

<p><b>EIGHTEENTH JUDICIAL DISTRICT: ARAPAHOE, DOUGLAS, ELBERT and LINCOLN COUNTIES, COLORADO</b></p> <p>Arapahoe County Justice Center 7325 South Potomac Street Centennial, Colorado 80112</p> <p>Arapahoe County Courthouse 1790 West Littleton Boulevard Littleton, Colorado 80120</p> <p>Douglas County Justice Center 4000 Justice Way #2009 Castle Rock, Colorado 80109</p> <p>Elbert County Courthouse PO Box 232, 751 Ute Street Kiowa, Colorado 80117</p> <p>Lincoln County Courthouse PO Box 128, 103 Third Avenue Hugo, Colorado 80821</p>	<p style="text-align: center;"><b>• COURT USE ONLY •</b></p> <p style="text-align: center;"><b>Ninth Amended Chief Judge Order 20-06 January 8, 2021</b></p> <hr/> <p style="text-align: center;"><b>Division 201</b></p>
<p style="text-align: center;"><b>NINTH AMENDED CHIEF JUDGE ORDER 20-06 FINDING PUBLIC HEALTH CONCERNS DUE TO COVID-19 PRECLUDE THE CALLING OF JURORS FOR JURY TRIALS SCHEDULED PRIOR TO FEBRUARY 17, 2021</b></p>	

This order is issued to provide guidance to summoned jurors, attorneys, litigants, and all others associated with any jury trials in the Eighteenth Judicial District in light of the public health risk posed by the Novel Coronavirus (“COVID-19”). On July 24, 2020, the Chief Justice of the Colorado Supreme Court issued his Updated Order Regarding COVID-19 and Operation of Colorado State Courts. In that Updated Order, the Chief Justice removed the requirement that the Chief Judges obtain a waiver to resume conducting jury trials after August 2,

2020, provided the Chief Judge of the district determines that a jury pool can safely be assembled consistent with applicable executive orders and health directives.

Prior to July 24, 2020, the undersigned sought and obtained a waiver from Chief Justice Coats to issue juror summons and resume jury trials requiring seven jurors or less for Arapahoe and Douglas Counties effective July 22, 2020.<sup>1</sup> This waiver was sought on the basis that jurors could be safely assembled, selected, and empaneled, in only those two counties, for these limited jury trials that would resume in a slow and incremental manner consistent with state and local public health guidelines. As a result, jurors were summoned for limited jury trials. The Eighteenth Judicial District's careful planning and preparation proved effective. Citizens in our community responded to their juror summons and provided invaluable feedback to assist the Eighteenth Judicial District with a gradual increase in these jury trials over the months of July, August, September, and October 2020.

Notwithstanding the success the Eighteenth Judicial District had in resuming jury trials for months, surges in the number of COVID-19 cases that occurred both nationally and locally dictated that those jury trials cease in November 2020. The Colorado Department of Public Health and Environment's (CDPHE) color-coded COVID-19 Dial Dashboard remains in effect and includes data collected across three metrics for each county: (1) new cases - this metric tracks how much the virus is circulating within the county; (2) percent positivity - this metric tracks the level of virus transmission; and (3) impact on hospitalizations - this metric tracks whether hospitalizations are increasing, stabilizing, or

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<sup>1</sup> The Proposal to Resume Jury Trials in Arapahoe and Douglas Counties, approved by the Tri-County Health Department, is available on the Court's website. This plan was approved by Chief Justice Coats on June 22, 2020 and has been, and will continue to be, modified and improved based upon lessons learned and feedback received after each jury trial.

declining. Using the data for each of these three metrics, the CDPHE now utilizes a six-level dial categorizing the risk levels existing in each county. The six levels, from least to most restrictive are: (1) Level Green (Protect Our Neighbors); (2) Level Blue (Caution); (3) Level Yellow (Concern); (4) Level Orange (High Risk); (5) Level Red (Severe Risk); and (6) Level Purple (Extreme Risk).

On November 20, 2020, the CDPHE moved Arapahoe and Douglas counties to Level Red. Shortly thereafter, the CDPHE moved both Elbert and Lincoln counties to Level Red. On December 30, 2020, Governor Polis, citing improvements in the number of cases and decreased usage of ICU facilities across the State of Colorado, announced his request that the CDPHE move counties currently in Level Red to Level Orange, effective January 4, 2021. Irrespective of what the metrics may reflect, all four counties in the Eighteenth Judicial District are currently in Level Orange on the Dial.

