



Therefore, I HEREBY ORDER, that the following restrictions on court operations continue to remain in effect as amended on November 10, 2020. This amended order remains in effect until further order and provides as follows:

1. Definitions. As used in this order:

a. "In the courthouse" means that a trial, proceeding, or hearing is being conducted, at least in part, in either the courthouse or an alternative physical location being used by the court, as opposed to being conducted entirely by remote means.

b. "Court facility" means the courthouse or any alternative physical location being used by the court, but not any part of a building or location that is not under the court's control.

c. "Level 2' restrictions" apply in a judicial district that has moved to the Governor's Phase One reopening, as described in paragraph 19. "Level 3' restrictions" apply in a judicial district that has not yet moved to Phase One, as described in paragraph 19.

d. "Phase One" means the first phase of Governor Brown's reopening of Oregon by easing certain restrictions on Oregonians in relation to the COVID-19 state of emergency.

e. "Presiding Judge" means the presiding judge of a judicial district or any person to whom that judge has delegated authority under this order.

f. "Staff" means all Washington County Justice Court personnel working in the court facility, including all volunteers.

g. "Remote means" means making a court appearance or conducting a trial, proceeding, hearing, or other gathering by telephone, video, other two-way electronic communication device, or simultaneous electronic transmission.

h. "Social distancing" means the minimum amount of physical distance between each person. The distance shall be determined by the social distancing requirements specified in the applicable Executive Order issued by the Governor, Guidance issued pursuant to such an order, or Guidance from the Centers for Disease Control and Prevention (CDC). As of the date of this order, the distance is 6 feet between each person. When this order imposes social distancing requirements, members of the same household, and others if permitted by the Presiding Judge, are excepted from those requirements.

i. “Enclosed office or workstation” means an office or workstation that is enclosed from floor to ceiling on all sides, including a courtroom.

j. “Open work area” means a work area consisting of one or more temporary or permanent workstations that either have no barriers or are partially separated by barriers that do not enclose the workstation from floor to ceiling on all sides, such as cubicles.

k. “Face covering/face mask” means a cloth, paper, or disposable face covering that covers the nose and the mouth. **A face shield, alone, does not constitute a face covering for the purposes of this order unless used in conjunction with a cloth, paper, or disposable face covering that covers the nose and mouth. A face covering with a vent and/or ventilation device does not constitute a face covering for the purposes of this order.**

l. “Temporarily remove a face covering” means removal for a short period of time, necessary to fulfill the purpose of an exception, as described in paragraph

## 2. Trials

Bench trials in any case:

a. This subparagraph applies to bench trials other than Forcible Entry and Detainer (FED) proceedings, addressed in paragraph 4.

b. Pursuant to Level 2 restrictions,

(1) The Presiding Judge may schedule a bench trial for any date that the Presiding Judge deems appropriate, but only if the following conditions are met:

- (a) The court has sufficient staff to hold the trial; and
- (b) If held in the courthouse, social distancing can be maintained in the courtroom and throughout all court-controlled areas of the courthouse, and other requirements of paragraph 10 can be met.

(2) Bench trials may be held in the courthouse or by remote means, or by a combination of in-the-courthouse and remote means. The Presiding Judge shall determine the mode of trial.

(3) Any bench trial held in the courthouse must comply with social distancing requirements in the courtroom and throughout all court-controlled areas of the courthouse, and also with other requirements set out in paragraph 10. The court may utilize remote means within

the courthouse to comply with social distancing requirements for trial participants and members of the public.

c. Bench trials in other matters:

(1) This subparagraph applies to bench trials other than those addressed above, including bench trials in civil cases, but excluding trials in Forcible Entry and Detainer (FED) proceedings, addressed in paragraph 10.

(a) The Presiding Judge may schedule a bench trial for any date that the Presiding Judge deems appropriate, but only if the following conditions are met:

(i) The court has sufficient staff to hold the trial; and

(ii) If held in the courthouse, social distancing can be maintained in the courtroom and throughout all court-controlled areas of the courthouse, and other requirements of paragraph 10 can be met.

(b) Bench trials may be held in the courthouse or, if permitted by law, by remote means, or by a combination of in-the-courthouse and remote means. The Presiding Judge shall determine the mode of trial.

3. Essential Proceedings

a. Category 1 essential proceedings: There are no Category 1 essential proceedings that take place in the Washington County Justice Court.

b. Category 2 essential proceedings

(1) The proceedings described in subparagraph 3.b.(4) shall be scheduled in accordance with the court's regular scheduling procedures or as required by law.

(2) The proceedings shall be held either in the courthouse or, if permitted by law, by remote means or by a combination of in-the-courthouse or remote means. The Presiding Judge shall determine the mode of the proceedings.

