

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

In Re: CONTINUED OPERATION OF UNITS OF
THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF MICHIGAN
DURING A LAPSE IN APPROPRIATIONS

Administrative Order
No. 19-MS-004

This Order shall take effect upon a lapse in a duly enacted appropriation or continuing resolution for Fiscal Year 2019, and exhaustion of all no year funds and fee revenue, which is currently projected for close of business on January 31, 2019. Once triggered, this Order shall remain in effect until the lapse is cured by a duly enacted appropriation, or until authorized funds otherwise become available for the Court.

The United States District Court for the Western District of Michigan, including the United States Bankruptcy Court, and Probation and Pretrial Services, shall continue to perform their Constitutional duty to hear and decide cases, and to support case disposition, without interruption. All cases shall continue to be processed according to normal schedules and priorities in the discretion of the assigned judicial officer.

The *Guide to Judiciary Policy*, Vol. 13, Finance and Budget, Ch. 2 §§ 220.30, *et seq.*, and Director Duff's memorandum of January 11, 2019 entitled *Guidance for Judiciary Operations During Phase 2 of Lapse in Appropriations*, allow discretion to court units in determining judicial officers and staff deemed necessary to the performance of essential court functions that are excepted under the Anti-Deficiency Act.

The Court Unit Executives, in consultation with the Chief Judges of the District and Bankruptcy Courts, have developed a plan entitled *FY 2019 Lapse Plan for the United States District Court and Probation and Pretrial Services Office, Western District of Michigan* dated January 16, 2019, that expresses the district's policy on essential court functions and services.

Consistent with that Policy, and based on careful review of responsibilities assigned to and actual work being performed by staff, the Court has determined that all Chambers and Clerk's Office staff in both the District and Bankruptcy Courts, and all Probation and Pretrial Services staff, are currently supporting functions essential to the Court's Constitutional duty, and are thus excepted from the provisions of the Anti-Deficiency Act. This determination by the Court recognizes this is a Court with a small number of judicial officers, but a widely dispersed geographical jurisdiction, and that all staff members necessarily handle cross functional tasks regularly in support of the exercise of Article III judicial power.

Excepted employees performing essential functions must report to work in a non-pay status. The Court will incur obligations to pay for excepted work performed by employees during a lapse in appropriations, and payroll will process pay after an appropriation is enacted to fund judiciary operations.

Staff will not perform functions that are unrelated to essential activities set forth in this plan (e.g., ancillary administrative tasks, non-essential training, and other similar activities). The Court Unit Executives will monitor staff's work activity on at least a weekly basis to ensure compliance with the district's lapse plan and ongoing guidance from the Administrative Offices of U.S. Courts. The CUEs will adjust staffing levels as needed to ensure only excepted work is performed during the lapse of appropriation. Affected employees will be placed in a furlough status as required by law.

The General Services Administration shall provide the level of services and building maintenance necessary to ensure that all court facilities are kept open for regular hours plus any extended hours while court is in session, as permitted by law. The United States Marshals Service, the Federal Protective Service and other security providers shall maintain all functions necessary for the appropriate security of all judges, court employees, jurors and the public for the safe use of all United States Court facilities within the District, as permitted by law.

This Order may be modified or superseded by further order of this Court.

IT IS SO ORDERED.

FOR THE COURT



ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE

Dated: January 23, 2019