

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

FILED
21 DEC 22 PM 1:57
4TH JUDICIAL DIST.

In the Matter of Protective Measures) PRESIDING JUDGE FILE NO. 2101-00000
During the COVID-19 Pandemic)
) ORDER RE SOCIAL DISTANCING AND REMOTE
) JURY SELECTION

On March 8, 2020, Oregon Governor Kate Brown issued an emergency declaration relating to the spread of the COVID-19 virus. On June 25, 2021, Governor Brown issued Executive Order 21-15, which extended the COVID-19 state of emergency to December 31, 2021. On December 21, 2021, Governor Brown issued Executive Order 21-36, which extended the COVID-19 state of emergency to June 30, 2022.

During the state of emergency, Oregon Chief Justice Martha Walters has issued many Chief Justice Orders (CJOs) relating to court operations. As Presiding Judge of this judicial district, I have issued many Presiding Judge Orders (PJOs) relating to court operations during the COVID-19 state of emergency.

On September 7, 2021, Chief Justice Walters issued CJO 21-035, which re-imposed social distancing requirements for all court proceedings and court facilities in Oregon. On September 10, 2021, partly in response to CJO 21-035, I issued a PJO requiring the use of remote jury selection procedures in all civil and criminal cases. On November 15, 2021, Chief Justice Walters issued CJO 21-050, which generally lifted the social distancing requirements for courtrooms and court facilities statewide effective November 29, 2021, while authorizing the Presiding Judge in any judicial district continue to require social distancing as a protective measure in court facilities within the district through January 2, 2022. On November 16, 2021, I issued a PJO requiring social distancing in all court facilities and continuing remote jury selection in this district through January 2, 2022. Under that PJO, social distancing would be eliminated in this district, and in-person jury selection would resume for certain cases, effective January 3, 2022.

On December 22, 2021, Chief Justice Walters issued CJO 21-058, which authorized the Presiding Judge in any judicial district to continue or re-impose social distancing requirements through June 30, 2022, due to the threat posed by the omicron variant of the COVID-19 virus.

Nationwide, public officials are warning of a surge in COVID-19 cases due to the omicron variant. Governor Brown recently extended the state of emergency and ordered state executive branch employees to continue working remotely due to the threat posed by the omicron virus. Official reports suggest that the omicron variant is resistant to vaccines and may spread rapidly even among those who have fully or partially vaccinated. Confirmed exposures to COVID-19 typically result in quarantines of judges, lawyers, parties, and court staff, making it extremely difficult to fully conduct court proceedings. The Centers for Disease Control (CDC) and Oregon Health Authority continue to recommend social distancing of 6 feet or more for large indoor gatherings. In-person jury selection in this judicial district results in hundreds of people coming into the courthouse every workday, thereby significantly increasing the risk of exposure without social distancing.

Under the circumstances, I have concluded that social distancing should be continued as a protective measure in this judicial district, as authorized by CJO 21-058. I have further concluded that jury selection should continue to be conducted via remote means for as long as social distancing remains in effect to the greatest extent possible. A limited number of socially distanced jurors may be summoned to appear in-person for a limited number of criminal trials as needed to conduct the work of the court.

Accordingly, it is hereby ORDERED as follows:

1. Social distancing of 6 feet or more is required in all court facilities and court proceedings.
2. Jurors summoned to appear in person for jury selection for jury trials scheduled to begin from January 3 through January 21, 2022, will be socially distanced. This necessarily limits the number of jurors who will be available to serve as jurors. As a result, the court will prioritize the trials, using the limited number of available jurors to conduct jury trials in criminal cases involving in-custody defendants or criminal cases facing statutory or constitutional speedy trial deadlines. Other trials scheduled to occur during this time period will be rescheduled for a later date, unless one or more parties establishes that there is good cause for conducting the trial as scheduled and the court has jurors and resources available to conduct the trial.
3. For trials in criminal and civil cases beginning January 24, 2022, 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 to participate in jury selection via remote means from a location within the courthouse. The trials will be

conducted in the courthouse—with the jury appearing in person—in accordance with Oregon law.

4. The court may summon a limited number of jurors to appear in-person for jury selection for selected trials, as needed to meet the needs of the parties, the public, and the court.

This order takes effect on January 3, 2022, and supersedes the PJO dated November 16, 2021. This order shall remain in effect until extended, modified or terminated by further order of this court.

DATED: December 22, 2021



Stephen K. Bushong
Presiding Judge, Multnomah County Circuit Court