

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

LANCASTER COUNTY
2020 NOV 20 PM 12:41
CLERK OF THE DISTRICT COURT

IN THE MATTER OF THE
ADMINISTRATION OF
DISTRICT COURT PROCEDURES

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MS 20-13

**ORDER LIMITING IN-PERSON
COURTROOM PROCEEDINGS
DURING CORONAVIRUS PANDEMIC**

The matter of the administration of courtroom proceedings comes before the Court due to public health concerns over the current state of the Coronavirus pandemic. The Court has been carefully monitoring the ongoing local and national emergency occasioned by the worldwide COVID-19 pandemic.

Recently, percentage growth in newly confirmed cases of COVID-19 has been steadily on the rise. According to the Lincoln/Lancaster County Health Department the risk of COVID-19 spread is severe and the trajectory of both confirmed cases and positive tests as a percentage of total tests is trending significantly upwards. Further the Department cautions, "Exposure to COVID-19 presents a risk of death or serious long-term disabilities; the exposure is wide-spread and poses a significant risk of harm (including death) to people in the general population; there is a particular subset of the population that is more vulnerable to the threat and thus at increased risk; and the threat is from a novel infectious disease."

Additionally, on November 6, 2020, the Lincoln/Lancaster County Health Department raised the COVID-19 Risk Dial to red. According to the LLCHD, the purpose of the risk dial is, "to inform residents regarding the current level of risk from

COVID-19 and actions residents can take to stay healthy, and protect themselves, their family and the community.” The risk dial being declared red “signifies a severe and uncontrolled level of COVID-19 in Lincoln and Lancaster County, meaning multiple outbreaks are present and broad community spread exists.”

The Court has continued to be in consultation with public health professionals to develop plans for court operations, while maintaining public safety for building and court staff, litigants, attorneys, witnesses and jurors. While the Directed Health Measures issued by the Health Department are not binding on the courts, they are persuasive and provide excellent guidance. The current Directed Health Measures impose a 10-person or 25% occupancy limit on gatherings in a single room or single space at the same time and a requirement of maintaining a six (6) foot distance between all individuals in those gatherings.

The resurgence of the COVID-19 pandemic in Lancaster County, Nebraska and the widespread increase in community spread of the disease has reached a point where day-to-day operations of the Lancaster County District Court are affected. By all objective measures, the COVID-19 pandemic is more severe today in our community than it was at its inception in Nebraska. Community spread, identified cases, quarantines, hospitalizations, and deaths continue to climb in Lancaster County.

Despite the use of personal protective equipment, the wearing of masks, the frequent washing of hands, the use of hand sanitizer, and the six feet physical distancing precautions in place, the Court may not be able to safely continue to hold all courtroom proceedings in-person. Conducting in-person proceedings during this spike in the COVID-19 pandemic poses a clear and present danger to the members of the

public, participants in the judicial process, court security personnel, law enforcement officers, attorneys, court staff, and Judges due to the inherent and uncontrollable risk of a direct exposure to COVID-19.

The health and safety of all individuals in our courthouse is of the highest priority. Under the current circumstances and with the equipment and facilities currently available to the court, the court concludes that limiting in-person proceedings at this time is prudent and necessary. The Court must balance the necessity of conducting certain proceedings with the risk of spreading the COVID-19 illness. As a result, it is ORDERED, ADJUDGED and DECREED that, as of November 23, 2020, the Court will implement the following protocols and procedures:

1. The Hall of Justice will continue screening individuals prior to entry into the building. All persons entering the courtrooms, including counsel and litigants, will wear masks and practice social distancing, remaining six feet apart at all times. No more than 10 persons will be allowed in the courtroom at any time. The Court may further restrict the number of persons allowed in the courtroom at its discretion.
2. Criminal jury trials will be determined on a case-by-case basis balancing the citizen accused's right to a speedy trial with the current risks involved to parties, counsel, witnesses, law enforcement officers, court staff and potential jurors. No jury trial shall be held unless the Court determines it has a venue where it can draw a venire, select a jury, and complete a jury trial in a manner consistent with both Directed Health Measures and the procedural and substantive due process standards for the citizen accused.

If the Court finds that it would be inadvisable to conduct a jury trial, the Court will make findings that, pursuant to Neb. Rev. Stat. § 29-1207(4)(f), good cause exists to continue the jury trial to the jury term beginning January 4, 2021 or later.

3. Civil jury trials will be continued to a date on or after January 4, 2021 unless otherwise ordered by the Court.
4. All criminal pre-trial hearings will take place by videoconferencing unless otherwise requested and approved by the Court.
5. All evidentiary hearings on Motions to Suppress involving citizens accused, whether incarcerated or not, will be conducted by videoconferencing unless otherwise requested and approved by the Court.
6. All sentencing hearings of incarcerated persons will be conducted by videoconferencing unless the defendant requests to be sentenced in person and the Court agrees to conduct the sentencing in person.
7. All previously scheduled criminal bench trials, where the citizen accused has waived his/her right to a jury trial prior to the date of this Order, will take place as scheduled in person unless otherwise ordered by the Court. Any new criminal bench trials will be scheduled on or after January 4, 2021.
8. Any new civil bench trials will be scheduled on or after January 4, 2021 unless the parties agree it can be conducted by Zoom videoconferencing.
9. All hearings on civil pre-trial motions, including Motions for Summary Judgment, will be conducted by videoconferencing with evidence submitted in advance of the hearing unless otherwise requested and approved by the

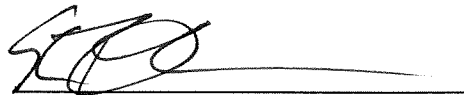
Court.

10. All domestic trials will be conducted by videoconferencing or continued to a date on or after January 4, 2021, unless otherwise requested and approved by the Court.
11. All domestic temporary hearings will be conducted by videoconferencing.
12. Protection Orders will be conducted by videoconferencing unless otherwise requested and approved by the Court.
13. Treatment Courts shall conduct proceedings by videoconferencing at the discretion of the Court.
14. All other hearings not specifically mentioned herein will be conducted by videoconferencing unless otherwise requested and approved by the Court.
15. **A party shall request an in-person hearing by filing a motion and contacting the Court's bailiff to set the motion for hearing. If the motion is uncontested the Court may rule on the motion or have a hearing on the motion by videoconference.**

It is further ORDERED, ADJUDGED and DECREED that this Order shall remain in effect until further Order of the Court.

Dated this 20th day of November 2020.

BY THE COURT:



Kevin R. McManaman
Presiding District Court Judge