

IMPORTANT NOTICE

MODIFIED PROCEDURES AND SCHEDULES FOR JUDGE KIM

(EFFECTIVE AUGUST 6, 2020 - JANUARY 4, 2021)

Version 2.2 (last rev. 8/7/20)

In light of the public health emergency caused by the Covid-19 pandemic, and consistent with the General Orders of the District Court related to that emergency, the Court temporarily modifies its procedures and schedules as described here. Except as modified by this notice, the Federal Rules of Civil and Criminal Procedures, as well as the Local Civil and Criminal Rules of the District Court,¹ will continue to govern all proceedings. Because this notice may be further amended from time to time, counsel and parties should always note the **Effective Dates**, **Document Version**, and **Last Revised Date** listed above.

Public Access to Remote Proceedings: Members of the public or press are permitted access to any non-sealed civil or criminal proceedings conducted by remote means (video or audio) as described in these modified procedures and schedules. They should contact the Courtroom Deputy Clerk at sk_chambers@caed.uscourts.gov for instructions on how to access such non-sealed remote proceedings. The scheduled dates and times for such non-sealed proceedings are publicly available on the Court's PACER website.

Civil Matters:

1. All non-emergency civil motions will be decided on the papers without oral argument unless otherwise ordered or requested by the parties for good cause. Until further notice, oral argument—if ordered—will take place by remote video or audio means. (The Court's authorized videoconference platform is Microsoft Teams, so the parties should familiarize themselves with the use of that platform.)
2. The requirement of pre-filing conference of counsel under L.R. 7-3 will be strictly enforced. No hearing dates should be noticed until further notice. Instead, oppositions to motions must be filed within 21 days of service of any motion, and optional replies must be filed within 7 days of service of the oppositions, unless otherwise ordered by the court or stipulated to by the parties. No sur-replies may be filed without court permission.

¹ Counsel and parties are reminded that new amendments to the Local Civil and Criminal Rules went into effect as of June 1, 2020. These changes were made independent of the emergency pandemic. Counsel and parties must therefore familiarize themselves with the changes and are expected to comply with them without further notice or order of the court.

3. Discovery motions remain governed by L.R. 37-1 through 37-4. The briefing schedule for the required joint stipulation shall be calculated from what would have been the normal noticed hearing date, even if that date is otherwise closed while these modified procedures and schedules are in effect. But if the parties are requesting a remote hearing, the desired hearing must be noticed for an open hearing date.
4. The Court will strictly enforce the prohibition on ex parte applications for discovery disputes under L.R. 37-3: “no discovery motions may be filed or heard on an ex parte basis absent a showing of irreparable injury or prejudice not attributable to the lack of diligence of the moving party.”
5. Until further notice, no civil jury trials will occur **before January 4, 2021** in accordance with G.O. 20-09 (8/6/20). All trial dates currently calendared **before January 4, 2021** will be vacated automatically by this order and reflected in a text entry on PACER. Upon the resumption of civil jury trials, the parties must file stipulations and proposed orders resetting trial dates. **Other existing pretrial deadlines, however, remain in full effect unless otherwise ordered.** Trial dates calendared after January 4, 2021 shall remain as scheduled unless otherwise ordered.
6. With the written consent of the parties, civil bench trials by videoconference in cases amenable to that alternative medium may be scheduled with court permission before January 4, 2021. If the parties in any case wish to proceed in this manner, they must file a stipulation and proposed order laying out the request and related logistics for proceeding in this way.
7. Until further notice, no judgment debtor examinations will occur before January 4, 2021, unless the Judgment Creditor is able to arrange a remote method for the examination, in which case the Judgment Creditor must file a stipulation and proposed order laying out the request and related logistics for proceeding in this way. Meanwhile, any in-person JDEs currently calendared before January 4, 2021 will be vacated automatically by this order and reflected in a text entry on PACER. It is the responsibility of the Judgment Creditor to issue new subpoenas and to contact the Courtroom Deputy Clerk to schedule new in-person examination dates after January 4, 2021, so long as the courthouse is reopened to the public.
8. Unless otherwise ordered, no courtesy copies to chambers is required, except for emergency motions or requests.

Settlement Conferences:

1. Until further notice, the court will hold settlement conferences by remote means only. The court will not accept requests for a settlement conference made any later than three weeks before the ADR deadline set in the district judge’s scheduling order. It is the responsibility of the parties to seek and obtain the necessary extension of any ADR deadline; however, the parties may contact the Courtroom Deputy Clerk beforehand to determine the court’s available dates to hold a remote settlement conference by the extended ADR deadline.
2. Remote settlement conferences will be scheduled only in cases where the parties represent in writing by email that (1) they will exchange good faith offers no later than two weeks before the proposed conference, and (2) they can assure the Court that there is a better than 60% chance of

settlement even if the conference is done remotely. Violations of this directive will be sanctioned. Other logistical details for a remote settlement conference will be issued by separate order. The Court's authorized videoconference platform is Microsoft Teams, so the parties should familiarize themselves with the use of that platform.

Criminal Matters:

1. Initial appearances and other pretrial proceedings set for criminal bench duty shall continue to take place in accordance with the operative General Order in Re: Coronavirus Public Emergency and any operative Order of the Chief Judge concerning video and telephonic conferences in certain criminal matters.
2. The parties must notify the Courtroom Deputy Clerk at the earliest possible time if any defendant in custody will not consent to appearing by video or telephonic conference for any pretrial proceeding where such method of remote hearing is authorized by law with the in-custody defendant's consent. In-custody defendants may, through counsel, waive in writing their right to appear by video or telephonic conference for any remote hearing, unless such waiver is prohibited by law.
3. Except as otherwise required by the Clerk's Office, all criminal applications or requests may be submitted electronically to the Court's criminal duty address at SK_CrimDuty@cacd.uscourts.gov. Unless otherwise requested or ordered for good cause, the swearing of declarations by agents during the court's criminal document duty (including during court business hours as well as after-hours) will be done by teleconference. **The swearing or attesting agent must have a copy of the filed affidavit and be in a position to discuss it or answer questions in a suitable environment without noise or distraction.** It is the responsibility of the AUSA assigned to any criminal document matter—not the Courtroom Deputy Clerk—to ensure that all of the Clerk's Office's filing requirements are met.