

**IN THE DISTRICT COURT OF TETON COUNTY, WYOMING
NINTH JUDICIAL DISTRICT**

***,)	
	Plaintiff,)	
)	
v.)	Civil Action No. ***
)	
****,)	
	Defendant.)	

**ORDER SETTING PROTOCOLS FOR IN-PERSON HEARING
DURING COVID-19 PANDEMIC**

This matter came before the Court on its own motion. A hearing is set to occur in this matter on [DATE]. Due to the COVID-19 pandemic, the states of emergency declared by federal, state, and local governments, the importance of physical distancing measures, and the importance of face coverings to prevent transmission of the Covid-19 virus by asymptomatic and presymptomatic individuals, the Court has established special protocols for in-person hearings.

1. Overview. Courts have a responsibility to endeavor to provide safe facilities to those required to attend court in person. Those who are required to attend court in-person are ordered to be present by subpoena, by court order, or because they are in custody. Unlike private businesses where a person may choose to enter or not, persons in the courthouse are required by law to be present.
2. The Court has adopted an in-person operating plan that is designed in three sections: (1) elimination controls (reducing the volume of the virus that enters the building); (2) engineering controls (reducing the risk of transmission within the building); (3) procedural controls during proceedings.

3. This in-person protocols order summarizes some of the elimination controls via courthouse screening and the procedural protocols that apply during hearings. Individuals who choose not to comply with these in-person protocols shall continue to have all public services provided remotely and without entering the building. Counsel shall contact the Court as soon as possible to make arrangements for remote proceedings if necessary.
4. Screenings at Courthouse Entry. In addition to courthouse security screening, all counsel, parties, witnesses, and members of the public shall be subject to special screening upon entry to the courthouse. Screening may include temperature checks and various questions. Physical distancing and face coverings are also required during courthouse screening.
5. Those persons who refuse to answer the screening questions, or submit to the temperature screening, or the face covering restriction shall be denied access to the courthouse. At the time of denial, they will be referred to alternative means to conduct their courthouse business.
6. Those denied access who have a scheduled in-person court appearance will be provided the court tablet or phone to appear remotely from the front of the courthouse using the free Wifi access. The tablet/phone shall be sanitized with disinfecting wipes before and after each use. Exchange of that device between court security and the person needing the device is contact-free.
7. Court security will notify the Court of any denied access to the courthouse and the need to setup remote access to the court hearing.
8. Conduct of Hearings.
 - a. Face coverings will be worn by all participants at all times, with the exception of

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witnesses during testimony and those exempt for medical conditions, mental conditions, or disability, unless otherwise approved by the Court on an ad hoc basis.

- i. Face coverings in the courthouse are required by the Teton County Board of County Commissioners Teton County Resolution 20-026, which was adopted and approved on May 26, 2020, and Teton County Resolution 20-030 which was adopted on June 29, 2020, Teton County Resolution 20-038 which was adopted on August 31, 2020, and Teton County Resolution 20-039 which was adopted on September 28, 2020. This requirement is also consistent with Teton County's recommendations in its *Phased Reopening Guidelines for Business and Organizations*, its *Safe Work Protocols* and the recommendations of the Center for Disease Control, Teton County Public Health Officer, Dr. Riddell's Recommendation #7 issued on April 6, 2020, the Town of Jackson's Mask Ordinance, Ordinance 1255 passed on July 3, 2020, and Teton County's Public Health Order #20-6, approved by State Public Health Officer on July 21, 2020.
 - ii. Face shields or other alternative face covering protocol may be considered on a limited and case by case basis where facial expressions must be observed (such as for witnesses) or where audio quality is hampered and impairs the creation of an accurate court record. Physical distancing shall be required with the use of alternative face coverings.
- b. Only one witness shall be permitted in the courtroom at one time. Counsel shall be prepared to call or text their next witness from the courtroom. Witnesses shall wait outside the courthouse or in their cars, unless the bailiff at the entrance to the courthouse can accommodate them in the lobby or one of the Circuit Court anterooms. Once called, they can proceed through court security. They will then be greeted by a clerk or court security officer to be escorted to the witness box.
 - c. Witnesses will be escorted to and from the courtroom via the hallway adjacent to the Clerk of Court's office. They will enter and exit the courtroom through the northeast door of the courtroom nearest the witness stand.
 - d. The witness box has been fitted with a tempered glass screen. An air purifier will operate in that space. In this area, the witness may speak without a face covering. In all other spaces of the courthouse and courtroom, a face covering shall be worn.
 - e. Disposable gloves are available in the courtroom if participants would like to use them.
 - f. Hand sanitizer is available at several locations in the courtroom for participants.

