

***SECOND AMENDED***  
**COVID-19 JURY TRIAL**  
**Operating Plan Ninth Judicial District Court**  
**Lander, Fremont County, Wyoming**  
450 North 2<sup>nd</sup> Street Lander, WY 82520  
**May 1, 2022**  
**Judge Conder, Judge Tyler**

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***PURPOSE***

*In March of 2020, “COVID-19” was deemed a world-wide pandemic and a state of emergency was declared in the United States and Wyoming. As a result, much of our Nation and State were brought to a standstill. It affected nearly every aspect of all of our lives, including the Wyoming Court system. However, since that time many things have changed. Vaccinations are readily available, we have an increased knowledge, awareness and understanding of COVID, and overall our situation has dramatically improved. According to the CDC, as of April 2022, 70% of the adult population in Fremont County is fully vaccinated, and the current COVID-19 risk level is deemed “low,” and the Governor has withdrawn the state of emergency. Overall, citizens have gone back to work; businesses have reopened; masks are no longer mandatory; communities are regrouping and regathering.*

*Recognizing these improvements, on March 15, 2022, the Wyoming Supreme Court issued an updated Order Amending March 18, 2020, Temporary Plan to Address Health Risks Posed by the COVID-19 Pandemic. This revised order lifts previous limitations on in-person hearings. It allows jury trials to be conducted in accordance with an appropriate jury trial operating plan, which is made in consultation with public health officials, approved by all relevant judges, and provides for appropriate health and safety measures. Accordingly, this court’s plan has been developed in consultation with the State Public Health Officer and is based upon the guidance provided by the Wyoming Department of Health, the Wyoming Supreme Court, and the United States Center for Disease Control.*

***PROPOSED START DATE:***

If health and safety conditions in Fremont County permit, jury trials will be conducted according to this plan beginning in May 2022.

# ***JURY SELECTION***

## ***Pre-Screening***

### ***Juror Telephone Calls***

The Clerk of District Court's Office will contact members of the jury panel in writing or by telephone and inform them that they will be needed for a trial on a specific date and time. The panel members will be instructed that if they are members of a vulnerable population, or if they have COVID-19 symptoms, or they have tested positive or been exposed to a lab confirmed case of COVID-19 within 10 days prior to the trial date, they should **not** come to the courthouse for jury duty. Rather, they should request to be excused from jury service. The members of the jury panel will also be advised that a supplemental juror letter and questionnaire providing further information and explanation will be sent to them.

### ***Supplemental Juror Letters & Supplemental Questionnaires:***

Each member of the jury panel will be mailed a letter providing information on what to expect regarding COVID-19 protocols. (See Attachment A).

Each member of the jury panel will be mailed a supplemental questionnaire, which although voluntary, will help to identify high risk individuals and/or those who may present a health and safety risk to others. (See Attachment B).

### ***Release of Jurors For Cause Prior to Trial:***

During this pre-screening process, prospective jurors who are identified as having COVID-19 symptoms, or having COVID-19 and/or who have been exposed to a lab confirmed case of COVID-19 within 10 days prior to the trial date, shall be excused from jury service for that particular trial date and shall be informed not to come to the courthouse.

Additionally, during this pre-screening process, those prospective jurors who are identified as: 1) members of a vulnerable population; 2) working in the health care field addressing COVID-19 or having exposure to COVID-19; or 3) those who may qualify for an exemption or excuse from jury service under W.S. § 1-11-101 through 104 – may submit a written request to be excused from jury service, which the court may grant prior to the start of trial.

## ***Courthouse Protections***

### ***Entry to Court Building – Screening & Notices – For Everyone***

Once they arrive at the courthouse, members of the jury panel who have not requested to be released from jury duty will submit their supplemental juror questionnaires and then be screened by court security in the foyer area of the main courthouse as follows:

1. Observation and questioning of those who enter to determine if they have any COVID-19 symptoms or have been in close contact with anyone who is confirmed to have COVID-19. **Anyone** exhibiting symptoms of COVID-19 or testing positive for COVID-19 or having recent contact with a lab confirmed case will **not** be allowed into the court building, and alternative arrangements will be made.
2. Standard Court Security screening procedures such as questioning, observation and use of a magnetometer to prevent contraband, weapons, or other inappropriate items from being brought into the court building.

