

<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 align="center">• COURT USE ONLY •</p> <p align="center"><b>Eighth Amended Chief Judge Order 20-06 November 6, 2020</b></p> <hr/> <p align="center"><b>Division 201</b></p>
<p align="center"><b>EIGHTH AMENDED CHIEF JUDGE ORDER 20-06 FINDING PUBLIC HEALTH CONCERNS DUE TO COVID-19 PRECLUDE THE CALLING OF JURORS FOR JURY TRIALS SCHEDULED BETWEEN NOW AND JANUARY 18, 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. 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 past several months, to also include the ability to resume jury trials in both Elbert and Lincoln Counties. To date, over fifty jury trials have taken place safely and successfully across the Eighteenth Judicial District. The district's meticulous planning and preparation permitted the ability to afford constitutional and statutory rights to jury trials while concurrently maintaining public health and safety at a time when relevant data associated with each county indicated it was safe to assemble jurors.

Notwithstanding the success the Eighteenth Judicial District has had thus far, surges in the number of COVID-19 cases are occurring nationally, statewide, and within our local counties. The Colorado Department of Public Health and Education (CDPHE) has created a COVID-19 Dial Dashboard, which includes data

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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.

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 declining. Using the data for each of the three metrics, the CDPHE utilizes a five-level dial categorizing the risk levels existing in each county. The five levels, from least to most restrictive are: (1) Level Green – Protect Our Neighbors; (2) Level Blue – Safer at Home Cautious; (3) Level Yellow – Safer at Home Concern; (4) Level Orange – Safer at Home High Risk; and (5) Level Red – Stay at Home.

While the Court is defined as a critical government function and remains exempt from certain public health order elements and capacity guidelines associated with the color-coded Dial Dashboard, and the Eighteenth Judicial District has successfully resumed *limited* jury trials without incident, the trajectory of the data causes significant concern and demands the district review how operations, specifically the convening of jurors in group settings, should proceed amidst the newly defined public health levels and corresponding data for each county.

According to CDPHE's Dial Dashboard, as of November 6, 2020, Arapahoe, Douglas, and Elbert Counties are all Level Yellow – Safer at Home Concern. The current Level Yellow status is, in and of itself, concerning. However, a review of the current data for metrics for these three counties is even more alarming. The number of new COVID-19 cases per 100,000 people over a two-week period for Arapahoe and Douglas Counties has bypassed Level Orange – Safer at Home High Risk and moved directly to the highest level, Level Red – Stay at Home. Arapahoe County's two-week cumulative incidence rate is 517.8 per 100,000 people with a two-week average positivity rate of 9.2%. Douglas County's two-week cumulative

incidence rate is 396 per 100,000 people with a two-week average positivity rate of 8.2%. The number of new COVID-19 cases per 100,000 people for Elbert County has placed it in the Level Orange – Safer at Home High Risk category with a two-week cumulative incidence rate of 284.8 per 100,000 people and a two-week average positivity rate of 9.3%, yet another high for the county since the inception of the pandemic and dangerously close to Level Red – Stay at Home. Given the current data for Arapahoe, Douglas, and Elbert Counties, it is anticipated they could soon transition to Level Orange – Safer at Home High Risk.

The Dial Dashboard for Lincoln County reflects Level Blue – Safer at Home Cautious. However, as of today, there is an alarming spike in cases in Lincoln County. Out of 300 recent COVID-19 tests in Lincoln County, 45 have returned positive with an even greater number anticipated as the county conducts contact tracing. This is considered a significant community outbreak given the small population size of Lincoln County. This puts Lincoln County’s two-week average positivity rate at 12% and jumps the county from Level Green – Protect Our Neighbors in this metric all the way to Level Orange – Safer at Home High Risk.

Hospitalization rates have increased dramatically across Colorado, taxing the hospital system. The CDPHE predicts that if the current surges in COVID-19 cases continue, ICU beds may no longer be available across the state as early as mid-December.

To further compound public safety and health concerns associated with the surge in COVID-19 cases is the fact that the upcoming months include major holidays and a shift in seasons when indoor activities will increase due to inclement weather. Both facts bring an anticipation that adherence to social distancing, the wearing of masks, and other risk-mitigation guidelines will become more challenging. Local public health officials in all four of our counties are

significantly concerned about the continued spread of COVID-19 over the course of the next few months and are urging citizens to continue to take all precautions necessary to assist in combating the virus. Other judicial districts in the state have suspended jury trials through much of the holiday season.

The decision to suspend the summoning of jurors to our courthouses 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 could 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 the local public health agencies, the undersigned has now determined that a **temporary suspension of jury trials is both necessary and appropriate**. The current data suggests that it is not safe to assemble jurors for jury trials due to the risk to public health and safety.

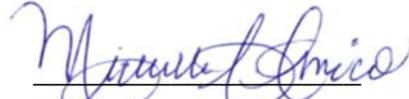
Pursuant to the authority provided to Chief Judges by the Chief Justice of the Colorado Supreme Court through Chief Justice Directive 95-01, *Authority and Responsibility of Chief Judges*, and in compliance with the Updated Order issued by the Chief Justice on July 24, 2020, the undersigned hereby suspends the summoning of jurors for jury trials set through January 18, 2021. **No person will be summoned to report for jury service in the Eighteenth Judicial District prior**

to **January 19, 2021.**<sup>2</sup> The judicial officers in the district will individually determine the status of all cases set for trial during this time period.

The undersigned will continue to monitor all four counties closely, and this Eighth Amended CJO 20-06 is subject to modification or extension at any time as public health orders may dictate. This Eighth Amended CJO 20-06 rescinds and replaces the Seventh Amended CJO 20-06.

Dated November 6, 2020.

**BY THE COURT:**



Michelle A. Amico

Chief Judge

Eighteenth Judicial District

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