

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

ORDER ESTABLISHING PROTOCOLS    )  
FOR   IN-PERSON HEARINGS            )     General Order 2021-01  
DURING COVID-19 PANDEMIC         )

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Due to the ongoing COVID-19 pandemic, the continued surges related to COVID-19 variants, 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 pre-symptomatic individuals, the Court established special pandemic protocols for in-person proceedings. As the pandemic has progressed and federal, state, and local guidance have changed since the start of the pandemic, this Order provides the Court's current protocols. This Order also attempts to identify some of the protocols changes to anticipate when Teton County shifts from a Phase Yellow or Orange risk level to the higher Phase Red or Purple risk levels. These protocols are subject to change in response to local conditions, subsequent local public health orders, local government regulations, guidance from other public health agencies, and orders of the Wyoming Supreme Court.

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, in criminal matters, 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. This Operating Plan does not address jury trials. A separate jury trial plan applies to jury trials during the COVID-19 pandemic.
3. This operating plan is designed in four 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); (4) face coverings; and (3) procedural controls during proceedings.

#### **Elimination Controls**

4. Elimination controls are designed to help prevent the COVID-19 virus from entering the courtroom.
5. *Courthouse Entry.* Entry into the building and its common spaces is subject to the jurisdiction of the Teton County Sheriff's Office which provides Court Security staff. That office and its Court Security staff manage the security and health screening, type of screening, and other access to the building depending on the stage of the pandemic and local risk levels.
6. As of the date of this Order, Teton County Resolution 21-028, ratified on August 17, 2021, requires face coverings and physical distancing of six feet in all common spaces of the Courthouse, subject to certain exceptions. All courthouse users shall comply with any County resolution in effect and any instructions or security requirements imposed by the bailiffs upon entry.
7. *Courtroom Access.* The following persons scheduled to appear at an in-person court proceeding shall be denied entry to the District Court Courtroom and the Judge's Chambers. It is recommended they also not attempt entry into the Courthouse. Instead, they are directed to contact the Court in advance of their hearing so that other arrangements for remote appearances or rescheduling can be timely coordinated.
  - i. Symptomatic individuals, which means those who, within 24 hours, have had any of the following symptoms: fever, new cough or shortness of breath (as

opposed to a chronic cough or pre-existing shortness of breath) or new loss of taste or smell.

- ii. Individuals who have tested positive for COVID-19 or are subject to a quarantine or other isolation order.
- iii. Individuals who have been in close contact with someone confirmed, presumed, quarantined, or who is being evaluated for COVID-19 in the last 14 days.
- iv. Individuals who, in the last 14 days, visited an area that is subject to quarantine because of COVID-19 infection.

8. *Alternatives to In-Person Court Appearance.* In most instances, a person scheduled to appear for an in-person hearing will notify the Court in advance of their inability to attend in person. To request their appearance or the hearing be either reset to occur by video conference.

9. Those denied access the day of a hearing who have a scheduled in-person court appearance and who did not make arrangements to reset or convert that hearing will be provided the court tablet or phone to appear remotely from the front of 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. Court security will notify the Court of any denied access to the courthouse and the need to setup remote access to the court hearing.

### **Engineering Controls**

10. Engineering controls are designed to reduce the risk of transmission of the COVID-19 virus to the extent any exists within the courthouse. Engineering controls include physical modifications or changes to the way the building or components of it operate.

11. *Air Flow and Ventilation.* Research indicates that proper air flow can help limit the spread of COVID-19. The District Court has worked with the Teton County Facilities Department to modify the ventilation systems in the courthouse.

- a. Ventilation rates are currently operating with the maximum allowable input of outside air.
- b. The exchange rate in the District Courtroom is also operating at its maximum exchange rate with outside air per hour.
- c. The filtration system uses filters that capture 95% of particles small enough to carry the COVID-19 virus. Prior to the pandemic, the filters were changed every four months but are now expected to be changed every two to three months.
- d. An ultraviolet light system to treat and sanitize all recirculated air in the system was installed in the Fall of 2020.
- e. One or more air purifiers with HyperHEPA filtration are in the courtroom.
- f. Bathroom exhaust in the bathrooms is not recirculated. That air is instead vented directly to the outside. The fans have been inspected and are operating.

