

**IN THE DISTRICT COURT
FOR THE SIXTH JUDICIAL DISTRICT OF WYOMING**

FILED
CAMPBELL COUNTY, WYOMING

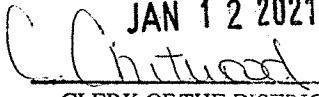
GENERAL ORDER

FOR THE DISTRICT COURT

FOR CAMPBELL COUNTY

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2020-01

JAN 12 2021

CLERK OF THE DISTRICT COURT

**THIRD ORDER AMENDING GENERAL ORDER 2020-01 AND REQUIRING
TELEPHONIC OR VIDEOCONFERENCE APPEARANCE EXCEPT UPON A
SHOWING OF EXTRAORDINARY CIRCUMSTANCES OR
AS OTHERWISE REQUIRED BY LAW**

THIS MATTER came upon the Court’s own motion. In March, 2020, this Court responded to an emerging global pandemic caused by the COVID-19 virus. After a few months of conducting hearings exclusively through video conferencing, this Court developed Operating Plans for the Sixth Judicial District regarding the courtrooms within the Campbell, Crook, and Weston County courthouses, which were consistent with recommended practices from public health officials. These plans allowed the courtrooms within those Counties to re-open for in-person hearings and proceedings with significant precautions to protect public health .

Since September, 2020, the world has been experiencing a “second wave” of COVID-19 infections. The United States has seen a surge in COVID-19 cases. By the middle of October, 2020, the United States was reporting more than 50,000 new infections a day. According to the Brown University School of Public Health, the United States had more than 82,000 new cases of COVID-19 on November 2, 2020. The United States continues to set new daily records with over 100,000 new COVID-19 infections each day.

Wyoming has not been spared. As of November 10, 2020, Wyoming’s statewide seven-day moving average of cases per 100,000 people is 98. Public health officials recommend stay-at-home orders for any area experiencing community spread in excess of 25 cases per 100,000 in population.

Likewise, Campbell County COVID-19 cases have been surging. Since mid-September, the active and total number of cases has exponentially escalated. On Sunday, October 25th, Campbell County had 769 lab-confirmed and 64 probable cases, and 374 active cases. The current number of active cases represents a 2,500 percent increase over the course of five and a half weeks. As of November 10, 2020, the seven-day rolling average of new COVID-19 cases per 100,000 people in Campbell County, Wyoming is 102.7.

On January 6, 2021, the Wyoming Supreme Court entered its eighth order amending its order regarding conducting proceedings in light of COVID-19. In that Order, the Wyoming Supreme Court continued to recommend no jury trials except where necessary to protect a defendant's constitutional rights. The Order further recommended all in-person proceedings be suspended. Finally, the Order encouraged all Courts to conduct proceedings using video and teleconferencing technologies (i.e., TEAMS®).

For more than a century, courts have recognized that “a community has the right to protect itself against an epidemic of disease which threatens the safety of its members.” *Jacobson v. Commonwealth of Massachusetts*, 197 U.S. 11, 27, 25 S. Ct. 358, 362, 49 L. Ed. 643 (1905). This includes the ability of the States to “establish quarantines against human beings, or animals, or plants, the coming in of which may expose the inhabitants, or the stock, or the trees, plants, or growing crops, to disease, injury, or destruction thereby.]” *Oregon-Washington R. & Nav. Co. v. State of Washington*, 270 U.S. 87, 93, 46 S. Ct. 279, 281, 70 L. Ed. 482 (1926). As one court stated, “when the state faces a major public health threat [], its Tenth Amendment police and public health powers are at a maximum.” *Legacy Church, Inc. v. Kunkel*, 455 F. Supp. 3d 1100, 1146 (D.N.M. 2020). Consequently, courts have affirmed the government's authority to issue orders that limit access to places, including stay-at-home orders, when those orders are necessary to protect public health in light of the current COVID-19 pandemic. *See Williams v. Trump*, No. 20 C 2495, 2020 WL 6118560, at *1 (N.D. Ill. Oct. 16, 2020); *Gish v. Newsom*, No. EDCV20755JGBKKX, 2020 WL 1979970, at *5 (C.D. Cal. Apr. 23, 2020); *Bimber's Delwood, Inc. v. James*, No. 20-CV-1043S, 2020 WL 6158612, at *1 (W.D.N.Y. Oct. 21, 2020); *Hernandez v. Grisham*, No. CIV 20-0942 JB\GBW, 2020 WL 6063799, at *63 (D.N.M. Oct. 14, 2020); *Lewis v. Walz*, No. CV 20-1212 (DWF/HB), 2020 WL 5820549, at *4 (D. Minn. Sept. 30, 2020).

