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In the Matter of Updating Restrictions
On Josephine County Court
Operations during COVID19 Pandemic

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PRESIDING JUDGE ORDER 21-003

STATE COURTS - JOSEPHINE

BY _____

1. Whereas Governor Brown has issued an emergency declaration related to the spread of the COVID-19 virus in Oregon most recently extended until May 2, 2021, pursuant to Executive Order 21-05. and has issued a series of executive orders designed to respond to the ebb and flow of infection rates in each county; and
2. Whereas Chief Justice Walters has most recently issued Chief Justice Order (CJO) 21-009 that updates restrictions on court operations in Oregon courts.
3. Whereas this court has previously issued Presiding Judge Orders (PJO) 20-008, 20-009, 20-010, 20-011, 20-012 to regulate Josephine County court operations during the COVID-19 pandemic in conformance with Governor Brown's executive orders and Chief Justice Walters CJOs.
4. Whereas this PJO is designed to be a supplement to CJO 21-009 and to supersede all previous PJO's regarding Josephine County court operations during the COVID-19 pandemic.

IT IS HEREBY ORDERED as follows:

1. Court Hours and Services

The courts current public service hours to accept filings, take payments, and answer phones are as follows: Josephine County Circuit Court shall be open from 8:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m. for conducting the business of the court. Each court unit will have a clerk or designee available during business hours to provide in-person and telephonic services. All in-person services will be provided while observing social distancing and wearing protective face coverings.

2. Personal Protective Equipment, Social Distancing and Cleaning Protocols

Personal Protective Equipment: All persons entering the Courthouse are required to wear a protective face covering which covers both mouth and nose while in the Courthouse except for children two (2) years of age and under, or others while speaking in court and as provided below.

- a) A judge presiding over a trial or other proceeding in a courtroom may authorize any person participating in the trial or other proceeding to remove their protective face covering temporarily to facilitate communication as the judge deems appropriate.

Social Distancing: All persons entering the Courthouse shall observe and maintain a minimum of six feet of physical distance between individuals, except for members of the same household.

Cleaning protocols: the court will maintain vigilance about cleaning in accordance with OJD and CDC guidelines.

3. Mode of Proceedings

- a. Jury Trials. All jury trials will be held in-person while maintaining social distancing, abiding by Oregon Judicial Department (OJD) cleaning guidelines and while all participants wear masks that cover both nose and mouth.
- b. All other types of proceedings, including bench trials and all Forcible Entry and Detainer (FED) proceedings in Josephine County Courts, except as provided for below, shall be conducted remotely (Webex application).
- c. A party or attorney for a party seeking to change a scheduled remote proceeding to an in-person proceeding must file a written motion with a supporting affidavit or declaration and proposed order to the Presiding Judge.

The supporting affidavit/declaration must include:

- The reasoning and basis for the change in the mode of proceeding, including statutes that may be implicated by the change and any statutory or constitutional rights that may be implicated by the change.
- The position of the opposing party.
- These requests should be made as soon as practicable before the proceeding and must be served on opposing counsel or parties, as appropriate, to afford an opportunity to object.

The Presiding Judge will rule upon a motion for a change in the mode of scheduled proceeding based upon the provisions of CJO 21-009 and any applicable statute or constitutional provision.

Remote hearings and appearances should be by video to afford the court, attorneys and parties the opportunity to see one another. It is especially crucial that witnesses testifying remotely do so by video so the court can better gauge credibility.

- d. Sentencing Hearings for Presumptive Jail or Prison Sentences. In cases where the District Attorney's office will be requesting at sentencing that a defendant be taken into custody for a jail-only or prison sentence, that sentencing hearing shall be conducted in-person. The State and/or defense attorney shall notify the court at time of plea of such a situation in order that the court schedule the proceeding in-person.

4. Exhibits and Witness Lists

All parties that intend to call witnesses or present witnesses shall complete an exhibit list cover sheet and witness list using the form as developed by the court, attached hereto as Attachment 1. These templates are also available on the Josephine County website at [Oregon Judicial Department : COVID-19 : Josephine County Circuit Court : State of Oregon](#) or can be obtained by visiting the court directly.

All exhibits for a hearing or trial conducted by remote means that can be converted to PDF shall be submitted to the court through the court's electronic filing (e-filing) system. Multiple exhibits may be submitted within the same e-filing envelope. Exhibits must be marked and numbered in accordance with UTCR 6.080 and must be submitted with a coversheet that includes the number and general description of the submitted exhibits as well as a certificate of service on opposing parties.