12. *Sneeze Guards.* The witness box in the District Courtroom has been modified with the installation of tempered-glass partitions on three sides (the fourth side is an existing wall). Glass was chosen instead of plexiglass because it is easier to sanitize. The enclosure includes two pass-through spaces for documents, which can be blocked when not in use. The glass is tempered glass for shatter protection. The glass height extends approximately 24 inches above nose level of a seated witness, and approximately 2 (two) inches above nose level of a standing witness who is six (6) feet tall.

13. *Bathrooms and Water Fountains.* Public bathrooms are stocked with soap and paper towels.

Hand sanitizer stations are near the exterior of public bathrooms so users may sanitize hands after touching doors. The public water fountain in the courthouse lobby has been modified and is only available for touchless water bottle filling.

14. Water pitchers and cups are no longer offered for communal use in the District Courtroom.

Counsel and litigants are directed to bring their own.

15. *Coordination Between Courts.* The District Court and Circuit Court coordinate schedules for jury trials because both courtrooms are used for each jury trial, allowing only one trial to occur at a time. That coordination also generally prohibits in-person hearings that would otherwise coincide with jury trials. Due to the continued use of remote and hybrid proceedings in the District Court, it is not expected that a large volume of people will be entering the building at the same time for hearings in both courtrooms.

16. *Environmental Sanitation.*

- a. In addition to regularly scheduled courthouse cleaning discussed in subparagraph e, Court staff sanitizes frequently touched surfaces in the courtroom between consecutive in-person hearings. For some surfaces, disinfecting will occur between each user, such as witness box surfaces between witnesses, with adequate time between users as needed for the sanitizing product.
- b. Disposable microphone covers are used at the witness box and podium.
- c. Gloves shall be provided for employees who clean and disinfect. Employees shall wash hands after removing gloves. All employees have been provided training material regarding disinfecting protocols, use of gloves, and handwashing.
- d. Sanitary hand wipes or sanitizer stations are available at the entrance to the Courthouse and for the public throughout the building at convenient locations, including in and near the District Courtroom.
- e. Public bathrooms, public spaces, courtrooms, and agency offices in the courthouse are cleaned and sanitized daily by a contractor managed by Teton County Facilities Department.

17. *If Someone Becomes Symptomatic or Sick.* If a person becomes sick or symptomatic during a proceeding, the person shall be isolated in the District Court jury room and provided a surgical mask to place over their mouth and nose (including any existing face covering) as recommended by Public Health. Emergency personnel, family, or other assistance shall be contacted as appropriate under the circumstances; Public Health shall be notified; and the courtroom shall be disinfected in accordance with CDC guidance on “Cleaning and Disinfecting Your Building or Facility If Someone Is Sick.” The Court will notify all other courthouse tenants if someone is sick or becomes symptomatic within District Court facilities.

#### **Face Coverings**

18. Face coverings are an elimination control and a procedural control. Face coverings, when required, are 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, the Town of Jackson’s periodic mask ordinances, the periodic Teton County resolutions regarding face coverings, and various Teton County Public Health Orders and recommendations. Face coverings help protect others and yourself.
19. *Orange and Yellow Risk Levels.* During the risk levels of Orange and Yellow, designated by Teton County, face coverings are encouraged at all times, regardless of vaccination status. A face covering is not necessarily required in the District Courtroom for fully vaccinated individuals. An individual is fully vaccinated if they are two or more weeks past having received all shots suggested by the Centers of Disease Control (CDC) or local Public Health agency (i.e., two of the Pfizer or Moderna shot; one of the Johnson & Johnson shot). As booster

shots are recommended in the future for some individuals, “fully vaccinated” status may require the booster shot and the Court anticipates deferring to the recommendations of the local Public Health Department.

