

FILED

JUN 29 2021

**Circuit Court
Multnomah County, Oregon**

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

In the Matter of Implementing CJO)	PRESIDING JUDGE ORDER NO. 2101-00000
21-025 Lifting Restrictions on Court Operations)	
After Expiration of State of Emergency)	ORDER RE MODE OF PROCEEDINGS
Due to COVID-19 Pandemic)	FOR CERTAIN COURT PROCEEDINGS DURING
)	TRANSITION AND POST-PANDEMIC PERIODS

On March 8, 2020, Oregon Governor Kate Brown issued Executive Order 20-03 declaring a state of emergency due to the COVID-19 pandemic. The state of emergency has been extended, but it is scheduled to expire on June 28, 2021. On June 25, 2021, Governor Brown issued Executive Order 21-15, which extended the state of emergency to December 31, 2021, but lifted statewide restrictions regarding protective face coverings, social distancing, capacity limits, and other restrictions, effective June 30, 2021.

On March 11, 2021, Oregon Chief Justice Martha Walters issued Chief Justice Order (CJO) 21-009 imposing updated restrictions on court operations during the COVID-19 pandemic. On March 12, 2021, I issued Presiding Judge Order (PJO) 2101-00000 consistent with CJO 21-009.

On June 28, 2021, Chief Justice Walters issued CJO 21-025, which lifted many restrictions previously imposed on court operations following the expiration of the restrictions imposed during the state of emergency. CJO 21-025 also authorizes Presiding Judges in each judicial district to continue with restrictions on certain court proceedings and continue conducting court proceedings by remote means as appropriate. This PJO addresses the manner of conducting court proceedings during the period June 30, 2021 through September 6, 2021 (the "Transition Period"), and during the period starting September 7, 2021 (the "Post-Pandemic Period").

Transitioning court proceedings from the processes and procedures imposed during the COVID-19 pandemic to those that will be followed during the Post-Pandemic Period will necessarily involve changing docketing and internal court processes and procedures over time. In addition, lawyers and other participants in court proceedings may need some time to adjust their practices. Accordingly, consistent with CJO 21-025, I hereby ORDER as follows:

- I. **Court Proceedings—Other Than Jury Trials—During the Transition Period.** Unless specified differently below or modified by court order, generally, all court proceedings during the Transition Period—other than jury trials—shall continue to be conducted in the ways they were conducted during the pandemic under CJO 21-009 and PJO 2101-00000, both issued in March 2021. In-person arraignments and probation violation (PV) hearings in criminal cases will resume at the Justice Center courtrooms (JC2, JC3 and JC4) on July 20, 2021. Arraignments and PV hearings may also occur by simultaneous electronic

transmission (or, remotely) until September 7. In-person trials in Small Claims cases will resume August 2, 2021. Trial dates in misdemeanor cases will be set at Trial Readiness Conferences (TRCs) beginning July 16, 2021.

- II. Jury Trials During the Transition Period.** Because social distancing for court proceedings has been lifted, the court is able to summons more jurors and conduct more in-person jury trials than it conducted during the pandemic. However, because of the volume of the criminal cases awaiting trial, it will be necessary to continue to prioritize jury trials during the Transition Period. Priority for jury trials during the Transition Period will be given to the following cases (listed in order of priority): (1) criminal cases with in-custody defendants facing constitutional or statutory deadlines; (2) criminal cases with defendants who have been held in custody pre-trial for one year or longer; (3) criminal cases with out-of-custody defendants facing constitutional or statutory deadlines; (4) criminal cases with defendants who have been held in custody pre-trial for up to one year; (5) civil cases involving particular circumstances that convince the Presiding Judge are sufficient to justify conducting a jury trial during the Transition Period; (6) other out-of-custody felony cases; and (7) other out-of-custody misdemeanor cases.

Civil Jury trials that are not prioritized for trial during the Transition Period will be scheduled for trial on or after September 7, 2021.

