

Verified Correct Copy of Original 9/10/2021

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4TH JUDICIAL DIST.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR MULTNOMAH COUNTY

In the Matter of Implementing) PRESIDING JUDGE ORDER NO. 2101-00000
Chief Justice Order No. 21-035)
) ORDER RE REMOTE JURY SELECTION

On July 30, 2021, the Centers for Disease Control and Prevention (CDC) issued Guidance to the effect that local decision-makers should assess certain factors to inform the need for prevention strategies to minimize preventable morbidity and mortality related to COVID-19, including the level of COVID-19 transmission, health system capacity, vaccination coverage, capacity for early detection of increases in COVID-19 cases, and populations at risk for severe outcomes from COVID-19. While emphasizing that vaccines are the most effective tool to prevent transmission of COVID-19, the CDC also has stated that multiple interventions should be used concurrently to reduce transmission and recommends social distancing as one such mitigating measure.

Beginning on August 13, 2021, as a result of the rapid and extensive spread of the highly contagious Delta variant of the COVID-19 virus, Governor Brown has announced a series of measures designed to prevent the spread of the virus and to mitigate the risk to and impacts on public health and statewide hospital capacity. Those measures have included statewide requirements to wear protective face coverings both indoors and outdoors, with exceptions, and a vaccination requirement for state executive branch employees. Governor Brown has cited new modeling from the Oregon Health Authority (OHA) and the Oregon Health and Science University projecting that, without new health and safety interventions in place, COVID-19 hospitalizations would far exceed Oregon’s health system capacity within the next several weeks.

On August 24, 2021, Governor Brown announced that the Delta variant had created a level of crisis not yet seen during the pandemic in Oregon, with cases of COVID-19 and hospitalizations statewide at a record high. The variant also has significantly impacted court operations across the state. On August 26, 2021, I issued a Presiding Judge Order (PJO) extending the “Transition Period” through October 31, 2021. Under that PJO, the protective face covering requirement is extended until at least November 1, 2021, and most civil jury trials will be postponed until on or after November 1, 2021. On September 7, 2021, Chief Justice Martha Walters issued Chief Justice Order (CJO) No. 21-035, requiring social distancing for all public areas of a court proceeding, including courtrooms.

The social distancing requirement significantly limits this court’s ability to conduct jury trials because of the limited space available for socially distanced jurors in the court’s jury assembly room. Consistent with CJO No. 21-035, I have concluded that the best way to implement social distancing, protect the public, and continue to meet the court’s obligations is to require juror selection to be

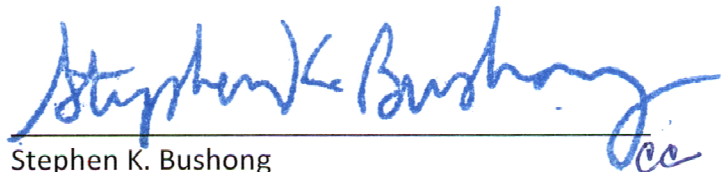
conducted via remote means to the greatest extent possible. Conducting jury selection via remote means allows the court to continue to hold jury trials while minimizing the number of people required to appear in person in the courthouse. Minimizing the number of people summoned to appear in court for jury duty and socially distancing those people who do appear in court in person would help minimize the risk of spreading the virus while still allowing the court to conduct jury trials as needed. The court now has the technological capability to conduct jury selection via remote means, thereby eliminating the need for hundreds of people to appear in person for the jury selection process each week.

Accordingly, it is hereby ORDERED as follows:

1. For trials in criminal and civil cases beginning on or after October 4, 2021, jurors will be summoned to appear via remote means (currently, WebEx) for jury selection. The court will allow jurors who are unwilling to appear remotely or who lack the technical capability to participate remotely to appear in person in the courthouse. The prospective jurors who appear in person will participate in jury selection via remote means from a location within the courthouse under circumstances that comply with the CJO and CDC Guidance. The court will adopt appropriate procedures for conducting the jury selection process remotely, including procedures for conducting trials in the event technological or other barriers interfere with remote jury selection.
2. Jurors selected to serve as jurors and alternate jurors for a particular trial shall be required to appear in person for the remainder of the trial, unless the parties have stipulated to and the court has ordered a fully remote jury trial. Protective face coverings shall be required for the trial as specified in my August 26 PJO, and social distancing shall be required for the trial as specified in CJO 21-035.
3. Remote jury selection applies to jurors and prospective jurors only. All other participants in the jury selection process—lawyers, parties, and the judge—shall appear in person in the courtroom for the jury selection process, unless the parties have stipulated to and the court has ordered a fully remote jury trial. The trial itself will be conducted in the courtroom in accordance with Oregon law.

This order takes effect immediately and shall remain in effect until extended or terminated by further order of this court.

DATED: September 10, 2021



Stephen K. Bushong
Presiding Judge, Multnomah County Circuit Court