20. Unvaccinated individuals are required to wear face coverings in the District Courtroom and the Judge’s Chambers.
21. It is required that all individuals, regardless of vaccination status, abide by the face covering requirements as directed by Court Security staff in the common spaces of the courthouse, in the event those requirements conflict with those of the District Court. At the time this Order was issued, face coverings were required in all common spaces in the courthouse pursuant to Teton County Resolution 21-028.
22. Any person may elect to wear a face covering at any time, even if not required by the District Court or Court Security.
23. *Red and Purple Risk Levels.* During the risk levels of Red and Purple, designated by Teton County, face coverings are required at all times by all individuals in the District Courtroom and the Judge’s Chambers. However, witnesses will be permitted to speak without a face covering from behind a tempered glass enclosure in the Court’s modified witness box. Counsel will be permitted, when speaking, to remove their face coverings. As noted above, at the time this Order was issued, face coverings were required in all common spaces in the courthouse pursuant to Teton County Resolution 21-028.
24. *Type of Face Coverings.* A fabric face covering is appropriate. “Face covering” means a covering made of cloth, fabric, or other soft and permeable material, without holes, that covers

the nose and mouth and surrounding areas of the lower face. A bandana or buff is permissible.

A surgical mask or N95 mask is not required.

25. *Exceptions.*

- a. Pursuant to Teton County Resolution 21-028, children under 12 years of age are also exempt from the face covering requirement. Children 3 to 12 years old are encouraged to wear face coverings and should be supervised by an adult. Children 2 years old and under must not wear a face covering due to suffocation risk, pursuant to earlier resolutions such as Teton County Resolution 20-039.
- b. Pursuant to Teton County Resolution 21-028, the requirement does not apply to individuals that have a medical condition, mental health condition, or disability that prevents wearing a face covering. This includes persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance. A person is not required to provide any documentation or explanation demonstrating that the person cannot wear a face covering for any medical condition, mental health condition, or disability.
- c. Individuals who are hearing impaired, or need to communicate with a person who is hearing impaired, where the ability to see the mouth is essential for communication, are also exempt from this requirement.

26. Face covering requirements are subject to change at any time in response to new directives or guidance from the local public health department and the Center for Disease Control.

**Procedural Controls**

27. Continued Remote Proceedings. Many District Court proceedings are expected to continue to be conducted by videoconference and telephone conference. Regular use of remote proceedings reduces the number of daily and weekly individuals who enter District Court facilities. Video and telephone proceedings also provide convenience to the litigants and



reduce litigation costs in accordance with W.R.C.P. 1. In many instances, such proceedings are also easier to schedule for the Court and may thereby result in a faster disposition.

28. *Hybrid Proceedings.* Hybrid proceedings (part in-person and part-remote) may be used on a case-by-case basis to reduce the number of in-person hearing participants, to accommodate individuals who are denied entry after screening, to accommodate high-risk individuals or those who care for high-risk individuals, or for other reasons.

29. Orange and Yellow Risk Levels. If a hearing is set to occur by remote means during an Orange or Yellow risk level, counsel or a party may request it be reset as an in-person hearing. Likewise, if a hearing is set to occur in person, counsel or litigants may request it be reset as a remote proceeding.

30. In-person hearings are subject to being vacated or being converted to a remote proceeding based on local conditions related to the pandemic, such as an increase in local risk level.

31. In-person hearings may also be converted to a remote proceeding if a person obligated to participate is symptomatic, tests positive for COVID-19, is under quarantine or other isolation order, or has been notified that they have been in close contact with a COVID-19 positive individual.

32. Red and Purple Risk Levels. It is anticipated that during Red and Purple risk levels, all proceedings will occur by remote means. In-person proceedings may be requested and would be subject to in-person protocols set by separate order.

33. Conduct of Hearings.

- a. *Face Coverings.* As noted above, during phases Orange and Yellow face coverings are encouraged in the District Courtroom for those individuals who are fully vaccinated

from the COVID-19 virus. Fully vaccinated is defined as two weeks or more from the last recommended dose. During Phases red and Purple, face coverings are required by all individuals.