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- g. Counsel tables, chairs, microphones, and other high-touch surfaces are disinfected between hearings. Court staff have been trained in the amount of time needed for various disinfectants to be effective.
- h. Clients and counsel will be physically distanced at counsel table, unless otherwise approved by the Court. Alternate means of communicating with each other will need to be developed (e.g., via notepad, text message, or email. Phones and devices may be used by counsel and litigants for this purpose). It is possible that only one lawyer and one client will be present at counsel table. Second-chair attorneys, support staff, family members, witnesses, and experts, may need to attend by video conference or telephone, due to lack of space in the courtroom because of physical distancing.
 - i. With Court approval, clients and counsel may choose, on a case-by-case basis, to sit next to each other at counsel table. This should be consensual and be based on past practices unique to those individuals, such as if counsel and the litigant typically sit next to each other in office meetings without physical distancing. This exception should not be used simply because counsel and the litigant have not pre-arranged how to communicate with each other during the hearing via notepad, text message, email, or other means. Because litigants are ordered to be present in court, and are unable to choose not to attend, the Court discourages circumstances where a litigant may feel coerced or pressured to sit next to counsel without physical distancing due to the pressures and solemnity of a court proceeding, particularly if that litigant or counsel would ordinarily maintain strict physical distancing outside the courtroom.
- i. The podium will not be used. Counsel shall present from counsel table.
- j. Due to space and physical distancing limitations, counsel shall not move about the courtroom.
- k. All exhibits shall be presented electronically, using the Microsoft HUB available at counsel table, which projects to a monitor on the north wall of the courtroom. The Elmo will not be used. Paper is not likely to be shared or passed around. Counsel in need of technical assistance are directed to work with the Court Reporter several days before an in-person hearing.
- l. Documentary exhibits will be provided to the Court by email in advance of any hearing, consistent with protocols detailed below. Exceptions may be made on a case-by-case basis where original or certified documents are material and for non-paper exhibits.
- m. Whether to require in-person appearances by attorneys, witnesses, and parties who are

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- in high-risk categories for Covid-19 may need to be considered. Objections to video appearances and video testimony by high-risk individuals will need to be addressed prior to any hearing.
- n. Water pitchers and cups will not be available. Counsel and litigants should bring their own water containers and use the free water station on the first floor of the courthouse.
 - o. The Court will keep a simple log of who was present at a hearing (counsel, parties, witnesses, and any others). If after a hearing the Court is notified of a positive COVID-19 case in the building, the Court may provide the tracing list to Public Health, with the parties, witnesses, or other individuals to be contacted by Public Health through the counsel that they appeared with.
9. To limit public use of the courthouse, the press and the public will continue to have free access to all public proceedings by phone or video conference. Closed captioning is available on the video conference platform.
10. Individuals who refuse to physically distance and wear face coverings during court proceedings may be removed from the courthouse. However, such individuals will continue to have access to all courthouse services without requiring in-person contact.
11. Exhibits. To limit contact between individuals and objects, paper exhibits and copies of exhibits shall not be circulated during the hearing.
12. Exhibits shall be prefiled and shall be provided to the Court in two ways.
13. First, all exhibits, and any exhibit lists shall be filed electronically to Court staff. All exhibits shall be premarked. If there are a limited number of exhibits, they may be emailed. If the exhibits are voluminous, counsel may use Dropbox or a similar document delivery service. Those documents shall be sent to the Court's Judicial Assistant and to the Court's Staff Attorney at mdearing@courts.state.wy.us and mfredrickson@courts.state.wy.us. Or, counsel

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may deliver a thumb drive to the Court's Judicial Assistant at the Teton County Courthouse. Regardless of which electronic delivery is used by counsel, the trial exhibits shall be delivered not later than **12:00 noon, two (2) business days before the hearing.**

14. Second, all exhibits and exhibit lists shall also be printed and provided to the Court. If they are voluminous, they shall be provided in binders. Each binder shall not exceed three inches in width. Multiple binders may be used. All exhibits shall be premarked, identical to the electronic exhibits, and delivered to the Court not later than **12:00 noon, two (2) business days before the hearing.**

15. Third, the paper exhibits that were provided to the Court, if admitted into evidence, shall be considered the original exhibits when admitted, unless a substitution is required and approved by the Court such as for certified copies, maps, high quality photographs, or similar documents where an electronic copy is not appropriate. In the event such originals are to be provided to the Court, counsel should contact the Court's Judicial Assistant for appropriate protocols such as sending the envelope(s) of exhibits by U.S. Mail or by some other means of physical delivery.

16. Exhibits shall also be furnished prior to the hearing to (1) the witness to be used for that evidence, and (2) opposing counsel two days prior to the hearing, at the same time they are provided to the Court. Failure to so provide any such exhibits may result in the preclusion of the exhibits. This includes rebuttal exhibits, except, on a case-by-case basis, for true rebuttal evidence if a party shows good cause for not disclosing in advance.

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17. Do **not** file the hearing exhibits with the Clerk of District Court. The Clerk does not file proposed exhibits in the Court's files. Exhibits that are admitted will be part of the record. Exhibits that are not admitted will be discarded.
18. Counsel should be prepared to review the exhibits that were admitted into evidence with the Court Reporter at the end of the hearing.
19. Witnesses shall not alter or amend exhibits during their testimony without Court permission.
20. Stipulated Exhibit List. Not later than **12:00 noon, two (2) business days before the hearing**, counsel shall submit a list of stipulated exhibits, signed by counsel for all parties, to be admitted at trial.
21. Subject to Amendment. Protocols for in-person hearings during the Covid-19 pandemic may be updated from time to time.

IT IS SO ORDERED.

DATED this ___ day of *** 202*.

Timothy C. Day
District Judge