While moving from Level Red to Level Orange is a welcome sign and the counties have overall made improvements, COVID-19 remains a significant public health and safety concern. As of January 7, 2021, the metrics for all four counties per the CDPHE website are trending again in an upward direction. In Arapahoe County, the two-week average cumulative incidence rate is 519.3 (Level Red), the two-week average positivity rate is 7.1%, and hospitalizations have been declining for the past 10 days. In Douglas County, the two-week average cumulative incidence rate is 398.3 (Level Red), the two-week average positivity rate is 7.2%, and hospitalizations have been declining for the past 11 days. In Elbert County, the two-week average cumulative incidence rate is 311 (Level Orange), the two-week average positivity rate is 10.3%, and there has been at least one to two new hospitalizations reported in the past two weeks. In Lincoln County, the two-week cumulative incidence rate is 246 (Level Orange), the two-week average positivity

rate is 4.9%, and there has been at least one to two new hospitalizations reported in the past two weeks.

Local public health officials remain concerned about the spread of COVID-19 at this time for a variety of reasons, which include, but are not limited to: (1) the discovery of a new variant of the current virus in the State of Colorado, notably in Elbert County; (2) this new variant has the capacity to spread more rapidly; (3) metrics data is yet to be gathered associated with respect to the December 2020 holidays; (4) schools are now starting to resume in-person learning; (5) businesses that have received the 5 Star Program Certification are reopening again; and (6) vaccinations have just begun and at present, there remains insufficient community protection.

The decision to continue to suspend the summoning of jurors to our courts is not one undertaken lightly. The right to a jury trial in criminal cases is fundamental and guaranteed by the United States and Colorado Constitutions. It has been of paramount importance to the judicial officers in this district to resume jury trials, but only when jury pools can safely be assembled consistent with applicable executive orders and health directives.

The undersigned has considered current information from the Centers for Disease Control and Prevention, the CDPHE, and has consulted with the Tri-County Health Department, which governs Arapahoe and Douglas Counties, and the local public health agencies that govern Elbert and Lincoln Counties. Based upon current information and strong recommendations provided by local public health agencies, the undersigned has now determined that a continued temporary suspension of jury trials is both necessary and appropriate.

Pursuant to the authority provided to the Chief Judges by the Chief Justice of the Colorado Supreme Court through Chief Justice Directive 95-01, *Authority and Responsibility of Chief Judges*, and in compliance with the Updated Chief Justice Order issued on July 24, 2020, the undersigned hereby suspends the summoning for jurors for jury trials set through February 16, 2021. **No person will be summoned to report for jury service in the Eighteenth Judicial District prior to February 17, 2021.** <sup>2</sup>

Given current state and local public health guidelines, which include the need to continue to maintain at least six-feet of social distancing, the Eighteenth Judicial District is committed to incrementally resuming jury trials in a mindful manner. Jury trials will not be able to resume in the capacity that the Eighteenth Judicial District could achieve prior to COVID-19. Therefore, the undersigned will review all cases scheduled for jury trials and, together with the Eighteenth Judicial District's Presiding Judges, will determine which cases shall proceed to trial. County court jury trials will be eligible to resume across the Eighteenth Judicial District, effective February 17, 2021. Felony and juvenile jury trials will be eligible to resume across the Eighteenth Judicial District, effective February 22, 2021. Jury trials in all docket types will be eligible to resume across the Eighteenth Judicial District, effective March 1, 2021. Planning efforts have been and will continue to be extensive across the district, including exploring off-site locations to conduct jury selection where necessary.

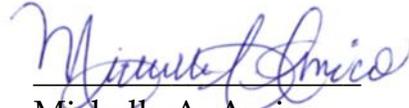
The undersigned will continue to monitor all four counties closely, and this Ninth Amended CJO 20-06 is subject to modification or extension at any time without advance notice as state and public health orders may dictate.

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<sup>2</sup> This Ninth Amended CJO 20-06 does not apply to any grand jury proceedings in the Eighteenth Judicial District.

Dated January 8, 2021.

**BY THE COURT:**



Michelle A. Amico

Chief Judge

Eighteenth Judicial District