\* Notices will be conspicuously posted throughout the court building reminding everyone of the now well-known and commonsense hygiene guidelines and protocols. The court will also impose the following protocols:

1. Everyone entering the District Courtroom will be given the option of wearing a face covering if they wish. The court will have face coverings available for those who wish to use one.
2. Everyone entering the District Courtroom will be encouraged to sanitize their hands. A sanitizer station will be provided outside of the courtroom, and sanitizer, disinfecting wipes and tissues will be provided inside the courtroom. Additionally, gloves will be provided to those who wish to use them.
3. Everyone entering the courtroom must comply with all signs, markings and barriers located throughout the court building and courtrooms. If necessary, the court will mark and close certain areas.

\*Additionally, notices will be conspicuously posted notifying all those entering the court building that if they are or feel sick, they must not enter the building, and alternative arrangements will be made. Specifically,

*ANYONE feeling feverish or having measured temperatures equal to or greater than 100.4°F, or with new or worsening signs or symptoms of COVID-19 such as cough, shortness of breath or difficulty breathing, chills, repeated shaking with chills, muscle pain, headache, sore throat, loss of taste or smell, diarrhea, or having known close contact with a person who is confirmed to have COVID-19 will NOT be permitted to enter the building and should seek immediate medical advice.*

### ***Voir Dire - Social Distancing & PPE***

The court recognizes that social distancing of 6 feet is no longer required. However, the court will attempt to use a social distance of 3-4 feet to separate prospective jurors. Recognizing this social distancing of 3-4 feet, the District Courtroom can safely accommodate a maximum of 60 people in the gallery at one time - 30 on the south side, 30 on the northside. Additionally, with the recent addition to the jury box area, 8-13 people can be placed into the jury box, with an

additional 2 on the bench nearest the jury box, all while maintaining a social distance of 3-4 feet. Thus, if necessary, a maximum of 75 potential jurors can be examined in a safe and orderly fashion.

\*Voir dire will begin at approximately 8:30-8:45a.m.. Jurors will arrive at staggered intervals. The purpose of staggering arrival times will help to provide sufficient time for all prospective jurors to be screened in an orderly fashion.

The exact start time will depend on the number of prospective jurors called for that particular trial. Again, depending on the number of prospective jurors called for the trial, the prospective jurors will be separated/staggered into at least three, if not more, arrival times. For example if the prospective jury panel includes forty five people, then approximately 15 would be told to arrive at 8:00 a.m.; the next 15 to arrive at 8:10; and the final 15 at 8:20. If there were 70 prospective jurors then approximately 15 would be told to arrive at 8:00 a.m.; the next 15 to arrive at 8:10; the next 15 to arrive at 8:20; the next 15 to arrive at 8:30; with the final 10 arriving at 8:40 a.m.

\*When members of the jury panel arrive at the courthouse they will be screened by Court Security as noted above. Once screened, members of the jury panel will be allowed into the courtroom. During this same time frame jury members will be contacted by the Clerk of District Court or her Deputy. The panel members will be given a juror number to wear and an assigned seat within the courtroom. Once in the courtroom, members of the jury panel should remain in their assigned seats.

\*Once all jurors are seated and settled, voir dire will begin and the panel will be examined by the court and parties. Recognizing that each party is permitted 8 peremptory challenges, plus one challenge for the alternate, a total of 31 prospective jurors (passed for cause) are needed to select a jury of 12 plus 1 alternate. In this process jurors 29, 30, and 31 would be the potential alternates, with jurors 1-28 being the potential jury of 12. This total of 31 jurors, passed for cause, will be selected based upon their (random) seating order in the courtroom.