- b. Regardless of the designated Phase of risk level in Teton County, face coverings are required in the District Courtroom for those individuals who are not vaccinated from the COVID-19 virus. Exemptions from this requirement are available for medical conditions, mental conditions, or disability, or if approved by the Court on an ad hoc basis.
- c. During a Red or Purple risk level, face coverings are required by all participants except (1) witnesses when speaking from the enclosed witness box and (2) counsel when speaking.
- d. *Physical Distancing.* Regardless of vaccination status, physical distancing is required in the District Courtroom. However, at counsel table the parties and counsel may elect to sit closer. Such consent should be voluntary. If counsel or a party prefer to maintain physical distancing, they are directed to use physical distancing at counsel table. 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.
- e. *Witnesses.* 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 unless the bailiff at the entrance to the courthouse can accommodate them in the lobby or one of the Circuit Court anterooms. Once called by counsel, they can proceed through court security and to the District Courtroom.
- f. Witnesses may observe or listen to court proceedings through remote means before or after being called, unless a sequestration order is in place. Counsel shall contact the Court before the hearing for instructions on how witnesses or others may observe the proceedings remotely.
- g. 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 regardless of vaccination status.
- h. *Sanitation.* Disposable gloves are available in the courtroom if participants would like to use them.

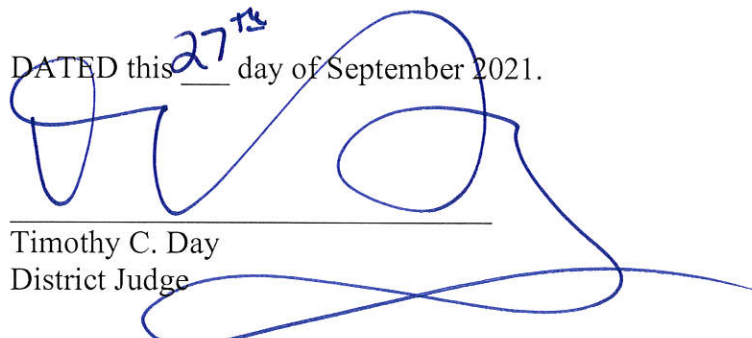
- i. Hand sanitizer is available at several locations in the courtroom for participants.
- j. Counsel tables, chairs, microphones, and other high-touch surfaces are disinfected between hearings. Court staff have been trained in the amount of time needed for various disinfectants to be effective.
- k. *Use of Court Well.* Due to space and physical distancing limitations, counsel shall not move about the courtroom. The podium is available if counsel would like to use it. Counsel may choose instead to present from counsel table. If the podium is used, microphone covers are available at the podium. Counsel shall open a new microphone cover when arriving at the podium and when finished, shall remove the cover and dispose of it.
- l. *Exhibits.* 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 may also be used. Counsel in need of technical assistance are directed to work with the Court Reporter several days before an in-person hearing.
- m. Documentary exhibits will be provided to the Court by email and in hard copy in advance of any hearing. Exceptions may be made on a case-by-case basis where original or certified documents are material and for non-paper exhibits.
- n. *Vulnerable Populations.* Whether to require in-person appearances by attorneys, witnesses, and parties who are in high-risk categories for COVID-19 or who caregive for people in high-risk categories may need to be considered. Requests for remote appearances, and objections to video appearances and video testimony, by high-risk individuals will need to be addressed prior to any hearing.
- o. Pursuant to Paragraphs 7 and 14 of the *Tennth Order Amending March 18, 2020 Temporary Plan to Address Health Risks Posed by the COVID-19 Pandemic*, entered by the Wyoming Supreme Court on September 16, 2021, proceedings involving (1) an ill, symptomatic, or high-risk individual, or (2) a person who cares for an ill, symptomatic, or high-risk individual, may require rescheduling.
- p. *Water.* 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.
- q. *Tracing.* 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 contact information to the Teton County Health Department. Parties, witnesses, or other individuals may be contacted

by the Health Department.

34. Public Access and Observation. Members of the public, support staff, and members of the press may attend in-person proceedings using the physically distanced seating the courthouse gallery, depending on the available space. All seating in the gallery of the District Courtroom has been modified to maintain physical distancing. No additional seating or observation space is available once all seats are occupied.
35. 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. The Court's schedule is posted weekly on the Clerk of District Court's website with instructions for how to attend.
36. Individuals who refuse to physically distance and wear face coverings (if required) 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.
37. Subject to Amendment. Protocols for in-person hearings during the COVID-19 pandemic may be updated from time to time in response to local conditions.

**IT IS SO ORDERED.**

DATED this 27<sup>th</sup> day of September 2021.

  
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Timothy C. Day  
District Judge