



FIFTH JUDICIAL DISTRICT, STATE OF COLORADO
CLEAR CREEK COUNTY, EAGLE COUNTY, LAKE COUNTY,
AND SUMMIT COUNTY

AMENDED ADMINISTRATIVE ORDER)
REGARDING COURT OPERATIONS) 2020-102A
UNDER COVID-19 ADVISORY)
)

In light of the public health risk posed by the Novel Corona Virus and COVID-19 and the advisories and orders from the Centers for Disease Control, the Colorado Department of Public Health and Environment, and local public health departments, recommending active steps to slow the spread of the disease and precautions to reduce the risk of exposure, effective immediately the Courts of the 5th Judicial District will be operating with reduced staff and a focus on matters of immediate concern for public safety.

Pursuant to the authority granted in Chief Justice Directive 95-01 and Chief Justice Order dated March 16, 2020, as amended by Chief Justice Order of March 20, 2020, it is hereby ORDERED as follows:

1. Operations:

a. **Hours and Filings.** All courts will be open 8:00 a.m. to 5:00 pm., Monday to Friday, excepting legal holidays. Staff will be reduced as coordinated by the Clerks of Court and the Court Executive, with the approval of the Chief Judge. During operating hours court filings will be accepted at the window in each location. The court will accept electronic filings through ICCES for the case types in the ICCES system and by email in JV cases pursuant to the District's Email Filing Protocol (collectively "ICCES" as used herein), but hearings related to matters not concerning public safety as described in section 2.b. below (e.g. replevins, evictions, show cause hearings, injunctions, etc.) will be delayed pursuant to this Order.

b. **Limitations on Entry.** Persons who meet any of the following criteria are prohibited from entering any courthouse and instead should call the court to reschedule their court date, request to appear by phone, or receive further instructions:

- i. Anyone diagnosed with COVID-19 and that does not have written verification that the person has received a subsequent test confirming that person is currently virus-free;
- ii. Anyone who has been in direct contact with someone who has been diagnosed with COVID-19 within the preceding fourteen days;
- iii. Anyone experiencing a fever, cough, shortness of breath, any other respiratory illness or flu-like symptoms.

2. **Mandatory Continuance and Limitations on Hearings prior to April 6, 2020.**

- a. Except for matters concerning public safety as described in section 2.b. below, ALL other appearances and/or hearings set from 8:00 a.m., Tuesday, March 17, 2020, through 5:00 p.m. Friday, April 3, 2020, are hereby VACATED and CONTINUED. All parties and counsel shall contact the appropriate court to reschedule. The courts may also initiate rescheduling. **A hearing may be reset from the date of this Order through April 3, 2020, so long as it is conducted by electronic means as defined in section 7. below.** This section 2.a. applies to all jury trials **except** those in which a speedy trial deadline expires during the above time period. Any person that appears at a courthouse for a hearing that is not public safety matter shall be provided a new hearing date. This mandate includes all telephone conferences, including those scheduled with the Family Court Facilitator.
- b. The courts will continue to conduct hearings on public safety matters. Public safety matters are limited to the following:
 - i. Petitions for temporary civil protection orders and permanent protection order hearings;
 - ii. Petitions for temporary emergency risk protection orders and hearings on emergency risk protection orders;
 - iii. Crim.P. Rule 5 advisement for incarcerated persons and the initial setting of bail;
 - iv. Revocation hearings on complaints to revoke probation involving an incarcerated defendant;

- v. Proceedings necessary to protect the constitutional rights of criminal defendants including bond-related matters and plea agreements for incarcerated individuals;
 - vi. Detention hearings for juvenile delinquency cases;
 - vii. Shelter hearings in dependency and neglect cases or other emergency juvenile proceedings (e.g. emergency change of placement);
 - viii. Petitions for appointment of an emergency guardian and/or special conservator;
 - ix. Hearings on motions to restrict parenting time and parental abduction prevention;
 - x. Emergency mental health proceedings;
 - xi. Other proceedings deemed necessary by the presiding judge (in consultation with the Chief Judge) to prevent a substantial risk of imminent financial hardship, or imminent risk to the health, safety or welfare of an individual or members of the community.
- c. When hearings are conducted for public safety matters, courts shall follow the protocols set forth in sections 7 and 8 below.