Under Wyo. Const. Art. 1, §8, Wyoming courts are generally open to the public. “[A]ccess to court proceedings should be limited only in exceptional circumstances.” *Williams v. Stafford*,

589 P.2d 322, 325 (Wyo. 1979), abrogated on other grounds by *Vaughn v. State*, 962 P.2d 149 (Wyo. 1998). Thus, while the trial courts of Wyoming must remain open, they must take into consideration the global health crisis caused by COVID-19 when determining the manner in which hearings will be conducted and scheduled.

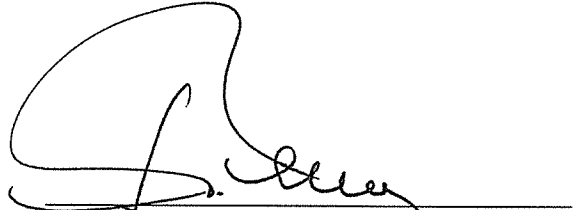
In light of the surge in COVID-19 cases nationally, in Wyoming, and in Campbell County, the Court must limit in-person appearances for hearings. In-person appearances create the precise situation that the Centers for Disease Control (CDC) say fans the flames of COVID-19 spread – indoor gatherings of unrelated persons that may last for a long time. *See CDC, Considerations for Events and Gatherings*, updated October 29, 2020 at <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/considerations-for-events-gatherings.html>. Moreover, through the use of video and teleconferencing via the TEAMS® application, the courts can provide remote access to court proceedings. The application is free and allows any party to participate with nothing more than a telephone. In light of these considerations,

IT IS HEREBY ORDERED that all persons appearing before any judge for any proceeding in the District Courts for the Sixth Judicial District in the Campbell County Courthouse in Gillette, Wyoming shall appear via video or teleconference unless an in-person appearance is required by law or the person establishes extraordinary circumstances that would warrant an in-person appearance;

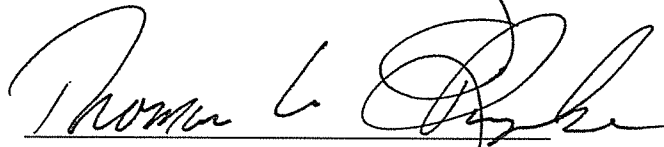
IT IS FURTHER ORDERED that any person seeking to establish extraordinary circumstances to permit an in-person appearance shall do so by written motion filed at least three (3) business days before the date of the court appearance at issue. Such motion shall be filed with the Clerk of District Court and a courtesy copy shall be provided to the Court and all other persons involved in the case no later than one (1) day after the motion is filed with the Clerk of District Court. Failure to provide such copies to the Court and other persons may constitute good cause to deny the motion;

FINALLY, IT IS ORDERED that this Order shall become effective immediately as it is a mere continuation of current practices.

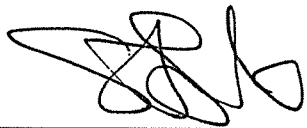
BY THE COURT this 12th day of January, 2021.



HON. JOHN R. PERRY, CHIEF JUDGE
SIXTH JUDICIAL DISTRICT



HON. THOMAS W. RUMPKE, JUDGE
SIXTH JUDICIAL DISTRICT



HON. STUART S. HEALY, III, JUDGE
SIXTH JUDICIAL DISTRICT