Specifically, the “first” juror would be sitting on the front row, left hand side of the jury box, and then proceed to the right with the number of jurors needed in the jury box. Once the front row is complete the “next” juror would be on the top left of the jury box, and proceed to the right rounding out the top row. The “next” two jurors would be those on the bench nearest the jury box. The “next jurors” would be in the south side of the gallery (the court’s left hand side) starting at the wall and going to the aisle, and repeating until all rows (chairs and benches) have up to five people in each row, with the last juror in this section sitting on the back row aisle seat. The “next” juror would start on the front row isles seat on the north side of the gallery and go toward the wall, and this would be repeated for the next five rows with up to five people in each row. (*See diagram of Jury Selection Courtroom Layout*).

\*\*Based upon the number of prospective jurors called, the seating arraignment can be adjusted to accommodate fewer or more jurors in the jury box or each row, but the order will continue in the same fashion.

## ***Voir Dire - Questioning***

### ***Process***

If needed, members of the jury panel will be provided a microphone to use. The microphone will be regularly cleaned/sanitized by court personnel during this process.

### ***Sidebars***

If a sidebar is necessary with a member of the jury panel, it will occur in the jury room. All necessary participants will move into that room, and the sidebar process will proceed as usual. If a participant is unable to relocate into this room, then the court will utilize existing “white-noise” speakers and headsets for that participant.

### ***COVID-19 Specific Voir Dire Questions***

1. We all may have some type of concern regarding COVID-19. However, the question is, are there any of you who would be unable to focus on the issues and evidence presented in this trial because of concerns associated with COVID-19?
  - a. Is there anyone who cannot set aside their concerns about COVID and focus on your duties as a juror, if selected?
  - b. If selected as a juror, would you be able to focus on the evidence as presented and not let any concerns about COVID impact your deliberations and decisions in this case?
2. During the proceedings some participants may choose to wear masks or face shields, while others may not. Does anyone have any concerns as to their ability to be fair and impartial to the parties because they are wearing or not wearing face masks or shields?

\* Depending upon responses, it may be necessary to ask follow-up questions and/or granting counsel additional time to follow up on any COVID-19 issues.

\* Parties are encouraged to submit proposed COVID-19 related voir dire questions.

### ***Standard Voir Dire Questions***

Recognizing that W.R.Cr.P 24(c) provides that the examination of prospective jurors by the attorneys shall be *under the supervision and control of the court*, and that *the court may conduct such further examination as deemed appropriate*, the court will conduct the primary questioning of the panel members. This questioning will be done for the sole purpose of selecting a fair and impartial jury. Once the court has covered the standard topics, the parties will be allowed to question the panel members. It is likely that each party may be limited to one hour for an average size prospective jury panel.

Parties are encouraged to submit proposed voir dire questions to the court. These proposed questions will be used and relied upon by the court in questioning the panel members in an effort to obtain a fair and impartial jury.

# ***TRIAL***

## ***Juror Social Distancing***

### ***Juror Seating***

The District Court jury box can comfortably accommodate six jurors in the front row, and six in the back, with an additional juror placed just outside the box on the top row. (*See attached diagram "Courtroom Layout Jury Trial."*)

### ***Jury Room/Recesses***

The traditional jury room will be used for most trials. If it becomes necessary, the auxiliary courtroom will be used as a jury room.

In addition to necessary PPE, jurors will be provided their own pens, notebooks, other office supply items, as well as water and snacks as appropriate.

## ***Parties Social Distancing***

### ***Courtroom***

Counsel for each party may use the microphone at counsel table or use the lectern if desired. Counsel will be provided PPE and cleaning supplies, and they will be allowed to use liberally when needed or desired.

Counsel will be required to verify that none of the parties present are experiencing any COVID-19 symptoms nor have they been exposed to someone infected with COVID-19 or suffering from COVID-19 symptoms.

Counsel may submit proposed COVID-19 related jury instructions, which will be considered on a case by case, issue by issue basis.

### ***Exhibits & Documents***

If possible, exhibits should be published to the jury by using available technology.

Actual exhibits will be placed on the exhibit table and they will be collected by the court or court clerk at the end of the court session in which the exhibits were admitted. At the conclusion of trial, the retention and return of the exhibits will be addressed by the presiding judge.

