



**SUPERIOR COURT OF ARIZONA**  
**PIMA COUNTY**  
DIVISION 16  
110 WEST CONGRESS STREET  
TUCSON, ARIZONA 85701

**HON. D. DOUGLAS METCALF**  
JUDGE

TELEPHONE 520/724-3708

FAX 520/724-8136

Dear Pima County Superior Court Civil Practitioners:

Since the COVID-19 pandemic began, the Superior Court has remained open hearing matters deemed “essential,” and many of you are curious as to how the Court will manage its civil caseload as it transitions back to in-person proceedings. Herein, I share with you our current plans and measures.

The Court’s “Back to Operations” Task Force, responsible for reopening protocols under conditions that protect the health of all court participants, is working through numerous challenges as we return to regular operations, even down to the granular detail of arranging seating throughout the courthouse so that the spaces support social-distancing restrictions.

Additionally, they are in communication with other Arizona courts as well as courts nationwide to share best practices and will continue to provide guidance moving forward. Their first report is available on the Court’s [website](#).

The Chief Justice’s [Administrative Order](#) gives us the flexibility to change the way we do business to meet the challenges presented by the current pandemic. We have embraced that ethos to keep civil cases moving.

### CIVIL CASE SCHEDULING

To reduce person-to-person contact while ensuring adequate coverage, the Court markedly reduced in-person proceedings, and each Civil division is dark every other day.

However, we have been and will continue to promptly hear cases that are time-sensitive, such as requests for temporary restraining orders and elections challenges. Additionally, the Clerk of Court continues to accept civil case filings. The divisions will continue to review those filings and issue orders in a timely manner.

As we reopen, each judge will encounter a backlog of matters that require a hearing. Each Civil division has currently been allocated one day per week to hold hearings, as follows:

- Tuesday: Judges Miller and Metcalf
- Wednesday: Judges Gordon and Tang
- Thursday: Judges Bergin and Griffin
- Friday: Judge Bostwick
  - Judge Johnson will move to the Civil bench on July 1 and assume Judge Bostwick’s caseload. Judge Bostwick is rotating to the juvenile court bench.

We will continue to hold hearings remotely whenever possible. In-person civil hearings will be limited to matters where the proceeding cannot be conducted remotely or presents a true emergency. Additionally, we will continue to hold settlement conferences telephonically or by video conferencing to help keep cases moving.

## JURY TRIALS

The resumption of jury trials also poses unique challenges. The manner in which prospective jurors appear at the courthouse, meet in the jury assembly room, are escorted to each courtroom using elevators, and congregate in the courtroom for voir dire necessitates close contact, all problematic given current social distancing guidelines.

Likewise, having jurors, witnesses, parties, attorneys, court staff, and judges in the courtroom while maintaining appropriate physical distancing will be difficult.

Until the advent of the pandemic, we summoned jurors to appear only on Tuesdays and started all jury trials that same day. The Task Force is considering scheduling trials to begin on four different days each week, Monday through Thursday, so that we summon fewer jurors to the courthouse at any one time. Prospective jurors will likely be seated in the gallery as well as the jury box. Voir dire may need to be done in stages to limit the number of potential jurors in the courtroom.

Once we resume jury trials, criminal trials will commence first because of the liberty interest at stake in every criminal case. The Court will conduct only a limited number of trials concurrently, so as civil trials start again, we will triage cases to decide which will be tried first.

The question then becomes, when will this occur? The answer is - when it can be accomplished safely. We are not there yet, and achieving this metric is not imminent.

In order to manage cases going forward, most current trial dates will be vacated, and judges will set status conferences to discuss the circumstances. If we are unable to set a trial date at that hearing, another status conference will be calendared. Rolling status conferences will continue, often set by an in-chambers order, until a trial date has been established.

The objective is that every active case (i.e., cases where a scheduling order has been issued) remains active, and these ongoing status conferences will keep parties apprised of the situation until a trial date has been set.

## REMOTE HEARINGS

The pandemic has caused a seismic shift in the way we conduct business. For the short and medium-term, most civil proceedings will be conducted telephonically or via video conferencing.

The Court is using Microsoft Teams because it is secure, and we had already planned on moving to this platform. Although not currently the most user-friendly platform, it will become more so as time progresses, given the tremendous demand.

As practitioners, it is essential that you become proficient in using up-to-date communications technology, which will become more prevalent moving forward. It is worth your time and expense to become practiced in its use.

Generally, attorneys should have access to a landline. Use the telephone receiver and not the speakerphone. When not talking, it is important to mute your phone.

With video technology, it works best if you download the application for the platform that will be used, and practice using it before the hearing. Ensure you have a camera on your computer, and when possible, an external microphone and speaker system. Many first-time users have issues with both.

Despite everyone's best efforts, hiccups will occur. When the Court first started holding telephonic hearings, our telephone system was overwhelmed, which led to dropped calls and calls with poor sound quality. We have since upgraded our system, which has solved most problems.

Other challenges remain. Conducting hearings remotely slows the proceeding down and makes it difficult to use exhibits. It is also problematic for the public to access hearings. We are working with vendors to obtain technology that will allow proceedings to be streamed over our website, but we are not there yet. We will continue to work to overcome these and other issues.

On behalf of the Civil bench, we appreciate your continued dedication to the rule of law in these troubling times. With the efforts of all, we will emerge from this more resilient, both as a community and as a justice system.

Hon. D. Douglas Metcalf