

**Circuit Court of the Third Judicial District
Lincoln County, State of Wyoming**

Gregory S. Corpening
Circuit Court Judge

Stacy A. Batista
Clerk of Court



KEMMERER OFFICE
P.O. Box 949
Kemmerer, WY 83101
(307) 877-4431
(307) 877-4936 fax

AFTON OFFICE
P.O. Box 1296
Afton, WY 83110
(307) 886-9271
(307) 886-9021 fax

March 19, 2020

Members of the Lincoln County Bar Association

Re: Response to Coronavirus Pandemic – Circuit Court (Update #1)

Dear Counsel:

The purpose of this letter is to provide you with an update concerning the activities of this Circuit Court (hereinafter, “the Court”) and its anticipated actions in the face of the impending pandemic.

Court staff are working hard to anticipate the potential impact of the virus on our community, and to mitigate the effects thereof, while accomplishing mission critical tasks (see below for a complete list). To that end, we are working to finalize a Pandemic Mitigation Plan (PMP) which will provide court staff with guidelines, procedures, and directions to follow during all phases of a pandemic event. The Court will oversee implementation of the PMP.

Broadly, the plan anticipates a degradation of the Court’s ability to perform its tasks over time, and anticipates efforts by local, state and federal government agencies to limit government operations, travel and contact with the public to lessen the effects of the virus. The PMP thus contains a series of graduated, intervention-type steps designed to ensure the Court’s accomplishment of mission critical tasks while complying with local, state and federal government mandates.

As necessary, we will provide updates regarding specific steps the Court is taking pursuant to the PMP via electronic mail and distribution box. We ask that counsel read and heed the information contained therein. At present, we are in the planning stage of the PMP.

Notwithstanding this early stage, **effective immediately**, there are a number of initiatives we are implementing in an effort to protect court staff and to do our part in attempting to limit the spread of the virus.

- Wherever possible, we will use information technology in place of face-to-face contact.
- Only necessary participants to the Court proceedings will be allowed in the Courtroom of the Justice Center.

- Until further notice, criminal defendants will not be required to attend Scheduling Conferences, Motion Hearings, Pre-Trial Conferences or Docket Calls. While defendants continue to enjoy the right to be present, and while we are not seeking to abridge that right, the Court will not require defendants' attendance at those hearings.
 - No motion to excuse the defendant will be required to be filed prior. Counsel may move orally at the hearing to proceed in the defendant's absence.
- Civil rules of procedure allow civil litigants to be represented by counsel; the Court would prefer that all but pro se litigants not appear in person except at trial.
- Traffic Court in-court attendance will be limited to those persons with "must appear" citations.
 - Those defendants with "must appear" citations will appear, be advised, plead and be handled as usual.
 - Those defendants with forfeitable citations will be provided by court staff with a written advisal of rights and paperwork at the front window. The paperwork will advise defendants of their rights and court procedures and will enable them to plead either "Not Guilty" or "No Contest".
 - Those pleading "Not Guilty" will be set for a Scheduling Conference at a later date.
 - Those entering a "No Contest" plea will be provided a date by which payment must be made.

For your planning purposes, the following is a list of mission critical tasks which must be performed by the Court even in the event of a severe pandemic:

Criminal:

Initial appearances and arraignments on new charges, contempt, and bond revocation.

- Must be held within 72 hours pursuant to W.R.Cr.P. 5.
- May be held by video pursuant to W.R.Cr.P. 43.1(b)(1).

Preliminary hearings.

- Must be held within 10 days of initial appearance if defendant is in custody, within 20 days of initial appearance if the defendant is not in custody. W.R. Cr.P. 5(c).
- May be held by video with the consent of the defendant pursuant to W.R.Cr.P. 43.1(b)(2).

Probation revocation hearings.

- If the defendant is arrested pursuant to a probation revocation warrant, an initial hearing must be held without unnecessary delay. W.R.Cr.P. 39(a)(2).
- Hearings on the revocation must be held within 15 days of the initial appearance if the defendant is in custody or within 30 days of the initial appearance if the defendant is not in custody. W.R.Cr.P. 39(a)(1)(B)(i).
- In limited situations, video conferencing may be used for probation revocation hearings pursuant to W.R.Cr.P. 43.1(b)(5) and (6).

Trials.

- Trials must be held within 180 days of arraignment unless continued under W.R.Cr.P. 48(b).

Other:

Domestic Violence, Stalking, and Sexual Assault protection orders.

- If an ex parte order is issued, a hearing must be held within 72 hours of the ex parte order.
- If an ex parte order is not issued, a hearing must be held within 72 hours or as soon as reasonably possible.

Search warrants.

- Pursuant to W.R.Cr.P. 41(d)(4), search warrants may issue based on information communicated by telephone or other reliable electronic means.