### ***Witnesses***

Unless witnesses are a party to the case and would otherwise be allowed to remain in the courtroom during the proceedings, witnesses shall wait outside the courtroom until they are called by counsel to testify. To accommodate this requirement, the court will allow counsel to use the text/email function of their cellphones/computer devices to communicate with the witness when it is time to enter the building, courtroom, or join via video (counsel MUST ensure that their phones are on silent or vibrate so they do not disrupt the proceedings).

Each party is responsible for ensuring that their respective witnesses are properly screened before entry into the courthouse and they remain sequestered as required by law.

### ***Public Attendance***

All those who would otherwise be permitted to attend trial may attend in person, as long as there is space within the courtroom. If the capacity for the courtroom has been reached, those not permitted to attend in-person will be allowed to attend via video/telephone conferencing.

### ***Others – In Custody***

Anyone being transported to court for a hearing shall be screened prior to transport for symptoms of COVID-19, having COVID-19 or having close contact to a lab confirmed positive COVID-19. Anyone with symptoms, a positive test or close contact to a positive test shall not be transported to the court building and the court and counsel shall be notified as soon as possible of this situation.

### ***Screening/Self-Assessment***

Prior to trial commencing each day, all non-court personnel allowed into the courtroom (parties, public and jurors) will be subject to screening process as outlined above.

Prior to trial commencing each day all court personnel shall conduct a self-screening process using the same standards as applied by Court Security.

In addition to these screening procedures, prior to trial commencing each day EVERY PERSON entering the courtroom shall assure and verify by their presence in the courtroom that they have not had close contact with a person who has a lab-confirmed case of COVID-19 AND they are not experiencing any COVID-19 symptoms.

### ***Cleaning***

In addition to the daily cleaning provided by the Fremont County Maintenance Staff, the frequently touched surfaces in the courtroom (witness stand, counsel tables, lectern, jury box, etc.) and jury room will be cleaned regularly by court personnel with approved sanitizers and cleaners before and after each use.

## ***Hygiene***

\*Hand sanitizer, disinfectant wipes, tissues, and other cleaning products will be placed throughout the courtroom and jury room, and will be made available to all court participants and jurors.

## ***INFECTION EVENT PROTOCOL***

### ***Log***

Court Security will make reasonable efforts to maintain a log of those entering the building and the time they entered and left.

### ***Pre-Screening Event***

If a triggering event, as outlined in the Jury Selection pre-screening process occurs, that juror will simply be instructed not to come to the courthouse for jury duty.

### ***Screening Event***

If there is a triggering event (they are currently experiencing COVID-19 symptoms; have tested positive for COVID-19 in past 10 days; or have been exposed to someone who is lab confirmed positive for COVID-19) when the jurors are appearing for voir dire, then Court Security or the Clerk of District Court will:

1. Obtain a cell phone number for that individual;
2. Instruct the person to return to their vehicle;
3. Encourage the person to contact their health care professional or obtain any necessary medical treatment;
4. Inform the court, and the court will release this individual from jury service for that particular trial panel.

### ***Trial Event***

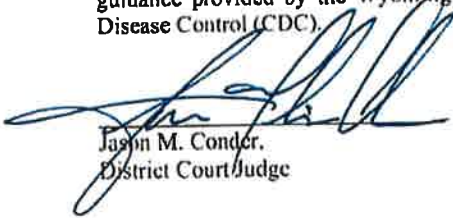
If anyone entering the courtroom (participant, juror, court personnel or public) has COVID-19 symptoms or contact with a person having close contact with a lab confirmed COVID-19 case, then the court will, if necessary, recess the proceedings and:



1. Immediately consult with the Wyoming Department of Health personnel and determine appropriate course of action going forward. Until that is determined the person will be told to remain at home or in their car, but will not be allowed into the courthouse until further order of the court.
2. If appropriate, the person will be encouraged to seek out medical care or treatment that they deem appropriate.

If a positive test is reported by anyone entering the courtroom during trial, public health officials will be immediately contacted, and an appropriate investigation will be conducted to assess if there have been "close contacts" to the infected person and determine if quarantine is necessary for those individuals. The court will also follow steps 1-3 outlined above.

