

<p>NINTH JUDICIAL DISTRICT, COLORADO  Court Address:       Garfield County Courthouse                                109 Eighth St., Suite 104                                Glenwood Springs, Colorado 81601</p> <p>Phone Number:       970-928-3065</p> <hr/> <p>ADMINISTRATIVE ORDER</p>	<p><input type="checkbox"/> COURT USE ONLY <input type="checkbox"/></p>
<p>The Honorable James B. Boyd</p>	<p>Administrative Order 21-06</p>
<p style="text-align: center;"><b>AMENDED JURY TRIAL PLAN DURING PANDEMIC  NINTH JUDICIAL DISTRICT</b></p>	

**NOTICE: This order cancels jury summonses for jury trials scheduled to begin in Garfield or Rio Blanco county in the weeks of October 18 and October 25, 2021.**

**The health conditions continue to change quickly. The District continues to reach out for additional consultation and guidance. The contents of this order may change soon.**

Since the beginning of the worldwide COVID-19 pandemic, the courts and courthouses in the 9<sup>th</sup> Judicial District (“the District”) have remained steadfast in our commitment and responsibility to protect constitutional rights and to provide a forum to address matters essential to the safety and well-being of all. In pursuit of this objective, the District has adopted health-safety protocols for jury trials as set forth in

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the District's Jury Plan as adopted by Administrative Order 20-06, as amended by Administrative Orders 20-07.01, 21-02 and 21-05.

The health and safety of the public, including but not limited to prospective jurors, empaneled jurors, other courthouse users, witnesses, parties, counsel, court staff, and judges continue to be of paramount concern. The Jury Plan confirmed it was subject to revision upon changed circumstances. The District has monitored changing health regulations and guidance, evolving health conditions, and operations and jury trials around the State of Colorado. Consultation has been ongoing with other judges and judicial districts throughout the state, jury commissioners, the court executive, clerks of court and representatives of the District Attorney's office, the Public Defender's office, the Office of Alternative Defense Counsel, the Garfield County Public Health department and the Garfield County Attorney's office. Circumstances have changed and guide the amendments adopted here to reinstate health criteria for jury trials.

When the District adopted the last jury plan amendment on July 15, 2021, health circumstances had improved. Based on those improvements, health metrics were removed from the jury plan, and jury trials were permitted in all courthouses in the

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District so long as the requirements of the Jury Plan were followed. The last amendment also provided health criteria thresholds might be reinstated in the future if warranted. Unfortunately, the pandemic has had a resurgence since the Court's last order in July 2021, and the present circumstances do warrant reinstatement of health criteria.

The consistent metrics kept and published by the Colorado Department of Public Health and Environment (the CDPHE) since the Court's last suspension of jury trials in February 2021 include the one-week incidence rate (new cases per 100,000 people), the one-week test positivity rate and the duration of decreasing or stable hospital admissions. The CDPHE still publishes its DIAL with color-coded risk levels although it no longer sets an overall risk level.

Garfield County: Incidence rate: Though the color code remains yellow, the incidence rate has more than doubled since the July 15 Jury Plan amendment from 114.7 to 252.6. Positivity rate: The positivity rate has increased two colors from yellow to red rising from 5.5% to 10.5%. Both the incidence rate and the positivity rate are higher today than they were when the last order suspending jury trials was entered in February 2021. Hospitalization rate: The hospitalization rate was coded

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yellow on July 15 as it is today. Using its own measures, Garfield County has its own overall risk level. After remaining in yellow from July 15 (and earlier), the risk color increased to orange on about October 14 and remains there today. Garfield County publishes the number of new cases per week. After three months with fewer than 100 new cases per week, the number increased to more than 100 almost every week in September, ranging from 95 to 136. To date in October, the new cases per week has exceeded 100 every week, from a low of 135 to a high of 199.

Pitkin County: Incidence rate: The incidence rate has increased one color since July 15 from blue to yellow and more than doubled from 62 to 157.7. Positivity rate: The positivity rate has also increased one color from blue to yellow and more than doubled from 2.5% to 5.5%. The incidence rate today is lower, but the positivity rate is higher than these metrics were when the last order suspending jury trials was entered in February 2021. Hospitalization rate: The hospitalization rate was coded blue on July 15; it is yellow today.

Rio Blanco County: Incidence rate: The incidence rate has increased one color since July 15 from orange to red, rising from 301.3 to 570.8. Positivity rate: The positivity rate has also increased one color from orange to red, rising from 9.7% to

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10.3%. Both the incidence rate and the positivity rate are higher today than they were when the last order suspending jury trials was entered in February 2021.

Hospitalization rate: The hospitalization rate was coded yellow on July 15 as it is today.

The CDC uses color codes to characterize COVID-19 transmission levels. The high transmission red level is assigned if the one-week incidence rate is 100 or more or the one-week positivity rate is 8% or more. All three 9<sup>th</sup> District counties are in the high transmission level under this metric.

Vaccination rates are climbing slowly. Those fully vaccinated has risen from 55% to 66% in Garfield County and 60% to 72% in Pitkin County. This metric is not available from Rio Blanco County.

Based on these circumstances, the following health criteria are adopted and incorporated into the 9<sup>th</sup> District's Jury Plan:

For each county in the 9<sup>th</sup> Judicial District, a jury trial shall not go forward if any of the following apply in the applicable county:

the one-week incidence rate is over 300 (threshold for high risk color orange) as reported by the CDPHE;

the one-week positivity rate is over 7.5% (threshold for high risk color orange)

as reported by the CDPHE;

the duration of stable or decreasing hospital admissions is 7 days or less (threshold for high risk color orange) as reported by the CDPHE.

If none of the above apply, but if the CDPHE reports any one or more of the above metrics to be in the concern color yellow range, the presiding judge shall confer with the Chief Judge about the circumstances of the particular case and the details of health conditions, and the Chief Judge will determine if the jury trial may proceed.

If the CDPHE reports each of the above metrics to be in the Green Protect Our Neighbors or Blue Cautious level, the trial may go forward without further consultation with the Chief Judge.

In each case, the presiding judge may select a cutoff date for the application of these health criteria. The date shall be no more than ten days prior to the first date of trial.

Application of these health criteria can prohibit jury trials going forward and can require further authorization from the Chief Judge if the applicable thresholds are triggered. However, even if the health criteria or the Chief Judge authorizes a jury trial to proceed, nothing in this order limits the authority of the presiding judge in individual cases from ruling in a particular case, based on motions or otherwise and based on facts particular to the case, that a particular jury trial should not proceed as scheduled for health-safety reasons.

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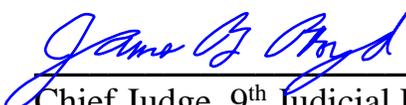
The health criteria thresholds in this order may be updated or modified as circumstances continue to evolve.

Nothing in this order changes the District's Jury Plan except as specifically set forth in this order. Nothing in this order changes the District's health-safety protocols for all operations as most recently set forth in Administrative Order 20-05 as amended by Administrative Order 21-05.

In light of the adoption of this order and the presence circumstances discussed in it, all juries summoned to appear for trials scheduled to begin in Garfield or Rio Blanco county during the week of October 18 and the week of October 25, 2021, are cancelled. This order does not change any trial settings. Unless otherwise ordered by the presiding judge, the settings shall remain in place to preserve jurisdiction and for an appearance to determine further proceedings.

Done on October 20, 2021.

BY THE COURT

  
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Chief Judge, 9<sup>th</sup> Judicial District