

1 Hon. Jon A. Oldenburg
2 Montana Tenth Judicial District Court Judge
3 712 W. Main
4 Lewistown, MT 59457
5 (406) 535-8028

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7 MONTANA, TENTH JUDICIAL DISTRICT COURT, FERGUS COUNTY
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10 IN RE: CORONAVIRUS / COVID-19

11 SB-2020-_____
12 PUBLIC EMERGENCY
13 **ADMINISTRATIVE ORDER**

14 The President of the United States and the Governor of the State of Montana having respectively
15 declared national and statewide public-health emergencies in response to the spread of a novel virus and
16 the disease it causes, known as **Coronavirus disease** or **COVID-19 virus**; the Court Administrator’s
17 Office and the Chief Justice of the Montana Supreme Court having established guidelines for District
18 Courts; and other public health authorities—federal, state, and local—having advised precautions to
19 reduce the possibility of exposure to the virus and slow the spread of the disease,
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22 IT IS HEREBY ORDERED that the District Courts of the Tenth Judicial District in the State of
23 Montana adopt the following measures, effectively immediately:

- 24 1. The District Courts of the Tenth Judicial District will remain open, subject to the following
25 rules, qualifications, and limitations:
26 a. The Temporary District Court Rules adopted on March 16, 2020, will remain in effect
27 pending further Court Order. They are:
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- i. Those matters that are not required to be heard will be continued.
- ii. Attorneys and self-represented individuals will be encouraged to continue any jury trials or proceed with a bench trial.
- iii. Upon request, any potential juror over the age of **sixty (60)** and/or with a chronic health condition will be excused telephonically and will not have to report for jury service.
- iv. Any potential juror, attorney, or member of the public who has traveled to China, South Korea, or any European country, or who has been exposed to a person diagnosed with **Coronavirus Disease / COVID-19 virus** in the last **fourteen (14) days**, will be excused telephonically and need not appear in person for jury service or hearings.
- v. Potential jurors, attorneys, or parties who are visibly ill at the time of a hearing or trial will be immediately excused and the hearing or trial will be continued.
- vi. The Court is limiting in-person hearings where appropriate and will conduct as much business as possible via telephone or video conference.
- vii. Important and informative health warning/instruction signs have been placed throughout the Fergus County Courthouse in areas jurors, defendants, and the public frequent. These provide information about the **Coronavirus Disease / COVID-19 virus**, its transmission, and risk-mitigation techniques such as hand washing, hand sanitization, disinfection, social distancing, and such. **THESE MUST BE READ AND FOLLOWED.**

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1 viii. The Court is temporarily restricting access to the courtroom. Only Court staff,
2 Defendants, Plaintiffs, Attorneys, and Law Enforcement will be allowed in the
3 courtroom. No person will be allowed in the gallery during any proceedings.

4 b. All jury trials (criminal and civil) and associated final pretrial conferences currently
5 scheduled to begin on or before April 27, 2020, are vacated, and will be reset by Court
6 Order in consultation with counsel. This order does not vacate any pending deadlines
7 other than trial dates and final pretrial conferences. Attorneys seeking to modify other
8 deadlines should file an appropriate motion with the Court.

9 c. Given the likelihood that public health considerations will severely constrain the pool of
10 potential jurors, especially in more sparsely populated rural areas, along with the
11 availability of counsel and Court staff, speedy trial considerations will be evaluated to
12 determine whether any delay occasioned by this Order should be excluded under the
13 federal Speedy Trial Act, 18 U.S.C. § 316(h)(7)(A), based on a finding that the ends of
14 justice served by such delay outweigh the interests of the public and the defendant in a
15 speedy trial. Any delay under the Montana law would be considered administrative.
16 Counsel and their respective defendants should consider bench trials. Should they desire
17 a bench trial, counsel should file an appropriate motion with the appropriate written
18 waiver.

19 d. Non-jury criminal proceedings such as bench trials, in-person hearings, settlement
20 conferences, mediations, sentencing hearings, preliminary criminal matters, and other
21 Court matters may be held subject to Court discretion. Counsel may seek to continue
22 such matters or request leave to appear remotely via appropriate motions or e-mail notice
23 to the Court. The use of telephonic or video proceedings, where feasible, is welcome and
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1 encouraged. This order does not limit the Court's discretion to consider and decide a
2 pending matter without oral argument.

- 3 e. Preliminary criminal matters, such as initial appearances, arraignments, bail hearings, and
4 informal omnibus hearings will be conducted by video or phone unless otherwise ordered
5 by the Court. Should the defendant be incarcerated, the defendant will appear by video
6 from the Fergus County Detention Center. Defense counsel may decide the most
7 efficient, effective, and safe manner for them to appear at such hearings.
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- 9 f. DJ hearings will be held by video where appropriate. Should the youth be in custody, he
10 or she will appear by video from an appropriate location. The youth and his or her
11 counsel will determine the most appropriate location for such video appearances, where
12 possible. No DJ hearings will be held unless necessary or required under Montana statute.
13 The District Judge will have final say as to necessity in such matters.
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- 15 g. All DI hearings from the MMHNCC will be conducted by video. The MMHNCC has
16 restricted visitation, so counsel involved in such hearings must appear in Court or by
17 video.
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- 19 h. All DN mediations will be held telephonically or through a Virtual Meeting Room
20 (VMR) if available. Counsel is responsible for arranging their clients' telephonic or video
21 appearance at such mediations.
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- 23 i. All civil hearings should be conducted by video through a VMR, if possible. All civil
24 hearings and proceedings are subject to continuance at the Court's discretion considering
25 factors such as hearing length, number of witnesses, priority of action needed, and the
26 health and availability of attorneys and critical staff. The Court will give as much notice
27 as possible to all parties regarding cancellations and continuances. Any attorney wishing
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1 to continue a hearing at their own discretion should file an appropriate motion with the
2 Court as soon as possible.

- 3 j. All scheduling conferences, whether civil or criminal, will be conducted by phone or
4 video.
- 5 k. Attorneys are encouraged to file all pleadings and documents electronically, by e-mail, or
6 by US Mail to reduce traffic to the Clerk of Court's Office. Requests for copies of filed
7 documents should be made electronically, and any copy fees will be waived given these
8 circumstances.
- 9 l. Attorneys or the public may request copies of documents electronically or in writing and
10 the copy fee or e-mail fee shall be waived. However, any document requiring a
11 certification or authentication, can be requested by e-mail, telephone or in writing, but the
12 required fees will still apply.
- 13 m. The Clerk of Court's Office and the Judge's chambers, along with support staff, will
14 remain open, but on-site services may be limited. The District Court Judge and Clerk of
15 Court will retain discretion regarding employees working remotely.
- 16 n. Other routine duties performed by the Clerk of Court's office—passports, marriage
17 licenses, and such—will continue at the Clerk of Court's discretion.
- 18 o. The Court will continue to assess the public health situation as it progresses and evolves
19 during the pendency of this Order. The Court may vacate, amend, or continue this
20 administrative order as circumstances require.
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25 The undersigned certainly understands the inconvenience these rules may cause and the
26 substantial additional work that will be required to implement them. The Court thus thanks staff,
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1 counsel, parties, and the public in general for their understanding during this challenging and uncertain
2 time. Your cooperation in promoting the health and safety of all is greatly appreciated.

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4 Dated this 17th day of March, 2020.

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6 HON. JON A. OLDENBURG
7 District Judge
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