

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

In the Matter of: )  
 )  
**Updated Directives Relating** ) **PRESIDING JUDGE ORDER**  
**to Court Operations** ) **2021-11**  
\_\_\_\_\_ )

THE ABOVE MATTER coming before the Court on its own motion:

Pursuant to ORS 1.002, ORS 1.202, Governor Kate Brown’s Executive Order 21-15, Chief Justice Order (CJO) 21-025 and the changing threat of the COVID-19 coronavirus, the Court finds good cause to modify prior Presiding Judge Orders. Therefore, the Court hereby FINDS:

1. Governor Brown issued Executive Order 21-15 on June 25, 2021, which extended the COVID-19 state of emergency to December 31, 2021 while otherwise rescinding other, earlier Executive Orders that imposed statewide restrictions under the COVID-19 state of emergency regarding court operations.
2. Chief Justice Order (CJO) 21-025, issued June 28, 2021, modified prior CJOs restricting court operations and imposing other requirements relating to the COVID-19 state of emergency.
3. This Court, pursuant to ORS 1.171(2) may regulate the disposition of the judicial business of the circuit court of the Clackamas County judicial district.

Therefore, IT IS HEREBY ORDERED:

1. Definitions. As used in this order:
  - a. “Administrative authority” means, as to any judge, the Presiding Judge; as to any staff, “administrative authority” has the meaning set out in Judicial Department Personnel Rule 2.01.
  - b. “Court facility” means the courthouse or any alternative physical location being used by the court or the Office of the State Court Administrator, but not any part of a building or location that is not under the court’s control.
  - c. “Fully vaccinated” means that at least 14 days have passed since a person received the full number of injections required by the specific COVID-19 vaccine maker.

- d. "In person" means that a court proceeding is being conducted in the court facility, including at least one in-person participant who is neither the judge nor court staff.
- e. "Participant" means any individual who is participating in a proceeding, other than the judge and staff, including lawyers, parties, witnesses, jurors, interpreters, and courtroom security personnel.
- f. "Presiding Judge" means the presiding judge of a judicial district or any person to whom that judge has delegated authority under this order. For purposes of this order, as applicable and pursuant to other statutory authority, the Chief Justice of the Supreme Court, the Chief Judge of the Court of Appeals, and the Tax Court Judge have the same authority in their respective courts as that described for a Presiding Judge.
- g. "Proceeding" means a trial, hearing, or other court proceeding. When this order grants authority to a judge presiding over a proceeding, that same authority extends to a mediator conducting an in-person mediation, a facilitator providing in-person facilitation services, or the Citizen Review Board conducting a review of cases involving children in foster care.
- h. "Protective face covering" means a covering of the nose and mouth to protect against spreading the COVID-19 virus, as recommended or described as a means of protection by the Centers for Disease Control and Prevention (CDC) and the Oregon Health Authority (OHA).
- i. "Remote means" means the use of telephone, video, other two-way electronic communication device, or simultaneous electronic transmission.
- j. "Social distancing" means an identified minimum amount of physical distance between each person, such as three feet or six feet.
- k. "Staff" means Oregon Judicial Department staff.

## 2. Social Distancing and Protective Face Coverings

- a. Social distancing is no longer required unless otherwise provided below.
- b. Protective face coverings are no longer required to be worn in the courthouse but are recommended if a person is unvaccinated for COVID-19 or its variants. Face coverings and directions regarding their use will continue to be provided by the Court for participants.
- c. Despite the above, any individual, including judges, staff, participants in proceedings, or members of the public, may choose to wear a protective face

covering while in a court facility. However, if an individual chooses to do so, a judge who is presiding over a proceeding may:

- i. Require a juror to temporarily remove a protective face covering when the juror is answering a question during voir dire;
- ii. Require a witness to remove a protective face covering when the witness is testifying; and
- iii. Require any participant to temporarily remove a protective face covering to ensure that a particular communication is understood.

d. Protective measures in proceedings

- i. A participant who seeks to mitigate the risk of exposure to COVID-19 may request that reasonable protective measures be taken during any court proceeding.
- ii. On such a request or on the initiative of a judge presiding in a proceeding, the judge may exercise authority to direct that reasonable protective measures be taken, including, but not limited to:
  1. Requiring the requesting individual to wear a protective face covering or, in addition to or in lieu of doing so, requiring a face shield or use of a protective physical barrier;
  2. Requiring that particular individuals wear protective face coverings;
  3. Requiring or maintaining social distancing;
  4. Rescheduling a proceeding to a date or time when the risk of exposure to COVID-19 may be reduced; or
  5. Permitting or requiring that certain appearances be made, or testimony given, or the proceeding be conducted by remote means.

iii. This subparagraph does not apply to judges and court staff.

e. Protective measures in other particular circumstances may require an individual in a court facility, including judges and staff, or entering a court facility from the Clackamas County Jail to follow reasonable protective measures, including the wearing of protective face coverings or exercising social distancing as ordered by the Presiding Judge or her designee. Specifically, if Clackamas County Jail inmates are wearing protective face coverings as required by the jail, any person interacting with said inmate litigant is recommended to wear a mask/protective face covering.

3. Circuit Court proceedings may be conducted in person or by remote means as determined by additional PJOs.

a. Unless remote appearances would violate constitutional rights, any category of criminal arraignment may be conducted remotely, without the agreement of the parties. If a party contests, notwithstanding any other provision of this order, whether the constitution requires an in-person appearance or proceeding, then the appearance or proceeding must be conducted in person. If a party contends that a remote appearance or proceeding conducted remotely results in violation of the party's rights, then the party may file a motion seeking an order that the appearance or proceeding be conducted in person. This subparagraph also applies to any crime victim who contends that an order results in a violation of the victim's constitutional rights.

4. Exhibits shall be eFiled as previously ordered by CJO and PJO in the File and Serve system, notwithstanding UTCR 6.050(3) and UTCR 21.070(3)(p).

a. The Court may reject submissions that do not comply with CJO 20-025.

b. Non-documentary exhibits such as audio or video exhibits may be submitted in person at a proceeding or remotely as indicated above. If submitted at a proceeding, the exhibit will be screened for security purposes as required.

5. Forcible Entry and Detainer (FED) Proceedings

a. Notwithstanding ORS 105.135(2), a first appearance may be scheduled within 14 days after the judicial day next following payment of filing fees.

b. Notwithstanding ORS 105.137(6), a trial may be scheduled within 30 days from the date of first appearance.

c. Notwithstanding subparagraphs 5.a. and 5.b., courts shall schedule first appearances and hold trials in FED proceedings as soon as practicable, taking into consideration the availability of staff, the adequacy of the facilities or bandwidth and technology, and the needs of the parties.

6. DUII Diversion

a. Eligibility is extended until September 7, 2021, allowing a defendant to file a petition for a DUII diversion which shall otherwise be governed by ORS 813.210.

b. Defendants may request diversion period extensions until September 7, 2021, citing COVID-19 as good cause for said extension.

7. Prior CJOs and PJOs or parts thereof that conflict with this PJO are superseded by this PJO.
8. All provisions of this order shall continue until further order of this Court.
9. This Order takes effect on June 30, 2021.

DATED this 29 day of June, 2021.

  
Kathie F. Steele  
Clackamas County Circuit Court  
Presiding Judge