- Exhibit list coversheets and witness list coversheets should be filed and served on opposing parties or their attorneys as soon as practicable but not less than 24 hours prior to the hearing.
- Individuals that are not able to submit exhibits electronically may contact the court for an instruction sheet on the process for submitting exhibits. A copy of that sheet is attached hereto as Attachment 2. Individuals that are not able to submit their witness list coversheet electronically may file it directly with the court.
- Exhibits that cannot be made into a PDF (videos, photos, etc.) can be submitted by parties and attorneys utilizing the courts Secure File Transfer process. To receive instructions and an invitation please email JOS.Jas@ojd.state.or.us.
- Any Exhibit that is not able to be submitted electronically is required to be submitted to the court and to opposing parties as soon as practicable before the scheduled proceeding to afford the other parties the right to review such exhibit. For tangible exhibits where serving a copy is not feasible, the offering party should afford the opposing party the opportunity to view the exhibit beforehand.
- For all exhibits presented in court, it is the responsibility of the submitter (not the court) to share their screen to view the exhibits.

5. Extending time periods and time requirements in certain criminal proceedings

The time periods and time requirements described below are extended in the manner provided, but not for longer than the periods set out below:

- Restitution, ORS 137.106
 - a) This subparagraph applies to cases in which sentencing occurred before the effective date of this order, but not longer than 90 days before the effective date of this order.
 - b) The COVID-19 state of emergency constitutes the existence of good cause, and the District Attorney may present evidence of the nature and amount of damages at any time after sentencing, but not later than 90 days after termination of the COVID-19 state of emergency.
- Driving Under the Influence of Intoxicants (DUII), eligibility for diversion agreement, ORS 813.210 and ORS 813.225(1)

- a) A defendant who was eligible for diversion as of March 8, 2020, is eligible for diversion until 60 days after termination of the COVID-19 state of emergency, provided that the defendant is otherwise eligible under ORS 813.215. The COVID-19 state of emergency constitutes existence of good cause for extension of the period of eligibility, and such a defendant need not file a motion for extension of the period of eligibility.
- b) A defendant who has executed a DUIL diversion agreement may apply for an order extending the diversion period by filing an application to extend the diversion period at any time prior to the end of diversion. The court may also consider an application filed after the end of the diversion period good cause to extend diversion, if the diversion period expired during the state of emergency, to allow a defendant sufficient time to complete the conditions of the diversion agreement.

6. Sentencing in-custody defendants by electronic transmission

Pursuant to ORS 137.030(1), ORS 131.045, UTCR 4.080 and CJO 20-006 the court is authorized to regulate in-custody appearances and sentencings, balancing the competing interests involved. All in-custody sentencings shall be conducted by video as follows:

The requirements of ORS 131.045 regarding “simultaneous electronic transmission” must be satisfied, particularly that the parties and the court agree to video sentencing, and the defendant can communicate privately with counsel by telephone.

Misdemeanor Sentencings: If the court is sentencing only on a misdemeanor count(s), and the parties want to both plea and sentence an in-custody defendant by video in the same hearing, the defense attorney must email the criminal clerk at JOS.Crim.Unit@ojd.state.or.us no later than 3:00 p.m. the day prior to the proposed plea date, along with full plea negotiations so the court has sufficient time to review them. The criminal clerk will forward the settlement negotiations to the designated judge by 4:00 p.m. the day before the proposed plea date. The court retains the authority to set over any misdemeanor sentencing to the block video sentencing time.

Felony Sentencings: If the court is sentencing on any count charged as a felony, no sentencings will occur on the day of entry of plea. Rather, all such cases will be set over to a block in-custody video sentencing time to be set by the court in order to allow the parties and the court time to prepare for sentencing, including allowing time for the District Attorney’s office to prepare and file a criminal history worksheet, prepare any restitution summary sheets and notify any victims of the sentencing hearing.


7. Family Law Orders to Show Cause

Orders to Show Cause filed during COVID-19 restrictions that result in a hearing being set prior to service of the adverse party (Post-Judgment Status Quo, Enforcement of Parenting Time) will be completed using a locally maintained Show Cause Order. Attorneys shall not submit their own form of order with these filings. Attorneys and self-represented parties shall file their motion (with time estimated for the hearing clearly state per UTCR 5.050), declaration, and supporting

documents. When the filing is received, the court clerks will use the local Order to Show Cause that includes information and direction regarding remote hearings. The entirety of the Order (including attachments) will be made part of the record and shall be served to the adverse party.