3. **Jury Trial Continuances and Conduct of other Hearings from April 6, 2020 to May 15, 2020.**

- a. **Jury Trials.** All jury trials set to commence on or before May 15, 2020, excepting only those for which the statutory time limit for trial expires on or before May 15, 2020 as noted in sections 2.a and 3.a above, are hereby VACATED and CONTINUED. All parties and counsel shall contact the appropriate court to reschedule. The courts may also initiate rescheduling.
- b. **Other Hearings.** The courts may resume conducting hearings in all other matters beginning April 6, 2020, provided, however, that to the greatest extent possible, all such hearings shall be conducted by electronic means in accordance with the protocol set forth in section 7 below. If hearings must be conducted in person, then the protocol set forth in paragraph 8 shall apply.

4. **Jury Calls.** Excepting only jury trials with imminent statutory trial deadlines noted in sections 2.a. and 3.a. above, all jury calls for a return date between March 20, 2020, and May 15, 2020 shall be cancelled. Any jurors receiving a summons for this time period and that contacts the jury commissioner with COVID-19 concerns shall have their service postponed consistent with this Order. Except in the event of a jury call necessary to empanel a jury for a jury trial where the statutory time limit for trial

expires on or before May 15, 2020, any juror that appears on a summons during the above time period shall have their service postponed. The provisions of Chief Judge Administrative Order 2020-101 Regarding the Release of Jurors for Health Reasons shall continue to apply.

5. Prohibition on Group Gatherings. Except in the event of a jury trial conducted in accordance with section 2.a. or 3.a. above, there shall be no gatherings of groups larger than ten (10) persons in any of the courthouses for any purpose. Social distancing shall be observed for all gatherings. The use of any courthouse for any extrajudicial purpose (e.g. solemnization of weddings) is prohibited.

6. Social Distancing. Social distancing shall be maintained with respect to all in-person activities within the courthouse, excepting detention facilities.

7. Protocol for Hearings Conducted by Electronic Means. The following protocol shall apply to all hearings conducted by electronic means (i.e. hearings conducted where all participants are participating by telephone and/or video conference) ("Remote Hearings").

- a. In the absence of exigent circumstances, all Remote Hearings shall be conducted utilizing the court's systems for providing electronic participation such that the audio content of proceeding may be heard from the subject courtroom regardless of whether any participants in the Remote Hearing are physically present in the courtroom, and all such hearings shall be conducted on the record utilizing the court's recording machines.
- b. Participants at an electronic hearing will be limited solely to the attorneys, parties, and witnesses, and, if necessary, victims, victim's advocates, and interpreters. No other members of the public shall participate in the Remote Hearing. If the Remote Hearing is being conducted on an open conference line (e.g. the court's conference line), no attorney or party should identify themselves until their case is called. Unless and until a case is called, all participants should mute their audio/video device(s). If participants in a Remote Hearing must confer privately, they shall make arrangements for an alternate means of communication in order to preserve confidentiality.
- c. Any exhibit necessary for a Remote Hearing must be uploaded via ICCES prior to the hearing. If there are confidentiality or constitutional concerns relating to compliance with this protocol, the proponent of the exhibit should contact the court's division clerk prior to the hearing for guidance on filing in sealed status.

- d. Participants shall speak one at a time and not over one another. Special care shall be taken in order to facilitate sequential translation when an interpreter is being utilized.
- e. Prior to participation in a Remote Hearing, the participants shall meet and confer by phone or electronically in an effort to resolve or streamline issues necessary for resolution during the Remote Hearing.
- f. A Remote Hearing may be conducted using telephone, video, webex or other electronic means, or any combination thereof, as determined to be appropriate by the presiding judge. The presiding judge may also provide for an "open" electronic proceeding where the public or other interested observers may listen to and/or observe the proceedings.

