



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

**ADMINISTRATIVE ORDER)
REGARDING COURT OPERATIONS) 2020-102A-7
UNDER COVID-19 ADVISORY) AMENDED DECEMBER 30 2020
)**

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 the Novel Corona Virus 2019 (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, and the Governor has issued several Executive and Public Health Orders concerning the operation of businesses and personal pursuits for all Coloradans. Due to the public health risk posed by COVID-19, the Centers for Disease Control and CDHPE are recommending active steps to slow the spread of the disease and precautions to reduce the risk of exposure.

In addition to the foregoing, the judges of the 5th Judicial District recognize that the right to a jury trial in criminal cases is fundamental and guaranteed by the United States and Colorado constitutions, and it has been of paramount importance to the judges in this District to resume and conduct jury trials in criminal and civil cases only when we believed it safe to do so. 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 Colorado Supreme Court Chief Justice dated April 16, 2020, and as extended on May 5, 2020, and June 15, 2020. On July 24, 2020, the Chief Justice issued his Updated Order Regarding COVID-19 and Operations of State Courts removing the requirement that Chief Judges obtain waivers from the Chief Justice to resume conducting jury trials after August 2, 2020, provided 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 5th Judicial District have met regularly since the onset of the pandemic to formulate plans for the safe resumption of jury trials and have considered information from the Centers for Disease Control (“CDC”), the CDPHE, executive orders issued by Governor Polis, public health orders issued by CDPHE, and public health orders issued by Clear Creek County, Eagle County, Lake County and Summit County. In early August, 2020, the district and county district courts comprising the 5th Judicial District resumed the conduct of jury trials.

Surges in the number of COVID-19 cases, hospitalizations, and deaths related to COVID-19 have occurred in many states during recent weeks. Data relating to the current status can be located at:

[https://covid.cdc.gov/covid-data-tracker/#cases_casesper100klast 7 days](https://covid.cdc.gov/covid-data-tracker/#cases_casesper100klast7days)

<https://covid19.colorado.gov/data>

<https://covid19.colorado.gov/data/covid-19-dial/covid-19-dial-dashboard>

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 how many people can participate in various activities at one time. The six levels are Green, Blue, Yellow, Orange, Red and Purple. The metrics that define the levels are: New cases: How much the virus is circulating in a county; Percent positivity: Whether there is sufficient COVID-19 testing to capture the level of virus transmission; Impact on hospitalizations: Whether hospitalizations are increasing, stable, or declining.

Counties will move between levels based on the metrics and guidance from CDPHE to ensure unique local factors are considered. In order to move to a less restrictive level counties must meet and sustain all the required metrics for the required duration. Counties must engage in a consultation process with CDPHE, which may entail moving to a more restrictive level, when they are out of compliance with any of the metrics for more than two weeks.

Jury trials were suspended across the District in response to the rising COVID-19 cases effective November 17, 2020. The suspension is scheduled to expire on January 19, 2021. As of December 30, 2020, the COVID-19 Dial Levels for the counties within the District were reported as follows:

Clear Creek County – Red;

Eagle County - Orange;

Lake County - Red;

Summit County - Red.

Several other Districts across the State and the United States District Court for the District of Colorado have suspended jury trials, many until March of 2021. In light of the foregoing, the judges of the 5th Judicial District have conferred and are in agreement that a temporary moratorium on the commencement of additional jury trials is necessary and appropriate to safeguard against additional COVID-19 health issues and to reduce potential for the spread of illness among the public, attorneys, litigants, law enforcement, and court and probation staff. Accordingly, commencement of jury trials will remain temporarily suspended and the courts and probation department of the 5th Judicial District will be operating subject to certain restrictions. The suspension on jury trials will be extended to February 26, 2021, with trials resuming on March 1, 2021.

Pursuant to the authority granted in Chief Justice Directive 95-01 and Chief Justice Order dated March 16, 2020, as amended, and Chief Judge Order dated July 24, 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. Courts may be closed temporarily to from time to time for staff meetings. 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, JA, MH and relinquishment cases pursuant to the District's Email Filing Protocol (collectively "ICCES" as used herein). Hearings relating to matters concerning public safety as described in section 2.b. below (e.g. replevins, evictions, show cause hearings, injunctions, etc.) will be given priority. Filers that do not have ICCES should contact the court for assistance with filing by fax or other electronic means. Clerks of Court are encouraged to assist parties without access to ICCES to file by electronic means.

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 or difficulty breathing, chills, repeated shaking with chills, muscle pain, headache, sore throat, new loss of taste or smell, or any other respiratory illness or flu-like symptoms;
 - iv. Persons with a temperature in excess of 100.4°F.
- c. **Face-Coverings and Physical Distancing.**
- i. **All persons entering any courthouse shall wear a face covering over their nose and mouth at all times** unless specifically authorized by a judge during the course of a proceeding.
 - ii. Physical distancing (six feet between persons) shall be maintained with respect to all in-person activities within the courthouse, except for persons in custody.