Notice of Appeal.

- Notices of Appeal must be filed within 30 days of the entry of the appealable order.

Document filing.

- Some documents may have deadlines that require timely filing.

All other court matters will be considered non-critical.

Counsel having non-mission critical matters will likely experience delays in the handling and processing of these matters. Depending upon the severity of the pandemic, and at the discretion of the Court may address these matters using alternate means to be determined or may dispense with handling them altogether. We ask that you plan your filings and pleadings accordingly.

Any attorney or party shall promptly notify opposing counsel and the Court if they reasonably suspect that a participant in any scheduled hearing, trial, conference, deposition, or other proceeding has an elevated risk of transmitting the novel coronavirus that causes COVID-19. That includes anyone who:

- a. Has traveled from China, South Korea, Italy, Spain, France or Iran within the last fourteen (14) days, or lives or has close contact with someone who has;
- b. Has been asked to self-quarantine by any health care provider, or public official;
- c. Has been diagnose with, or has had contact with, anyone who has been diagnosed with COVID-19; or
- d. Is presently exhibiting the symptoms of an infectious respiratory illness, which include fever, cough, or shortness of breath.

To extent possible, counsel shall affirmatively inquire of their clients and witnesses whether they come within any of the categories. No person who falls within any of these categories shall attend any hearing, trial conference, deposition, or other proceeding without prior authorization from the Court. Any attorney or party shall notify the Court and opposing counsel if any proceedings relating to the litigation of cases pending before the Court would require travel or other actions contrary to guidance set forth by the Centers for Disease Control and Prevention or other public health officials.

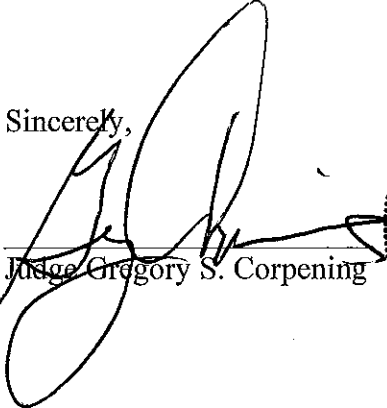
We will be finalizing (and very likely, subsequently revising) details of the PMP in the days and weeks to come. This letter was intended to provide you with the general concept of the PMP, to

announce some immediate initiatives, and to remind you of the Court's mission critical tasks so that you might plan your activities accordingly.

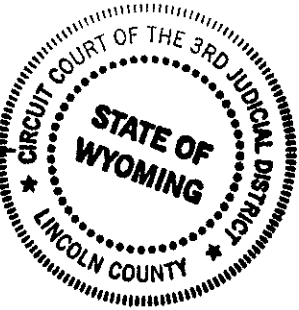
We appreciate your cooperation in this, and – as always – we welcome your comments, thoughts and ideas.

The Court otherwise adopts the provisions of the Order Adopting Temporary Plan to Address Health Risks Posed by the COVID-19 Pandemic, a copy of which is attached and made a part hereof.

Sincerely,



Judge Gregory S. Corpening



IN THE SUPREME COURT, STATE OF WYOMING

October Term, A.D. 2019

In the Matter of the)
Wyoming Supreme Court's Temporary Plan)
Regarding COVID-19 Pandemic)

**ORDER ADOPTING TEMPORARY PLAN TO ADDRESS HEALTH
RISKS POSED BY THE COVID-19 PANDEMIC**

This matter came before the Court on its own motion. On March 13, 2020, Governor Mark Gordon entered Executive Order 2020-2, declaring a state of emergency and a public health emergency in the State of Wyoming due to the health risk posed by the coronavirus, also known as COVID-19. In light of this declaration and to protect the health and safety of court employees, elected officials, and the general public, the Supreme Court hereby **ORDERS** that the following measures should be implemented from March 18, 2020 to Friday, April 10, 2020 under Article V, Section 2 of the Wyoming Constitution, in the exercise of its the inherent powers, and at the request of the Board of Judicial Policy and Administration:

1. All in-person proceedings in all Circuit and District Courts and the Supreme Court in Wyoming should be suspended from the close of business on March 18, 2020 to Friday, April 10, 2020, except those set forth below:
 - a. Proceedings necessary to protect constitutional rights of criminal defendants, including bond-related matters for incarcerated individuals;
 - b. Civil and criminal jury trials that are in progress as of March 18, 2020;
 - c. Proceedings related to relief from abuse, including but not limited to orders of protection;
 - d. Proceedings related to emergency child custody orders;
 - e. Proceedings related to emergency child protection;
 - f. Proceedings related to petitions for temporary injunctive relief;
 - g. Proceedings related to emergency protection of elderly or vulnerable persons;
 - h. Proceedings directly related to the COVID-19 public health emergency; and
 - i. Other exceptions as approved by the Chief Justice or deemed necessary by a district or circuit judge.
2. Judges are encouraged to use telephonic or video technology for all other statutorily and/or constitutionally required hearings, including arraignments and Title 25 hearings.
3. Good cause exists due to the current health emergency to continue any proceeding not specified in paragraphs 1 or 2 of this order while it is in effect.
4. All civil trials, hearings, and motions should be postponed and rescheduled for a later date unless the assigned judge finds the proceedings can be held through telephonic or video

means and an adequate record can be made by a court reporter or electronic recording. Any civil trial or hearing currently in progress may be continued or completed at the discretion of the presiding judge.