8. Protocol for Any In-Person Hearing or Jury Trial.

- a. Jury Selection. In the event of a jury trial conducted pursuant to section 2.a. or 3.a. above, the following procedures shall apply:
 - i. The provisions of Chief Judge Administrative Order 2020-101 Regarding the Release of Jurors for Health Reasons shall apply and all prospective jurors will be screened in accordance therewith.
 - ii. During jury selection, public seating in the gallery may be limited. Court staff shall reserve, subject to social distancing requirements, areas in the gallery for victims and/or persons supporting victims and/or the accused. Prospective jurors shall be seated in a manner consistent with social distancing requirements.
 - iii. The presiding judge shall conduct jury selection individually or in small groups in a manner deemed appropriate by said judge and consistent with current health advisories, including, without limitation, restrictions on group size.
- b. Restrictions During In-Person Proceedings.
 - i. All participants, including empaneled jurors, in an in-person proceeding shall maintain social distancing at all times.
 - ii. Attorneys shall address the court from counsel tables and shall address the jury and/or witnesses from the lectern or counsel table as determined by the presiding judge.

- iii. Attorneys shall not approach witnesses and all exhibits shall be filed electronically prior to any hearing. If there are confidentiality or constitutional concerns relating to compliance with this protocol, the proponent of the exhibit should contact the court's division clerk prior to the hearing for guidance on filing in sealed status.
- iv. Unless an original of an exhibit is required (e.g. a physical object), duplicates of all exhibits must be available for independent use by each witness.
- v. There shall be no bench conferences. If matters must be heard outside the presence of the jury, the judge may make such orders as may be necessary to conduct proceedings in chambers or otherwise outside the presence of a jury.
- vi. During recesses, jurors may be separated into smaller groups across multiple jury rooms. During deliberations, the court may order the deliberations be undertaken in the courtroom in order to preserve social distancing and may take such steps deemed necessary or appropriate to restrict access to the courtroom during deliberations.
- vii. Upon completion of testimony, unless a witness is a victim, witnesses are encouraged to immediately leave the courthouse.
- viii. Even in the case of an in-person hearing, the parties are encouraged to maximize the use of electronic means to permit the remote appearance of counsel, parties, witnesses and other persons interested in the proceeding, subject to the orders of the presiding judge.

9. Presiding Judge Orders. In individual cases, the presiding judge has the authority to enter orders to address issues specific to the needs of the case so long as those orders are not less restrictive than the mandatory procedures for all cases set forth in this Order or in the Chief Justice's Orders of March 16 and March 20, 2020. The presiding judge in each case may modify the protocols set forth in sections 7 and 8 as necessary.

10. Family Court Facilitator, Case Management, and Other Conferences by Phone Only. All conferences with the Family Court Facilitator, collections investigator(s), self-represented coordinator, and protected proceedings monitor, and all case management

conferences shall be conducted by telephone conference only pending further Order of the Chief Judge.

11. Mediation and Settlement Conferences. All mediation and settlement conferences provided by the court shall be via Remote Hearing and there shall be no "in-person" services provided by the courts. Parties ordered to mediate in any proceeding may participate remotely following any protocols established by the mediator.

12. Probation. Probation clients shall be supervised in a modified manner as directed by the Chief Probation Officer. All services shall be provided by telephone and/or video whenever possible.

13. Staffing Advisement. The courts of the 5th Judicial District are working with reduced staff in order to address the current community health situation. Consequently, responses to phone messages and emails may be delayed.

14. Effective Date and Modification of this Order. This Order is effective immediately upon the date and time entered below. Circumstances continue to change and this Order may be updated or modified frequently. All persons are encouraged to check regularly on the 5th Judicial District homepage which can be found on the website for the Colorado Judicial Branch at www.courts.state.co.us for the latest information.

SO ORDERED this 23rd day of March, 2020, at 5:00 p.m.

BY THE COURT:



Mark D. Thompson
Chief District Court Judge