8. All restrictions imposed in this order continue until further order, and they may be extended or amended by further order.
9. This order supersedes PJO 20-008 (Court operations in response to COVID19), 20-009 (Sentencing In-Custody defendants by simultaneous electronic transmission), 20-010 (Court Operations in response to COVID19), 20-010 Amended, 20-011 (extending time periods and time requirements in certain criminal proceedings), 20-011 Amended, 20-012 (restriction of court operations during the COVID19 pandemic), 20-012 Amended, 20-016 (social distancing and the use of personal protective equipment).
10. This order takes effect immediately.

DATED this 18th day of March 2021.



ROBERT S. BAIN
PRESIDING JUDGE

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

)	
)	
Petitioner/Plaintiff,)	Case No. _____
)	<input type="checkbox"/> Petitioner/Plaintiff
and)	<input type="checkbox"/> Respondent/Defendant
)	EXHIBIT LIST COVER SHEET AND
)	WITNESS LIST
Respondent/Defendant.)	

Date of Hearing / Trial : _____

Exhibit #	Description of Exhibit

Additional Page – “Exhibit List Continued” Attached

POTENTIAL WITNESSES

Name (first, last)	Contact Telephone Number

Additional Page – “Potential Witness List” Attached

CERTIFICATE OF SERVICE (REQUIRED)

I certify that on (date) _____ I served a copy of this document and all attachments to (name of party/attorney) _____ at the following address and/or fax number: _____

_____ by the following methods:

- by **mailing** a full, true and correct copy in a sealed, first-class postage-prepaid envelope, addressed to the party(ies) listed above, and deposited with the United States Postal Service, on the date set forth above.
- by **hand-delivering** a full, true and correct copy thereof to the party(ies) listed above, on the date set forth above.
- by **faxing** a full, true and correct copy thereof to the party(ies) listed above at the fax number(s) shown above, on the date set forth above.

Date: _____

Signature: _____

Printed Name: _____

Contact Address

City State, Zip Code

Phone Number



Josephine County Circuit Court Remote Hearings: Exhibits and Witnesses

During COVID-19 restrictions, the court will hold most court hearings remotely. This means, parties will appear remotely, by video conferencing software or at times by phone. Parties may also submit exhibits and have witnesses testify, which **must** also be done remotely.

Josephine County Circuit Court Presiding Judge Orders (PJO) along with Chief Justice Orders (CJOs) allow for exhibits to be filed using the e-filing system. Additionally, if parties are not able to access or use the e-filing system, a process for alternate submission has also been developed.

Labeling Exhibits – Exhibits must be labeled with “Exhibit #” on the bottom right hand corner of each page of each exhibit. Pursuant to UTCR 6.080, ***exhibits must be labeled using the following system:***

- If you are the **Plaintiff/Petitioner** label exhibits - # **1 - 100**
- If you are the **Defendant/Respondent** label exhibits - # **101 - 199**

Exhibits that are submitted prior to a court hearing, **must be submitted at least 24-hours prior to the hearing and served on all other parties to the case.**

Submit exhibits in one of the following ways:

E-Filing

- Users can visit <https://oregon.tylerhost.net/ofswweb> and register for an account
- There is no filing fee to file exhibits
- Filers must use a cover sheet in substantially the same format as the attached local “Exhibit List Cover Page and Witness List”
- All exhibits may be filed under one “EB” (Exhibit) code as long as they are listed on the cover sheet.
- All exhibits and list of potential witnesses must be served on all parties in the case. A certificate of service (included in attached cover sheet) must be completed and accompany any submitted exhibits or witness lists.

Faxing to Court – 541-471-2079

- Faxed exhibits must have a cover sheet included. The cover sheet must be substantially in the same format as the attached “Exhibit List Cover Page and Witness List”
- The fee for sending faxes is **WAIVED** at this time
- All exhibits and list of potential witnesses must be served on all parties in the case. A certificate of service (included in attached cover sheet) must be completed and accompany any submitted exhibits or witness lists.

Filing In Person

- File exhibits with the proper unit/department at the courthouse
- There is no filing fee to file exhibits
- Filers must use a cover sheet in substantially the same format as the attached local “Exhibit List Cover Page and Witness List”
- All exhibits and list of potential witnesses must be served on all parties in the case. A certificate of service (included in attached cover sheet) must be completed and accompany any submitted exhibits or witness lists.