(3) Any proceeding held in the courthouse must comply with social distancing requirements in the courtroom and throughout all court-

controlled areas of the courthouse, and also with other requirements set out in paragraph 10.

(4) The following are Category 2 essential proceedings in Washington County Justice Court violation matters:

(A) Case management and docket hearings; and

(B) Out-of-custody arraignments on citations.

c. Category 3 essential proceedings

(1) This paragraph applies to the proceedings described in subparagraph 3.c.(4).

(2) The proceedings shall be scheduled in accordance with the court's regular scheduling procedures or as required by law, but only if the following conditions are met:

(A) The court has sufficient staff to hold the proceeding; and

(B) If held in the courthouse, social distancing can be maintained in the courtroom and throughout all court-controlled areas of the courthouse, and other requirements of paragraph 10 can be met.

(C) A proceeding may be held in the courthouse or, if permitted by law, by remote means, or by a combination of in-the-courthouse and remote means. The Presiding Judge shall determine the mode of the proceedings.

(3) A proceeding held in the courthouse must comply with social distancing requirements in the courtroom and throughout all court-controlled areas of the courthouse, and also with other requirements set out in paragraph 10.

(4) The following are Category 3 essential proceedings:

(A) In violation proceedings:

(i) Hearings on out-of-custody case resolutions, including pleas, change of plea, and sentencing; and

(ii) Judicial settlement conferences;

(B) In civil proceedings, case management hearings;

4. Forcible Entry and Detainer (FED) Proceedings

- a. Each court shall permit a plaintiff to file a FED complaint, and the court shall issue a summons for service by the plaintiff, unless prohibited by law. The complaint and the summons shall be in the form required by law and subparagraph 4.c.
- b. All first appearances under ORS 105.137 shall be postponed without the need for a motion. No party shall be required to appear on the date set by summons for the initial first appearance, and no answer shall be required at that time. Although not required, the court shall allow a defendant to file an answer before the rescheduling of any first appearance.
- c. Attachment A to this order sets out a form explanation of the first appearance postponement described in subparagraph 4.b (including translations). The court shall attach to the summons described in subparagraph 4.a. an explanation of the postponement, in a form substantially similar to Attachment A (including translations).
- d. Subject to Gubernatorial and/or Chief Justice order, the court shall reschedule the case for a first appearance to take place after July 1, 2020, or a later date if there is an applicable moratorium on evictions in effect on July 1, 2020, and shall notify all parties of the time, date, and place of the rescheduled first appearance.
- e. When the date for first appearance is rescheduled, all parties shall appear in the courthouse or as otherwise directed at such rescheduled first appearances, on the date set.
- f. All trials under ORS 105.137(6) scheduled to begin before July 1, 2020, shall be postponed, and no trial shall be scheduled to begin before that date. A landlord who wishes to have the court enter an order that a defendant pay rent pending trial shall file a motion for such an order.
- g. Notwithstanding subparagraph 4.d., a Presiding Judge may schedule a first appearance to take place before July 1, 2020, under subparagraph 8.a., but only on motion of a party filed after the court has issued the first appearance postponement described in subparagraphs 4.b. and 4.c.

- h. Notwithstanding subparagraph 4.f., a Presiding Judge may schedule a trial to begin before July 1, 2020, under subparagraph 8.a.
- i. A Presiding Judge may schedule a trial to begin on or after July 1, 2020, but only if the following conditions are met:
  - (1) Level 2 restrictions apply in the judicial district;
  - (2) No applicable moratorium on evictions is in effect;
  - (3) The court has sufficient staff to hold the appearance or trial; and
  - (4) If held in the courthouse, social distancing can be maintained in the courtroom and throughout all court-controlled areas of the courthouse, and other requirements of paragraph 10 can be met.
- j. Any first appearance that takes place, or trial that is held, under subparagraph 4.f, 4.g., or 4.h., shall be held either in the courthouse or, if permitted by law, by remote means, or by a combination of in-the-courthouse or remote means. The Presiding Judge shall determine the mode of first appearance or trial.
- k. Any first appearance taking place or trial held in the courthouse must comply with social distancing requirements in the courtroom and throughout all court-controlled areas of the courthouse, and also with other requirements set out in paragraph 10. The court may utilize remote means within the courthouse to comply with social distancing requirements for trial participants and members of the public.

## 5. Motions

- a. A Presiding Judge may schedule hearings on motions that do not require witness testimony in accordance with the court's regular scheduling procedures or as required by law, but only if the following conditions are met:
  - (1) The court has sufficient staff to hear the motion; and
  - (2) If held in the courthouse, social distancing can be maintained in the courtroom and throughout all court-controlled areas of the courthouse, and other requirements of paragraph 10 can be met.