Additional decisions will be based upon recommendations of the public health officer, and guidance provided by the Wyoming Department of Health and the United States Centers for Disease Control (CDC).



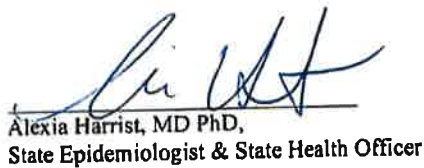
Jason M. Conder,  
District Court Judge



Marvin L. Tyler,  
District Court Judge



Kristi H. Green,  
Clerk of District Court



Alexia Harrist, MD PhD,  
State Epidemiologist & State Health Officer



## STATE OF WYOMING

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### NINTH JUDICIAL DISTRICT-DISTRICT COURT FREMONT COUNTY

Dear Potential Jurors:

Thank you for your willingness to serve as potential jurors. Our constitutional system depends on you and your willingness and ability to serve safely as a potential juror.

Although no person or governmental agency can guarantee that any of us will not be exposed to COVID-19, the court system will take reasonable precautions to ensure the safety of our communities, including all of those who serve on our juries and participate in the court system. Accordingly, the courts have taken precautions to ensure your safety while serving as a prospective juror. The jury selection process and trial in this matter will be conducted according to a COVID-19 Jury Trial Operating Plan, which was developed in accordance with guidance provided by the Wyoming Department of Health and has been approved by the State Public Health Officer. Some of the health and safety measures in this plan include:

**Supplemental questionnaires to screen potential jurors for underlying health conditions or other health and safety concerns**

**Daily screenings of court participants prior to entering the courthouse and similar screenings for everyone before entering the courtroom**

**Personal Protective Equipment (PPE) – such as masks, hand sanitizer, disinfectant wipes, gloves, and tissues will be readily available for your use**

**The courtrooms will be cleaned and disinfected regularly**

**Policies and procedures modifying standard court practices to ensure proper hygiene.**

Anyone that is known to have, is believed to have, or is exhibiting any symptoms of COVID-19 or has had recent contact with a confirmed case of COVID-19 or someone exhibiting COVID-19 symptoms please **DO NOT** attempt to enter the courthouse. Please contact the Clerk of District Court and await further instructions.

When you arrive at the courthouse you should go to the main courthouse doors on the west side of the building. You will be contacted and screened by court security in the foyer area of the main entrance. You should be prepared to answer health and safety related questions and provide your supplemental juror questionnaire.

If you have any questions, concerns, or suggestions for us to make your experience at the courthouse better, please let us know.



