any certainty until after the Supreme Court reopens the courts to jury trials.

CIVIL BENCH TRIALS The new A.O. does not specifically prohibit bench trials. But they must be conducted by two-way telephonic or electronic audio-visual communication and only “as local resources and circumstances allow”. Sg. Co Courts are arranging for judges to be able to host recorded audio-visual “meetings” using WebEx for a 90-day trial period.

CIVIL MOTION HEARINGS The new A.O. does not prohibit non-evidentiary civil motion hearings. But they must also be conducted by two-way telephonic or electronic audio-visual communication and only “as local resources and circumstances allow”.

HEARINGS BY REMOTE COMMUNICATION The requirement for “two-way telephonic or electronic audio-visual communication” can be interpreted to mean all participants must appear by remote, including that the party and their attorney should be remote from each other.

NEW FORECLOSURE and CH. 61 EVICTION/COLLECTION PETITIONS The clerk’s office will begin accepting new foreclosure and Chapter 61 eviction/collection petitions.

At this point, we can only guess at the dates that the Court will return to business as usual. In an effort, to avoid an overload of new case filings and overburdened appearance dockets when the Court opens, we have come up with the following schedule for setting appearance dates for Chapter 61 issuance of Summons

Until the Kansas Courts return to normal operations or until further Order of the Kansas Supreme Court or further Order of this Court:

The Following Schedule for Summons Appearance Dates will be applied for new Chapter 61 case filings, including eviction cases and collection cases.

For cases filed during the following weeks:	The Summons Appearance Date shall be:
April 4-10, 2020	June 3, 2020 at 1:30 p.m.
April 11-17, 2020	June 10, 2020 at 1:30 p.m.
April 18-24, 2020	June 17, 2020 at 1:30 p.m.
April 25 - May 1, 2020	June 24, 2020 at 1:30 p.m.
May 2-8, 2020	July 1, 2020 at 1:30 p.m.
May 9-15, 2020	July 8, 2020 at 1:30 p.m.
May 16-23, 2020	July 15, 2020 at 1:30 p.m.
May 24-30, 2020	July 22, 2020 at 1:30 p.m.

The Court will be directing the Civil Clerk’s office to reject any Summons that does not comply with the above schedule.

If summons is issued as above and the Courts have not reopened by the date of any dates listed for Summons Appearance Date, we intend to send a press release to tell the Summons recipients for a specific date not to appear. Plaintiff’s attorneys will then need to issue an Alias Summons for a new appearance date for any cases previously filed with an appearance date set on a day the courts are not open.

Attorneys may prefer to delay filing of a Summons until after the Supreme Court extinguishes the recent A.O.s. Return to normal court operations may provide certainty that the courts will be open on the scheduled appearance date.

On foreclosure cases, counsel should consider the effects of the Governor’s Exec. Ord. 20-10 (Mar. 23, 2020) on claim statements in petitions and findings in a foreclosure judgment. Our Court will not approve an Order for a Sheriff Sale until normal court operations resume.

LITIGATION MATTERS SUCH AS DISCOVERY OR MEDIATION A.O. 2020-PR-32 “does not limit the conduct of litigation – including such matters as discovery or mediation – that does not involve a judge or judicial employee.”

Section 17 further states, “all statutes of limitations and statutory time standards or deadlines applying to the conduct or processing of judicial proceedings are suspended until further order. During the effective dates of this A.O., no action shall be dismissed for lack of prosecution. **Parties are encouraged to meet all deadlines that do not require in-person meetings.**”

We have learned that some attorneys believe that deadlines in Scheduling Orders/Case Management Orders are suspended. That is NOT correct.

Deadlines and other dates set in a Scheduling Order/Case Management Order are established by counsel with the approval of the Court. They are NOT statutory deadlines.

This is consistent with prior interpretation by the Sg. Co. Civil Department. Civil deadlines included in Case Management or Scheduling Orders are still in place.

All of that being said, during this time of restricted access to courts, I do believe attorneys should **extend greater courtesy and deference** to meeting all of the scheduling deadlines attorneys and courts commonly face.

The assigned civil judge, may within their discretion liberally grant extensions or amendments of those deadlines. And attorneys are requested to graciously agree to reasonable extensions. That seems especially appropriate when discovery is delayed due to limited staffing, limited space for maintaining safe distances or any reasonable consequence of efforts to avoid potential for transmission of COVID-19. Agreed extensions should be submitted by E-filing.

GENERAL ELECTRONIC FILING OPERATIONS UNCHANGED Electronic filings of pleadings and documents will continue to occur. However, Section 18 of the A.O. states, “Processing of filings related to nonessential functions may be delayed depending on staffing levels and the demands of essential functions.

Very truly yours,

Eric A. Commer

Eric A. Commer
Civil Presiding Judge – Division 28
Sedgwick Co. District Court