- b. Any hearing on such a motion may be held in the courthouse or, if permitted by law, by remote means, or by a combination of in-the-courthouse and remote means. The Presiding Judge shall determine the mode of hearing.
- c. Any hearing held in the courthouse must comply with social distancing requirements in the courtroom and also with other requirements set out in paragraph 10.

6. Other Court Proceedings

a. This paragraph applies to all proceedings not addressed in paragraphs 2 through 5, including ancillary proceedings.

b. Scheduling and mode of proceedings

(1) Since Level 2 restrictions apply to the Washington County Justice Court,

(A) A Presiding Judge may schedule and hold proceedings, including ancillary proceedings, in accordance with the court's regular scheduling procedures or as required by law, but only if the following conditions are met:

(i) The court has sufficient staff to hold the proceeding; and

(ii) If held in the courthouse, social distancing can be maintained in the courtroom and throughout all court-controlled areas of the courthouse, and other requirements of paragraph 10 can be met.

(B) Proceedings may be held in the courthouse, or, if permitted by law, by remote means, or by a combination of in-the-courthouse and remote means. The Presiding Judge shall determine the mode of the proceedings.

7. Exhibits

a. Notwithstanding any other court order, when a trial, proceeding, or hearing is to be conducted by remote means, any exhibit that can be copied and submitted to the opposing party and to the court, may so submitted;

b. Exhibits submitted as a unified single file under this paragraph must:



- (1) Be accompanied by an index that identifies each exhibit, located at the beginning of the submission, and each identified exhibit must be linked to the index; and
    - (2) Include a bookmark for each exhibit.
  - c. The court may reject submissions that do not comply with this paragraph.
  - d. A Presiding Judge shall determine how nondocumentary exhibits, such as audio or video exhibits, are to be submitted for a trial, proceeding, or hearing.
8. Presiding Judge Authority; Remote Appearances and Hearings
- a. Notwithstanding any paragraph or subparagraph requiring that certain trials or proceedings begin on or after July 1, 2020, a Presiding Judge has discretion to schedule a particular trial or proceeding before that date upon a determination, after consulting with the parties and other affected persons, that it should occur earlier; that the court has sufficient staff to conduct the trial or proceeding; and that it can be conducted by remote means or, if held in the courthouse, that social distancing can be maintained in the courtroom and throughout all court-controlled areas of the courthouse, and other requirements of paragraph 10 can be met.
  - b. If this order permits a Presiding Judge to schedule a trial, proceeding, or hearing, and a party believes that such a trial, proceeding, or hearing should be scheduled but that the Presiding Judge has failed to schedule it or has scheduled it on a date that is later than it should be scheduled, the party may file a motion asking that it be scheduled or rescheduled for good cause.
  - c. Each Presiding Judge shall have authority to suspend any Supplementary Local Rule that may be an impediment to Level 2 operations, as applicable, including any requirement that an *ex parte* submission be made in person.
  - d. Except as provided in subparagraph 8.d.(5), each Presiding Judge shall have authority to order that an appearance be made or a proceeding be conducted by remote means.
    - (1) If a Presiding Judge has ordered that a certain category of appearance or proceeding be conducted by remote means, no motion requesting appearance by remote means need be filed.

- (2) If a Presiding Judge has ordered that an appearance or proceeding be made or conducted by remote means, and a party contends that that order is not permitted by law or results in violation of the party's rights, the party may file a motion seeking an order that the appearance or proceeding be held in the courthouse. This subparagraph applies to any crime victim who contends that an order results in a violation of the victim's statutory or constitutional rights.
- (3) When a statute or rule requires that a person "personally appear," "appear personally," "appear in person," make a "personal appearance," or be "present in court," the Presiding Judge may direct or permit the person to appear by remote means without coming to the courthouse.
- (4) A Presiding Judge may not order that an appearance be made or a proceeding be conducted by remote means if a statute expressly prohibits such an appearance or proceeding, or the constitution prohibits such an appearance or proceeding.

9. All Other Court Services

- a. The public shall have access to the Washington County Justice Court. Each Presiding Judge shall determine an appropriate means of ensuring access, so that each court continues to provide justice services in the local community, including time-sensitive service when required.
- b. Each Presiding Judge shall ensure that:
  - (1) The court provides information about how it will provide justice services under subparagraph 9.a., including how to file documents with the court and how to contact the court, in a telephone message on the court's main phone line, in a prominent place on or near its courthouse doors, and on its website;
  - (2) The information described in subparagraph 9.b.(1) is also communicated to local community partners, local bar associations, and media outlets;
  - (3) The court answers telephones during its business hours or otherwise develops a method for responding in a timely manner to messages received; and
  - (4) If needed, the court provides a drop-box for the filing of documents with the court.

c. Court functions and services

(1) Since Level 2 restrictions apply in the Washington County Justice Court, the court shall conduct all regular court functions and provide all regular court services, provided that the following conditions can be met:

(A) The court has sufficient staff to hold a trial, proceeding, or hearing, or to provide any other court service;

(B) For services provided at the courthouse, social distancing can be maintained in the courtrooms and throughout all court-controlled areas of the courthouse; and

(C) Other conditions set out in paragraph 10 can be met.

d. If any person in or about to enter a courthouse exhibits symptoms associated with COVID-19, the Presiding Judge may direct the person to leave the courthouse.