Jason M. Conder  
District Judge

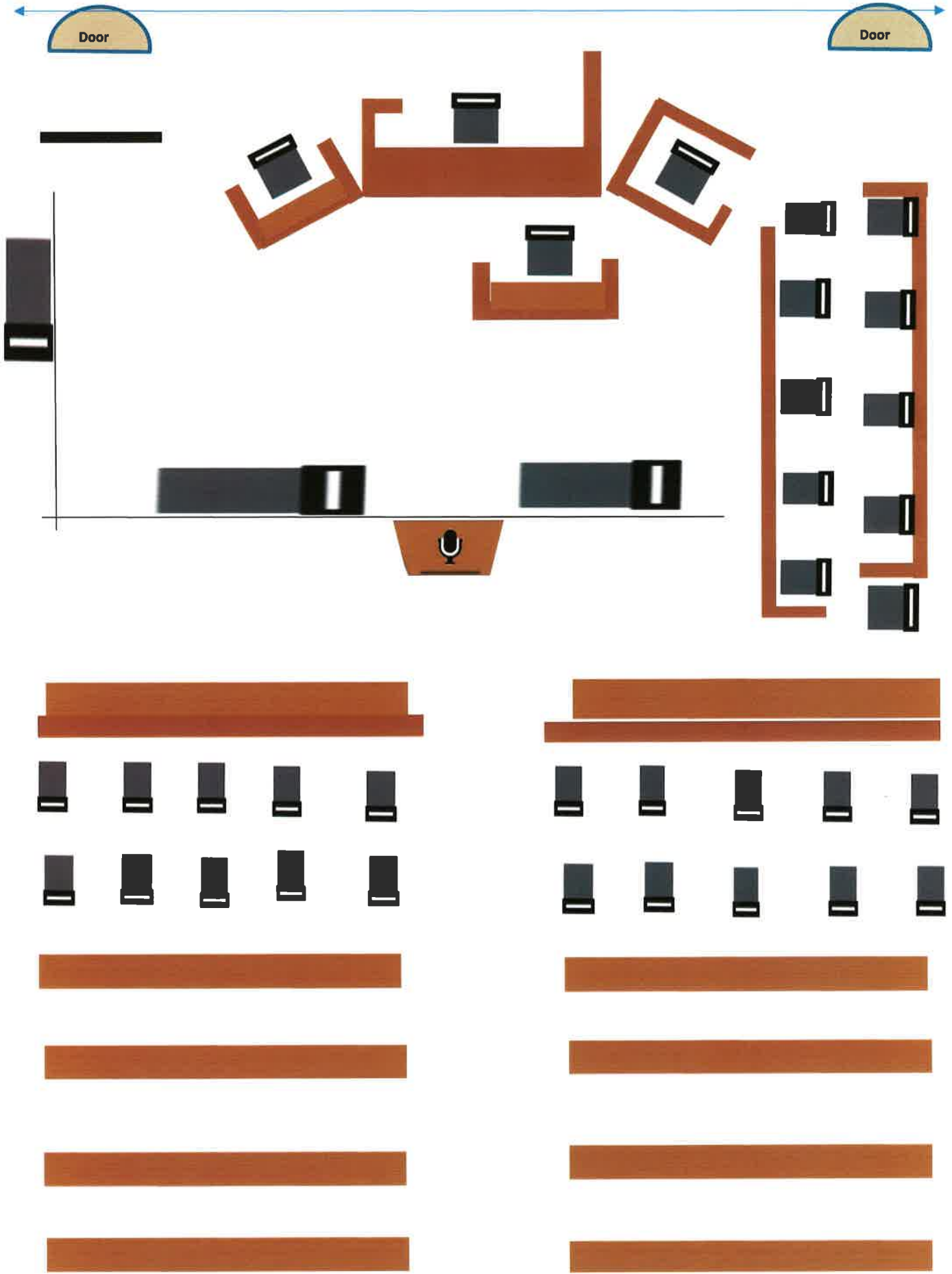


Marvin L. Tyler  
District Judge

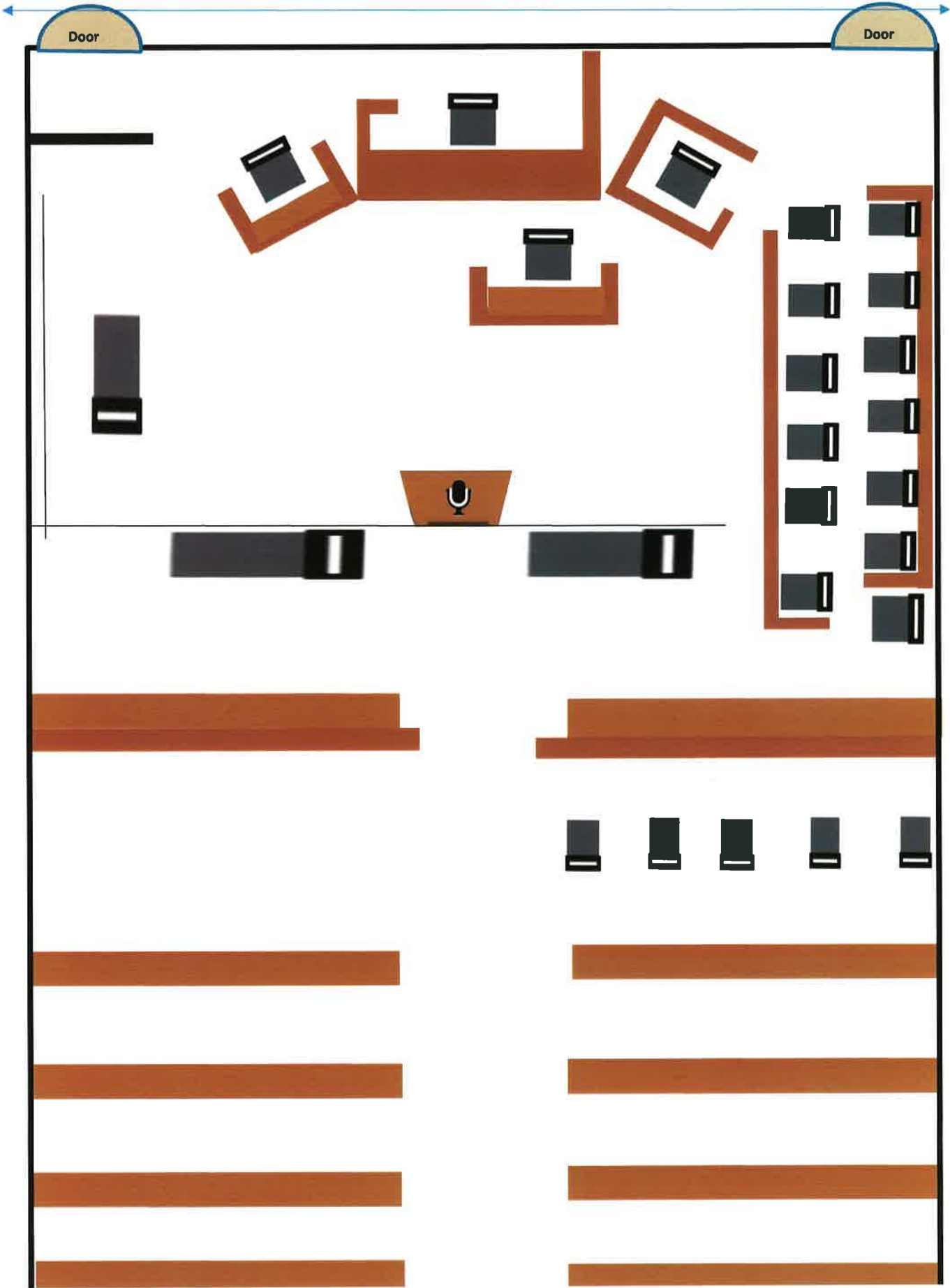


Kristi H. Green  
Clerk of District Court

# Jury Selection Courtroom Layout



# Court Room Layout Jury Trial



## OPTIONAL SUPPLEMENTAL JUROR QUESTIONNAIRE

In light of COVID-19, there are special considerations that the Court may consider when asking potential jurors to perform their civic duty by serving as jurors in trials. You **may** fill out this **optional** supplemental questionnaire to identify factors if you are seeking to be excused from jury service due to COVID-19.

If you want to provide this additional information, please answer the following questions and sign this form under penalty of perjury and return it to the Clerk of Court. The judges will meet with lawyers on the case and make a decision regarding excusing you from jury duty for cause before you must appear at the Courthouse.

		YES	NO
1.	Are you currently experiencing any flu-like symptoms, have a fever, or are coughing or sneezing?		
	<b>Explanation:</b>		
2.	Do you have, or have you recently had, a health condition that compromised or suppressed your immune system?		
	<b>Explanation:</b>		
3.	Do you suffer from any chronic illness including, but not limited to, high blood pressure, cancer, diabetes, heart disease, or lung disease?		
	<b>Explanation:</b>		
4.	Have you recently travelled, or been exposed to another who has recently travelled, to an area that has experienced a COVID 19 outbreak?		
	<b>Explanation:</b>		
5.	If you have answered “yes” to any of these questions, are you requesting that you be excused from jury duty? In your explanation, please describe how long (i.e., a few weeks, the whole term, etc.) you seek to be excused from jury duty.		
	<b>Explanation:</b>		

**I certify under the penalty of false swearing that the foregoing information is true and accurate. I also consent to the Court sharing this information with the attorneys and persons involved in the trial.**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Juror Number

\_\_\_\_\_  
(Printed Name)