

# First Judicial District Bar Association

## MARCH 25, 2020



Chief Judge Order 2020-07  
State of Colorado  
First Judicial District

COVID-19 ORDER FOR  
JURY TRIALS SET THROUGH MAY 15, 2020



**CHIEF JUDGE ORDER 2020-07  
STATE OF COLORADO  
FIRST JUDICIAL DISTRICT**

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This order is being issued to provide guidance to the parties and attorneys during the COVID-19 (coronavirus pandemic). In response to the pandemic, the court has limited its operations and has suspended most jury trials through May 1, 2020. See CJO 2020-02 and 2020-03. As to the latter, Colorado Supreme Court Chief Justice Coats suspended all jury trials through May 15, 2020, with the exception of cases with imminent speedy trial deadlines.

Given the serious threat that the pandemic presents to persons participating in jury trials in the courthouses of the First Judicial District, the court will no longer summon jurors for jury trials set through May 15, 2020. Further, any persons with a summons to report for jury duty during this period are not required to appear. Simply put, the court cannot conduct jury trials in its facilities without unnecessarily risking the spread of COVID-19 to persons compelled by summons to report for jury duty, the parties, attorneys, witnesses, court personnel, and others.

This pandemic continues to threaten the health and well-being of the public. The gravity of the pandemic is reflected by the following:

- The World Health Organization has pronounced that COVID-19 is a world-wide pandemic.
- On March 13, 2020, President Donald J. Trump entered a proclamation declaring a national emergency concerning COVID-19. Five days later, he issued an executive order prioritizing and allocating health and medical resources to respond to the spread of COVID-19.

- All major professional sports leagues have suspended their seasons to reduce the spread of COVID-19. The NCAA cancelled the college basketball tournament. Most concerts and large events have been cancelled. Colorado's ski areas have been closed.
- In-person learning has been suspended across the United States.
- Governors and mayors have issued "stay-at-home" orders or recommendations, except for persons whose jobs are determined to be "essential."
- On March 12, 2020, the CDPHE issued Public Health Order 20-20 restricting visitors at all Colorado skilled nursing facilities, assisted living residences, and intermediate care facilities.
- In a letter sent to Governor Polis, Chief Justice Coats, the State Court Administrator and others, dated March 13, 2020, Colorado State Public Defender Megan Ring recognized the urgency to reduce the spread of COVID-19 and one of her recommendations was to close or limit access to courthouses by the public, and find accommodations to conduct court business without the presence of large numbers of the public, as is currently occurring. Ms. Ring acknowledged that an attorney employed by the Colorado Public Defender's Office tested positive for COVID-19.
- On March 15, 2020, the CDPHE recommended limiting all social gatherings to 50 persons or less, based on recommendations of the CDC, and that all events involving more than 50 persons be postponed. Prior to March 15, 2020, CDPHE had recommended gatherings of no more than 250 persons in a single location to reduce the spread of COVID-19.
- On March 16, 2020, the CDPHE issued a Public Health Order 20-22 closing all restaurants, bars, gyms, theaters, and casinos through April 30, 2020.
- On March 16, 2020, Chief Justice Coats suspended all jury calls, with the exception of jury calls for criminal cases facing imminent speedy trial deadlines, through April 3, 2020. In an order issued on March 20, 2020, Chief Justice Coats extended the suspension of jury calls through May 15, 2020 with the same exception. He also ordered courts to limit operations.
- On March 18, 2020, Governor Polis issued Executive Order D 2020 007 suspending all normal in-person instruction at all Colorado public and private schools from March 23, 2020 through April 17, 2020.
- On March 18, 2020, and as amended on March 20, 2020, the CDPHE issued Public

Health Order 20-23 limiting all mass gatherings to 10 persons or less. The 10-person limitation on gatherings in one place went into effect on March 19, 2020. The 10-person limitation does not apply to certain entities, including Colorado state courts.

- Over the last two weeks, some courts have been temporarily closed because of the pandemic.
- On March 23, 2020, the City and County of Denver issued a Stay-at-Home Order which required all persons to shelter-in-place with exceptions.
- Today, Jefferson, Douglas, and Arapahoe Counties issued Stay-at Home Orders which require all residents of those counties to stay at their residences with exceptions.
- As of today, the CDPHE reported 912 cases of COVID-19 across 35 Colorado counties, 84 persons have been hospitalized, and 11 persons have died. Included in these numbers are 73 cases in Jefferson County. Unfortunately, these numbers are expected to increase, posing a significant threat to our healthcare system.

This list could include many other events and facts that demonstrate the threats faced by the pandemic.

When these facts are combined with the manner in which jury trials are completed in the courthouses of this district, the court has no option but to issue this order.

In this district, the number of persons needed for jury selection for a felony jury trial routinely ranges from 30 to 100 per case, depending on the charges, length of trial, pretrial publicity, and other factors. The number of persons needed for jury selection for a single county court jury trial ranges from 20 to 30, again depending on several factors. The jury assembly room in Jefferson County has a seating capacity of about 300 people and that is with the chairs situated right next to each other. The jury assembly room in Gilpin County is smaller and has similar seating problems. The district often has between five and 20 jury trials set for the same day. While it might be possible to maintain social distancing of six feet between persons if there are less than 40 people in the room, even limiting the number to 40 people would make it difficult to monitor for proper social distancing.

In the jury assembly room, jurors are randomly assigned to a courtroom where voir dire begins. In the courtrooms, the seating options do not allow for proper social distancing. Even if voir dire occurred with one juror or a limited number of jurors in the courtroom at a time, once the jurors are impaneled it would be very difficult to separate the jurors spatially by six feet without having some members of the jury seated away from the jury box, such as in the gallery section or in the well area of the courtroom. This would make it difficult for some of the jurors to hear the testimony or observe the witnesses and/or attorneys, which calls into question the fairness

of the trial. Once deliberations begin, the jury will deliberate in a small, closed jury room in which they will not be able to maintain proper social distancing.


Simply stated, the district's facilities simply are not configured to safely complete a jury trial during this pandemic. It would be socially irresponsible for the court, through the command of a jury summons, to bring jurors into this district's facilities for jury service. Even if the court summoned people to serve over the course of several days, it is unrealistic to believe that a jury could be selected in light of the heightened public concern over the spread of COVID-19. The court believes that the parties, attorneys, court staff, and public are entitled to know whether jury trials will continue during this pandemic. For this jurisdiction through May 15, 2020, the answer is no.

The court orders that: (1) the First Judicial District will not summon jurors for jury trials set through May 15, 2020; and (2) any persons with a summons to report for jury duty during this period are not required to appear. On or before the scheduled trial date, courts shall determine the status of all cases set for trial during this period.

To the extent there is a conflict between other Chief Judge Orders, this order governs through May 15, 2020. Any adverse consequence to the prosecution of any cases because of this order are the sole responsibility of Chief Judge Pilkington.

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March 25, 2020

  
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Jeffrey R. Pilkington, Chief Judge  
First Judicial District