5. Reasonable attempts should be made to reschedule all criminal trials, subject to the requirement that defendants be provided speedy trials as required by law.
6. In those instances in which an in-person proceeding under paragraph 1 of this order is held, courtroom attendance should be limited to attorneys, parties, necessary witnesses, victims, and essential court personnel. Jurors may also attend if the jury trial is in progress at the time this order is entered, or if necessary to comply with speedy trial requirements.
7. Any in-person proceeding involving a participant who is ill or in a high-risk category as defined in paragraph 11 of this order should be rescheduled. In-custody defendants who are symptomatic of coronavirus should not be transported to court facilities.
8. When evaluating whether the due administration of justice requires any statutory or constitutional proceeding to occur within a certain time frame, courts should consider whether conducting the proceedings will require the parties, their attorneys, essential court personnel, or members of the public to act in a manner inconsistent with current recommendations from local, State, and Federal public health officials.
9. Unless public safety compels otherwise, judges should issue summonses instead of bench warrants.
10. Clerks of court are urged to consider using drop boxes for conventionally filed documents if possible.
11. Signage should be posted at all public entry points advising individuals not to enter courtrooms or clerks' offices if they have:
 - a. Visited China, Iran, South Korea, any European countries, or any other high-risk countries identified by the CDC in the previous 14 days;
 - b. Resided with or been in close contact with someone who has been in any of those countries within the previous 14 days;
 - c. Traveled domestically within the United States where COVID-19 has sustained widespread community transmission;
 - d. Been asked to self-quarantine by any doctor, hospital, or health agency;
 - e. Been diagnosed with or have had contact with anyone who has been diagnosed with COVID-19; or
 - f. A fever, cough or shortness of breath.
12. Individuals attempting to enter restricted areas in violation of this order should be denied entrance by courthouse security officers or other authorized individuals.
13. Court employees should discourage all persons from congregating outside courtroom doors, and should encourage social distancing inside the courtroom or in other court areas.

14. Individuals with legitimate court business who are ill, caring for someone who is ill or in a high-risk category as defined in paragraph 11 of this order are advised to stay home and to request a continuance by calling the appropriate clerk of court. Court clerks are urged to appoint sufficient staff to process these requests and notify the presiding judge and involved attorneys.
15. Litigants and attorneys in both criminal and civil cases are encouraged to file documents with clerks of court by electronic mail if possible, in accordance with Rule 5(e) of the Wyoming Rules of Civil Procedure and Rule 301 of the Uniform Rules for the District Courts. Rule 5(e) is hereby expanded to allow filing of documents which exceed ten (10) pages in length by electronic mail. Rule 4 of the Rules for Fees and Costs of the District Court and Rule 4 of the Rules for Fees and Costs of the Circuit Court are hereby waived during the effective period of this order.
16. Except as set forth in paragraph 15 of this Order, the collection of fees (including filing fees) may be delayed, but filing fees should not be waived.
17. Judges are strongly encouraged to communicate with their local County Commissioners to ensure that courthouses remain open to court staff as necessary for statutorily or constitutionally required court business.
18. Circuit and district judges are strongly encouraged to coordinate with their conferences to ensure that statutorily and/or constitutionally required court business can continue in each county if a judge falls ill and is otherwise unable to perform his or her duties.
19. The Wyoming Supreme Court hereby suspends any court rule that is contrary to or in conflict with this order for the time period during which the order is in effect.

This order does not prohibit any court proceeding which may be conducted by telephone, video, teleconferencing, or other means that do not involve in-person contact. It is not intended to affect courts' consideration of matters that can be resolved without in-person proceedings.

Orders of protection and temporary injunctions that would otherwise expire between March 18, 2020 and April 13, 2020 are hereby extended until April 13, 2020.

The Court will review this Order no later than April 1, 2020 to determine whether it should be extended or vacated as circumstances require. Nothing in this order is intended to preclude judges from implementing additional restrictions as needed. This order shall be in effect from March 18, 2020, to April 10, 2020 unless modified by further order of this Court.

DATED this 18th day of March, 2020.

BY THE COURT:

/s/

MICHAEL K. DAVIS
Chief Justice