10. Requirements for Proceedings Held in Person

For all trials, proceedings, or hearings, and for any other court services taking place at the courthouse or otherwise provided in the courthouse, all judges and court staff must undertake the following precautions:

a. Require and maintain social distancing;

b. Require that all persons entering the areas open to the public of the Washington County Justice Court for any reason, including but not limited to court business at the counter, arraignments, trials or any other proceedings held in the courtroom or any other court area, must wear face coverings unless an exception outlined in this Order is applicable;

c. The requirements of Paragraphs 10a. and 10b. apply to all areas where court operations are conducted, and the court shall provide face coverings and information about how to use them as needed to those individuals who do not provide their own to the extent that available resources allow;

d. The requirement for face coverings in Paragraph 10b. does not apply to:

1. Children under 5 years of age, although children age 2 and up are encouraged to use a face covering if able;

2. A judge presiding over a trial or other proceeding in a courtroom may:
  - a. Temporarily remove the judge's protective face covering to ensure that a particular participating person understands a particular communication from the judge;
  - b. Require or permit a witness to remove a protective face covering when the witness is testifying, provided that a minimum of 6 feet of social distance is consistently maintained between the witness and any other person, and
  - c. Require or permit any other participating person to temporarily remove a protective face covering to ensure that a particular communication is understood.
3. When the judge who is presiding removes the judge's own protective face covering or requires or permits a witness or other participating person to do so under subparagraph 10(d)(2)(a-c):
  - a. If the removal is for less than fifteen (15) minutes, the judge may use or require other protective measures, such as the use of a face shield or protective physical barrier, additional social distancing, or the use of remote means;
  - b. If the removal is for more than fifteen (15) minutes, the judge shall use or require other protective measures, such as the use of a face shield or protective physical barrier, additional social distancing, or the use of remote means.
4. Exemptions:
  - a. A Presiding Judge or that judge's designee(s) may grant an exemption from paragraph 10 to any person who seeks to enter, but does not work in, the Justice Court facility due to disability, respiratory or other health related issues or other legally required cause. The Presiding Judge or that judge's designee(s) shall grant such an exemption when required by law.
  - b. A Presiding Judge or that judge's designee(s) may grant an exemption from paragraph 10 to a judge or staff person who works in the court facility only when the law requires an exemption due to disability or other legally required cause. The Presiding Judge or that judge's designee(s) may grant a temporary exemption from this rule

for the time necessary to determine whether the law requires an exemption.

- c. If an exemption is granted under this paragraph, the Presiding Judge or that judge's designee(s) may require other protective measures, such as the use of a face shield or protective physical barrier, additional social distancing, or the use of remote means.
  - e. Maintain vigilance about cleaning in accordance with other county and OJD established guidelines; and
  - f. Require any other reasonable precautions to protect the health of all participants, including victims, interpreters, and court staff.
11. The court will provide protective face coverings and information on how to use them.

12. Expectations for Attorneys

When trials, proceedings or hearings are held in the courthouse, attorneys shall appear in person, unless the attorney is excused or the Presiding Judge has adopted a procedure that allows attorneys to appear by remote means. An attorney who has concerns about appearing in person due to COVID-19-related issues should seek to be excused; request either a postponement or an appearance by remote means if desired, reasonably feasible, and permitted by law; and, if necessary, take steps to help the client find suitable counsel. A request for postponement, appearance by remote means due to concerns about COVID-19, or request for substitute counsel should be granted as appropriate.

13. Fines, Fees, and Costs

As permitted by law, courts are strongly encouraged to waive or suspend fines, fees, and costs for persons with limited financial resources.

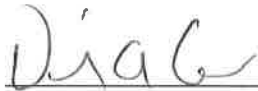
14. Notice and Communication

Presiding Judges and Court Administrators and designees must work together to:

- a. Use all reasonable means to inform judges, staff, lawyers, and the public of these restrictions; and
- b. Post information about these restrictions and local court operations on court websites or in other publicly available locations.

14. This order takes effect on November 10, 2020.

Dated this 10<sup>th</sup> day of November, 2020.

A handwritten signature in cursive script, appearing to read "D. Cross", written in black ink.

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Hon. Daniel A. Cross  
Washington County Justice of the Peace