- III. Court Proceedings During the Post-Pandemic Period.** During the pandemic, the court conducted most court proceedings using remote means. In some instances, it makes sense for lawyers, litigants, and the public to continue conducting certain court proceedings using remote means after the pandemic. Accordingly, during the Post-Pandemic Period, court proceedings shall be conducted in the manner specified below. "In person permissible" means that the proceeding will generally be conducted using remote means, but a lawyer or party can appear in person without prior approval of the court. Prior court approval for in-person appearance is required only where specified below. Court proceedings during the Post-Pandemic Period will be conducted in the manner specified below beginning on September 7, 2021, unless a different date is specified below.

A. Criminal Cases

- Morning call in Presiding Court (felony cases): continue telephone appearances by lawyers and defendants, in-person appearance also permissible
- Criminal Procedures Court (CPC) (misdemeanor cases) and East County Courthouse (ECC) misdemeanor call: continue telephone appearances by lawyers and defendants, in-person appearance also permissible
- Misdemeanor Trial Readiness Conferences (TRC): continue telephone appearances by lawyers and defendants, in-person appearance also permissible
- In-custody arraignments: by video from Multnomah County Inverness Jail (MCIJ) or from Justice Center if necessary due to jail dorm lockdowns or other reasons; otherwise, in person

- Out-of-custody arraignments: by video or telephone by stipulation of parties only; otherwise, in person. After July 20, 2021, all out-of-custody arraignments will be held at the Justice Center
- Release hearings: by video from MCIJ when needed due to medical lockdowns or other reasons; otherwise, in person
- Misdemeanor plea hearings: by video or telephone by stipulation of parties, or if the CPC judge approves remote proceeding for good cause; otherwise, in-person
- Felony plea hearings: in person unless the Presiding Judge approves remote proceeding
- Jury trials: in-person; testimony by video or telephone if authorized by Oregon law
- Bench trials: in-person; testimony by video or telephone if authorized by Oregon law
- Probation violation (PV) hearings: by video or telephone by stipulation of parties and approval by the Probation Judge or judge presiding over the proceeding; otherwise, in person
- Judicial Settlement Conferences (JSCs): continue by video upon request with approval of the JSC judge; otherwise, in-person
- Treatment Courts (DISP; START; STEP; Mental Health): remote appearances (video or telephone) where authorized by treatment court judge; otherwise, in-person
- Jury selection: generally, in person. Specially-assigned cases involving special jury panels, the court may conduct preliminary phases—juror questionnaires, excusals for hardship—by video with stipulation of parties
- Substitution of counsel hearings: The procedures implemented during the pandemic for substitution hearings due to an actual conflict of interest can continue. Substitution hearings at defendant’s request must be held in person.
- Community Court: in person

B. Civil Cases

- Contested motion hearings (including motion for summary judgment (MSJ) hearings: continue appearances by lawyers and parties by WebEx video or telephone; in-person appearances also permissible
- Uncontested *ex parte* hearings: appearance by telephone in Presiding Court continued; in-person appearance also permissible
- *Prima facie* hearings (assigned by Presiding Court off civil short matters docket): continue appearances by WebEx telephone and/or video; in-person appearances also permissible
- Show cause hearings (assigned by Presiding Court off civil show cause docket): continue appearances by WebEx telephone and/or video; in-person appearances also permissible
- Jury trials: in-person jury trials fully resuming starting September 7, 2021; before and after Sept. 7, remote jury trials available by stipulation of the parties with at least 6 weeks advance notice
- Bench trials: may be in-person, fully remote, or combination, to be determined by the assigned trial judge consistent with Oregon law
- Trial Readiness Conferences (TRCs): continue by telephone; in person permissible
- Scheduling conferences with Presiding Court: continue by telephone; in person permissible
- Judicial Settlement Conferences (JSCs): by video upon stipulation of the parties; otherwise, in person
- Jury selection: in person for all cases other than specially assigned cases and complex cases. Specially assigned cases and complex cases: initial phase of jury selection—juror questionnaires, excusal for hardship—shall be conducted using remote means. Later phases conducted in

person. Juror questionnaires and hardship excusals for specially assigned and complex cases may be conducted in person upon motion and showing of good cause.

