

**MULTNOMAH COUNTY CIRCUIT COURT JURY TRIAL POLICY
DURING COVID-19 PANDEMIC**

November 2020

Governing Principles

A jury trial generally requires the participants—litigants, lawyers, witnesses, court staff, and jurors—to gather together in a confined space for several days or longer. People from the community summoned for jury service are required by law to appear; they do not volunteer or consent to participate in the gathering. According to guidelines published by the Centers for Disease Control (CDC), such gatherings in community or business settings pose the highest risk of spreading the COVID-19 virus. Although protective measures—requiring face coverings, maintaining social distancing, using plexiglass barriers—can reduce the risk, the CDC recommends avoiding such gatherings whenever possible. The court will take every reasonable precaution to minimize the risk of infection for jurors and all other participants in a trial. Any jury trial will require multiple courtrooms to comply with social distancing requirements. The court has assessed the spaces available in the courthouse and can conduct a limited number of jury trials while complying with social distancing requirements without unduly disrupting other court business. Under the circumstances, in general, jury trials will be conducted only when necessary to comply with the law or where the adverse consequences of postponing the trial outweighs any potential risk to jurors, litigants, lawyers, and court staff. The court will assess civil and criminal cases before trial to determine whether conducting a jury trial during the pandemic in any particular case is warranted.

Criminal Cases

Priority for jury trials will be given to the following cases (listed in order of priority): (1) cases with in-custody defendants facing constitutional or statutory deadlines; (2) cases with defendants who have been held in custody pre-trial for one year or longer; and (3) cases with out-of-custody defendants facing constitutional or statutory deadlines. To help alleviate backlogs, the court may also conduct 6-person jury trials in some misdemeanor cases, with priority given to domestic violence cases. The court will set over all other misdemeanor and felony jury trials until after the pandemic subsides, absent a showing of good cause for conducting the trial during the pandemic. The court will conduct court trials in all cases upon the filing of a written waiver of the right to trial by jury.

Civil Cases

Civil cases generally do not involve constitutional or statutory deadlines or people held in custody awaiting a trial. Although timely resolution of those cases is extremely important to litigants, lawyers, the community, and the court, civil jury trials can be postponed during the pandemic to avoid the risk of infection inherent in a jury trial. Postponing civil jury trials during the pandemic may cause hardships to litigants, lawyers, and others, but it does not violate constitutional or statutory requirements or extend pre-trial loss of liberty associated with in-custody defendants. Accordingly, the court will set over all civil jury trials until after the pandemic subsides, absent a showing of good cause for conducting the trial during the pandemic.

Case Management

All criminal and civil cases will be given trial or next appearance dates. Trial dates for civil cases will be assigned at Trial Readiness Conferences (TRCs) and/or scheduling conferences with the Presiding Judge. The court will continue to assist in moving civil cases toward resolution by (1) conducting bench trials upon request; (2) conducting judicial settlement conferences upon request; (3) hearing all motions; and (4) conducting discovery, status, or scheduling conferences as needed. Litigants in civil cases are required by Supplemental Local Rule 7.016 to participate in appropriate dispute resolution procedures.

Alternatives

Across the nation, some courts have been able to conduct a limited number of jury trials in criminal and civil cases at alternative sites and/or by utilizing alternative procedures. This court will utilize any feasible alternative procedures that allow it to safely conduct a jury trial during the pandemic if the parties stipulate to the procedures or otherwise demonstrate that the proposed procedures comply with Oregon law. Pursuant to ORS 1.185, Multnomah County is responsible for providing courtrooms for court operations. Multnomah County has not provided alternative locations for jury trials during the pandemic. Some parties may be willing to arrange for an alternative site for their trial. However, this court will not conduct a trial at an alternative site that is available only to litigants with the resources to pay for it. If an alternative site for conducting jury trials becomes available to all litigants regardless of their resources, the court will consider utilizing it for jury trials if feasible.

Conclusion

Jury trials are the foundation of our civil and criminal justice systems. Safely conducting a jury trial during this pandemic presents many challenges. The court encourages lawyers and litigants to consider creative solutions for resolving their cases. Attorneys are expected to exercise the highest levels of professionalism to keep their cases moving through the system. The court will conduct a limited number of jury trials during this pandemic consistent with Oregon law, CDC guidelines, Chief Justice Orders, this policy, and the resources of the court.