

The President of the United States has declared a National Emergency and the Governor of the State of Colorado has declared a State of Emergency related to the presence of, and health risk associated with, COVID 19. The Colorado Department of Public Health and Environment (“CDPHE”), and local public health departments have issued several orders both requiring and recommending certain actions to slow the spread of the disease. The Governor has issued several Executive and Public Health Orders concerning the operation of businesses and personal pursuits for all Coloradans.

As a consequence of the serious public health issues related to the COVID 19 pandemic, jury trials throughout the State of Colorado were suspended by order of the Chief Justice of the Colorado Supreme Court dated April 16, 2020, and as extended on May 5, 2020, and June 15, 2020. Pursuant to the latter of these Orders the 10th Judicial District had obtained a waiver from the Chief Justice to begin holding jury trials and the District began holding trials pursuant to that waiver and in accord with recommendations from the Pueblo Department of Public Health and Environment (“PDPHE”). On July 24, 2020 the Chief Justice issued his Updated Order Regarding COVID 19 and Operations of State Courts removing the requirement that judicial districts obtain waivers from the Chief Justice to resume conducting jury trials after August 2, 2020, provided that the Chief Judge of each district determined that a jury can be safely assembled consistent with applicable executive orders and health directives.

The judges of the 10th Judicial District recognize that the right to a jury trial in criminal cases is fundamental and guaranteed by the United States and Colorado constitutions. Further both defendants, victims and the People of the State deserve to have expeditious determinations of guilt and innocence. Civil trials are no less important to the parties waiting for the resolution of their disputes.

CDPHE has adopted a COVID 19 Dial which establishes a tiered system of safety precautions. The dial includes six levels, from least to most restrictive. Details for each level outline specific metrics and specific restrictions to activities. There are three metrics that CDPHE uses to determine the level for the County. As of today, the County is in level green in two of the three metrics – our positivity rate and declining or stable hospitalizations. The County remains in level red on the two-week moving average of positive cases. However, that number continues to decline and as of today the County is less than four points away from moving down to level orange. The City and County have requested a variance from the Colorado Department of Public Health and Environment (CDPHE) to allow businesses that are compliant with health and safety restrictions to operate under Level Yellow restrictions. This would mean, for instance, that restaurants could allow inside dining at 25% capacity.

On December 7, 2020, CDPHE issued Public Health Order 20-36. That order states that “[m]ultiple sources of data show that COVID-19 transmission and the use of health care due to COVID-19 have leveled off in Colorado. Our work to ‘flatten the curve’ appears to

be succeeding . . .”

Recently, the CDC has modified its recommendations for isolating or quarantining for anyone who has had direct contact with a COVID-19 positive individual to ten days. This has implications regarding any anticipated surge following the upcoming holidays.

The 10th Judicial District has implemented various health and safety protocols to reduce the exposure of individuals to disease. Employees must complete a health questionnaire each day that requires employees to certify that they do not have a temperature or other symptoms before coming to work. Individuals seeking to enter the judicial building also have their temperature taken and must answer health questions before being allowed to enter. Steps have been taken to reduce the number of employees working on site. Social distancing and mask wearing are required. Regular cleaning and sanitizing occurs in all areas of the building. In addition, the District has worked with the Pueblo County Department of Health and Environment to structure a jury trial plan that meets health and safety requirements.

Balancing the need to protect the health and welfare of the staff and public, with the need to hold criminal jury trials to protect the rights and interests of criminal defendants, victims and the People of the State of Colorado, the District began holding jury trials on January 12, 2021.

Pursuant to the authority granted in Chief Justice Directive 95-01 and Chief Justice Order dated March 16, 2020, as amended, and Chief Justice Order dated July 24, 2020, it is hereby Ordered as follows:

1. All civil jury trials will remain suspended through May 31, 2021.
2. The District commenced holding jury trials on January 12, 2021. The prior administrative order limited jury trials to one district and one county court trial to commence on any given day. Starting immediately, the Chief Judge in consultation with the criminal bench shall consult to determine which trials may proceed. The number may include two county and one district court trial, or two county court trials, or two district court trials, to commence on any given day. Judges will work to determine the priority of trials taking into consideration the following factors: speedy trial issues; the age of the case; the in-custody status of the defendant; the severity of the charges; witness or victim concerns; and trial duration. The final determination of priority will be made by the Chief Judge.
3. All prior operational orders not inconsistent with this order remain in effect.

Dated: November 5, 2020, as amended November 23, 2020, as amended December 11, 2020 and as amended January 15, 2021.

BY THE COURT:



DEBORAH EYLER, CHIEF JUDGE