2. JURY TRIALS AND JUROR SERVICE.

- a. **Jury Trials Currently Underway.** Jury trials underway at the effective date and time of this order shall be permitted to continue, subject to the discretion of the presiding judge.
- b. **Jury Trials Set to Commence on or after November 17, 2020.** Any jury trial scheduled to commence on or after November 17, 2020, and prior to **February 26, 2021**, is hereby VACATED and CONTINUED. Except as provide in subsection 2.a. above, no jury trials will proceed during this time interval. If your jury trial is scheduled during this time period, you should contact the court to arrange a status conference by Electronic Means as soon as possible. The District will continue to evaluate whether the prohibition on commencement of jury trials shall be extended or otherwise modified.
- c. **Jury Calls.** All jury calls for a return date between November 17, 2020, and February 26, 2021, shall be cancelled. Any jurors receiving a summons for this time period shall have their service postponed

consistent with this Order. This Order does not prohibit the issuance of juror summons requiring a juror to appear for service on or after March 1, 2021. Any juror that receives a juror summons for a return date on or after March 1, 2021, and that is showing any COVID-19 symptom should not report and should contact the jury commissioner to have their service postponed.

- d. **Jury Order.** The provisions of Chief Judge Administrative Order 2020-101 Regarding the Release of Jurors for Health Reasons shall continue to apply.

3. **HEARINGS IN PERSON AND BY ELECTRONIC MEANS.**

- a. **Preference for Hearings by Electronic Means.** Subject to any applicable Rule of Procedure, to the greatest extent possible, all hearings shall be conducted by WebEx interactive audio-visual means (“Electronic Means”) in accordance with the protocol set forth in section 5 below. In all matters where an in-person proceeding is contemplated, the presiding judge shall have discretion to conduct the hearing by combination of Electronic Means and in-person participation. Participants are encouraged to participate by both audio and visual connection. The free WebEx App is available at the following locations:

<https://apps.apple.com/us/app/cisco-webex-meetings/id298844386>

https://play.google.com/store/apps/details?id=com.cisco.webex.meetings&hl=en_US

- b. **In-Person Hearings on Public Safety Matters.** Courts may conduct in-person proceedings for matters relating to public safety as listed below:
 - 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. **Other In-Person Proceedings.** Subject to this Order, the presiding judge in any case may require an in-person proceeding where her or she finds that the interests of justice so require.
- d. **Civil Matters.** Except jury trials and evictions, all civil matters and small claims shall be conducted by Electronic Means unless specifically ordered by the presiding judge.
- e. **Domestic Relations Cases.** All trials, hearings, and advisements in domestic relations cases shall be conducted by Electronic Means unless specifically ordered by the presiding judge.
- f. **Evictions and Debt Collection.**
- i. **Evictions.** Forcible entry and detainer actions (“eviction(s)”) should be in compliance with the Governor’s Executive Order, as amended. Additionally, where appropriate, pleadings should address the applicability of the CARES Act. Persons filing eviction actions should contact the court prior to filing to obtain an appropriate return date.

- ii. **Debt Collection.** Extraordinary debt collection activities are subject to the limitations set forth in SB 20-211 signed by Gov. Polis on June 29, 2020, as extended or amended.
- g. **Criminal Cases.** The County and District Courts in all counties are conducting hearings primarily by Electronic Means.

- i. **Defendants Represented by Attorneys.** Defendants that have court or return dates and are represented by an attorney shall appear by Electronic Means subject to Crim.P. 43 and unless otherwise specifically ordered by the presiding judge. Such defendants should contact their attorney to receive instructions. The WebEx addresses to participate in hearings by Electronic Means in each court in the District can be found at:

https://www.courts.state.co.us/Courts/District/Custom.cfm?District_ID=5&Page_ID=951

- ii. **Unrepresented Defendants.** Defendants that have court or returns dates and that do not have an attorney should contact the issuing court using the information provided below to receive instructions about whether to appear in-person or by Electronic Means. If an unrepresented defendant does not receive alternative instructions from the court, then he or she must appear at the courthouse at the date and time designated on the summons in order to avoid the issuance of an arrest warrant. Contact information for the courts is as follows:

Clear Creek County Court:

Judge Cynthia J. Jones

Phone: (303) 569-0832

Email: wendy.grummons@judicial.state.co.us

Eagle County Court

Judge Rachel Olguin-Fresquez

Phone (970) 328-8550

Email: sandra.reyes@judicial.state.co.us

Lake County Court

Judge Jonathan Shamis

Phone: (719) 293-8100 x. 9

Email: brenda.knoll@judicial.state.co.us

Summit County Court

Judge Edward J. Casias

Phone: (970) 547-2615

Email: joy.rosales@judicial.state.co.us

Clear Creek County District Court:

Judge Catherine J. Cheroutes

Phone: (303) 569-0820

Email: heidi.hershberger@judicial.state.co.us

Eagle County District Court:

Judge Paul R. Dunkelman

Phone: (970) 328-8563

Email: nanci.baker@judicial.state.co.us

Judge Reed W. Owens

Phone: (970) 328-8553

Email: hope.silverstein@judicial.state.co.us

Judge Russell H. Granger

Phone: (970) 328-8554

Email: teri.farney@judicial.state.co.us

Lake County District Court

Judge Catherine J. Cheroutes

Phone: (719) 293-8109

Email: margaret.lacome@judicial.state.co.us
brenda.knoll@judicial.state.co.us

Summit County District Court:

Judge Karen A. Romeo

Phone: (970) 547-2618

Email: samantha.vance@judicial.state.co.us

Chief Judge Mark D. Thompson

Phone: (970) 547-2614

Email: cheryl.rothey@judicial.state.co.us

4. PROHIBITION AND SIZE LIMIT ON GROUP GATHERINGS. Unless a local health department order restricts group sizes to a smaller number, there shall be no gatherings of groups larger than ten (10) persons in any of the public areas (i.e. courtrooms, public hallways, public restrooms, and foyers of the courthouses for any purpose; provided, however, that any jury trial underway on the date and time of this Order shall be exempt from this group size limitation The use of any courthouse for any extrajudicial purpose (e.g. solemnization of weddings) is prohibited.

5. PROTOCOL FOR HEARINGS BY ELECTRONIC MEANS. The following protocol shall apply to all hearings conducted by Electronic Means.

- a. In the absence of exigent circumstances, all hearings by Electronic Means 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 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 in hearings conducted by Electronic Means will be limited solely to the attorneys, parties, and witnesses, and, if necessary, victims, victim's advocates, and interpreters. Unless otherwise ordered by the presiding judge, members of the public may observe (including by electronic means) but shall not participate in the hearing and hear access information shall be provided to the public on request. If the hearing is

being conducted on an open WebEx line, no attorney or party should identify themselves until their case is called. Unless and until a case is called, all participants must mute their audio/video device(s). If participants in a hearing conducted by Electronic Means must confer privately, they shall make arrangements for an alternate means of communication in order to preserve confidentiality.

- c. Any exhibit necessary for a hearing conducted by Electronic Means 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 hearing conducted by Electronic Means, the participants shall meet and confer by phone or electronically in an effort to resolve or streamline issues necessary for resolution during the hearing.
- f. A hearing via Electronic Means 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.
- g. Secondary communication (e.g. text messaging or emails) between any witness(es) and any other party during the witness(es)'s testimony is prohibited without the express permission of the presiding judge.
- h. **Except for the official court record, recording and/or reproduction, via any means, of any portion of a Remote Hearing is strictly prohibited. Violation of this provision may result in the imposition of sanctions including contempt of court.**

6. **PROTOCOL FOR ANY IN-PERSON HEARING OR JURY TRIAL.**

- a. Jury Selection. 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.
 - iv. All provisions of any waiver approved by the Chief Justice for conduct of jury trials shall be observed.
- b. Restrictions During In-Person Proceedings.
- i. During any in-person proceeding, 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, media, and other participants.
 - ii. All participants, including empaneled jurors, in an in-person proceeding shall maintain social distancing at all times and all in-person proceedings shall be subject to any applicable limit on group size.
 - iii. 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.
 - iv. 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.
 - v. 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.

- vi. 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.
- vii. 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.
- viii. Upon completion of testimony, unless a witness is a victim, witnesses are encouraged to immediately leave the courthouse.
- ix. 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.

7. **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. The presiding judge in each case may modify the protocols set forth in sections 5 and 6 as necessary.

8. **FAMILY COURT FACILITATOR AND OTHER CONFERENCES BY PHONE OR ELECTRONIC MEANS.** 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 or Electronic Means only, pending further Order of the Chief Judge.

9. **MEDIATION AND SETTLEMENT CONFERENCES.** Mediation and settlement conferences provided by the court shall be via Electronic Means where possible. Any in-person mediation services provided by the courts shall be subject to the limitations on group size and other provisions of this Order. Parties ordered to mediate in any proceeding may participate remotely following any protocols established by the mediator.

10. **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.

11. EFFECTIVE DATE, MODIFICATION, AND BINDING EFFECT. 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. The Order shall be deemed filed in each and every case filed in the District and binding on all parties and attorneys in each case.

SO ORDERED this 30th day of December, 2020, at 2:15 p.m.

BY THE COURT:


Mark D. Thompson
Chief District Court Judge