C. Landlord/Tenant cases

- First appearances: in person or by phone using WebEx.
- *Ex parte* uncontested motions: by telephone, video or in person
- Contested motion hearings: in person. Appearance by telephone or video allowed consistent with Oregon law
- Trials: in person. Appearance by telephone or video may be allowed consistent with Oregon law.
- Mediation or other Alternative Dispute Resolution (ADR): by video or telephone consistent with Oregon law; in person permissible

D. Small Claims cases

- *Ex parte* uncontested motions: by telephone, video or in person.
- Contested motions: by telephone, video or in person
- Trials: in person. Appearance by telephone or video may be allowed consistent with Oregon law.
- Mediation/ADR: by video or telephone consistent with Oregon law; in person permissible

E. Civil Commitment cases

- Hearings: generally, in person; video hearing permissible where appropriate

F. Stalking protective order cases; Support Enforcement Division (SED) cases

- Applications for temporary stalking protective orders: appearance by WebEx telephone or video; in-person appearances also permissible
- Permanent stalking protective order hearings: in person; appearance by WebEx telephone or video permissible with prior approval of the court
- SED hearings: appearance by WebEx telephone or video; in-person appearances also permissible

G. Domestic Relations cases

All proceedings in domestic relations cases will be conducted in person starting September 7, 2021, except for the remote proceedings listed below. The following proceedings in domestic relations cases shall be conducted remotely, unless the Chief Family Law Judge or judge presiding over a particular proceeding grants a motion for in-person appearance:

- Trial Assignment
- Applications for protection orders
- Contested motions for custody/parenting time evaluations
- Non-evidentiary motions to compel (and other non-evidentiary discovery motions)

- Petition for attorney fees hearings
- Form of judgment hearings
- Contested motion for special set
- Status conferences
- Pre-trial conferences
- Motions involving legal arguments only
- UCCJEA conferences

H. Juvenile cases

Termination of Parental Rights (TPR) and dependency trials will be held in person starting September 7, 2021. The TPR/dependency call docket will be held in person starting September 9, 2021. All other juvenile proceedings (except those listed below for remote proceedings)—including review hearings, permanency hearings, prelims, delinquency matters not already being held in person, and other juvenile matters not specifically listed—will be conducted in person starting October 4, 2021. Any participant requesting remote appearance must file a motion in advance of the proceeding.

The following proceedings in juvenile cases shall be conducted remotely, unless the Chief Family Law Judge or judge presiding over a particular proceeding grants a motion for in-person appearance:

- Delinquency call
- Delinquency/dependency *ex parte*
- UCCJEA conferences
- Case Management conferences

I. Probate cases

All proceedings in probate cases will be conducted in person starting September 7, 2021, except for remote proceedings listed below. The following proceedings in probate cases shall be conducted remotely, unless the Chief Family Law Judge or judge presiding over a particular proceeding grants a motion for in-person appearance:

- Short matters docket

J. Traffic cases

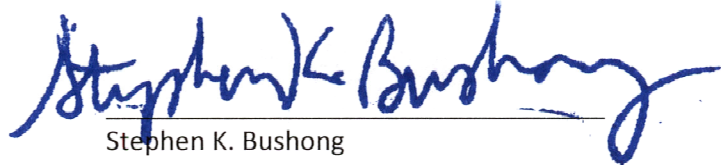
- Trials conducted by video (WebEx) through September 30, 2021. Defendants without video capability may appear in-person. Trials scheduled after September 30, 2021, may be scheduled for video or in-person appearances
- ECC traffic cases: generally, in person; appearance by WebEx video permissible

K. Parking cases

- Trials conducted by video (WebEx) through September 30, 2021. Defendants without video capability may appear in-person. Trials scheduled after September 30, 2021, may be scheduled for video or in-person appearances.

This Order takes effect on June 30, 2021 and will remain in effect until amended or terminated by Presiding Judge Order.

DATED this 29th day of June, 2021.

A handwritten signature in blue ink that reads "Stephen K. Bushong". The signature is fluid and cursive, with a long horizontal stroke at the end.

Stephen K. Bushong
Presiding Judge, Multnomah County Circuit Court