

Fourth Judicial District Court
Missoula County Courthouse
200 W Broadway St
Missoula, MT 59802-4292
(406) 258-4780

FILED MAR 17 2020

SHIRLEY E. FAUST, CLERK
By *Shirley E. Faust*
Deputy

MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA &
MINERAL COUNTIES

IN RE CONTINUING OPERATIONS
OF THE COURTS OF THE FOURTH
JUDICIAL DISTRICT – COVID-19
(CORONAVIRUS).

No.: 50-20-12

ADMINISTRATIVE ORDER

On March 12, 2020, the Governor of the State of Montana issued Executive Order No. 2-2020 declaring a state of emergency to exist within the State of Montana related to the communicable disease COVID-19 Novel Coronavirus. Mont. Code Ann. § 10-3-302, -311, & -312. The Governor's declaration relies on guidance provided by the Montana Department of Health & Human Services, and the Centers for Disease Control to slow the spread of COVID-19 and protect public health; it does not order the closing of state and public facilities.

Additionally, on March 13, 2020, the Chief Justice of the Montana Supreme Court, Mike McGrath, issued guidance regarding the judicial branch's plan in response to the guidance and emergency declaration. The continuing operations of the Fourth Judicial District, Mineral and Missoula Counties, are impacted by the declaration, as are the health and safety of its employees, the general public, and the interests of citizens in access to justice and the protection of constitutional rights.

IT IS HEREBY ORDERED THAT:

A. Daily Operations: The Court of the Fourth Judicial District remains open; pending matters, including scheduled hearings and oral arguments, will proceed as scheduled. All court staff that may perform their job functions remotely are encouraged to work from home.

B. Law & Motion Days / Continuances / Audio Appearances: All departments of the District will continue to conduct the department's regularly scheduled Law & Motion day. Department court calendars are available online at <https://www.missoulacounty.us/government/civil-criminal-justice/district-court/court-calendars>.)

All litigants, in consultation with the opposing party, are encouraged to request continuances of any pending hearings / matters; such continuances may be requested over the phone with the Clerk of Court, and the Clerk of Court is authorized to verbally grant a continuance of 30 days or less when the request is *unopposed*. The Clerk will provide the next date and time for appearance. The requesting party is responsible for filing a Notice of Continuance reflecting that: (a) the hearing is continued, (b) the date and time for the rescheduled hearing, (c) the name of the issuing Clerk of Court, and (d) the date/time of issuance of the continuance; the Notice of Continuance must be promptly served on all parties. (Note: the Clerk of Court is only authorized to issue *one* continuance per case; further requests for continuance must be filed with the court in writing (2 days before the scheduled hearing) and reflect the position of the opposing party(ies).)

In lieu of an in-person appearance, attorneys and litigants may (and are encouraged to) appear telephonically for court proceedings. Unless otherwise instructed by a specific Judge or Clerk, each person will need to **dial 406-449-7478 and, when prompted, put in the number for the Courtroom followed by a #** (pound or hash sign): *(to prevent distraction to court proceedings, please mute your phone or remain silent until your case is called)*

Video Equipment Location	Join VMR by Phone **
Courtroom 1	(406) 449-7478 Enter 2080#
Courtroom 2	(406) 449-7478 Enter 2079#
Courtroom 3	(406) 449-7478 Enter 2081#
Courtroom 4	(406) 449-7478 Enter 2082#
Courtroom 5	(406) 449-7478 Enter 2006#
Mineral Co. Courtroom	(406) 449-7478 Enter 2007#

C. Jury Trials: Trials in any case type for which a jury has been empaneled and the trial has commenced as of the date of this order shall continue to conclusion, unless good cause exists based on the individual health and safety circumstances of any case participant to suspend that trial.

Except for High Priority Cases, no new jury trials will begin or be scheduled on or after March 18, 2020, for the next 30 days. High Priority Cases are defined as those where the Montana constitution or statues provide a priority¹ on the court's

¹ Such as criminal cases (Mont. Const. Art. II, § 24 (speedy trial)), or involuntary commitment (Mont. Code Ann. § 53-21-125).

docket plus an immediate liberty and/or safety concern is present requiring the attention of the court as soon as the court is available.

For jury trials in High Priority Cases, the court shall observe the following:

1. Jurors who are defined by the Centers for Disease Control as at-risk if they contract the virus must be released from reporting for jury duty, if requested. The requests must be granted over the phone – these prospective jurors will not be required to report. The CDC defines at-risk people as anyone over age 60 or people with underlying chronic health conditions.
2. Jurors who are considered high or medium risk for exposure to the COVID-19 virus should be directed to not report. At this point, this is defined by the CDC as someone who has traveled to China, South Korea and most the European nations within the last 14 days or anyone with direct contact to a person diagnosed with the virus in the last 14 days. Again, these jurors will not be required to report and will be excused by phone. This can change and the court will update this requirement as information changes.
3. Attorneys or self-represented litigants scheduled for a jury trial through April 30th have the option – and are encouraged – to request a continuance or a bench trial. Requests to continue criminal trials must include a waiver of speedy trial.

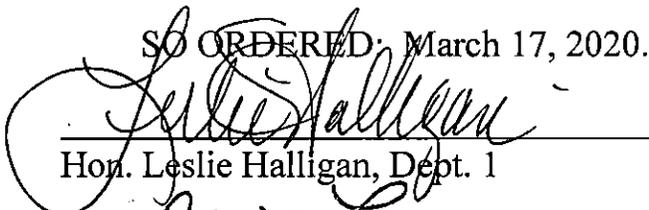
4. All jury trials will use the following procedures:
 - a. Jurors will be requested to maintain a distance of 3-6 feet from the next prospective juror and from court staff.
 - b. Jurors in the gallery will be seated with one chair in-between each juror to maintain the requisite distance of 3-6 feet. The Court will use another courtroom or the Sophie Moiese room as over-flow for the jury pool in order to maintain the requisite distance. Such space will use video/audio capabilities to see/hear the voir dire questions.
 - c. Jury rooms will be outfitted with tissues, cleaning products and signs about hand washing in other high-touch areas. Signage should be printed and posted throughout the courthouse and is available at:
www.cdc.gov/coronavirus/2019-ncov/communication/factsheets.html
 - d. Litigants and attorneys who arrive at court and report they are feeling unwell must be asked to reschedule their appearance. Jurors who report feeling ill must be dismissed.
 - e. Citizens summoned for jury duty for High Priority Cases and jurors currently empaneled for a trial that is in

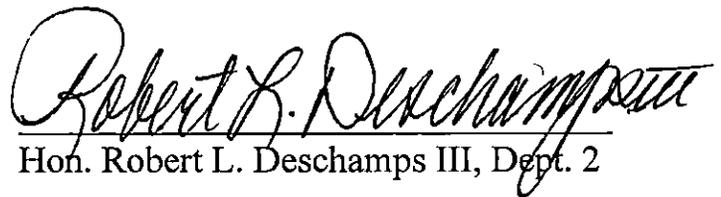
progress as of the date of this order must appear as directed unless the person notifies the Clerk of Court, in writing, by telephone, or e-mail, that the person cannot appear due to suspected or actual exposure to COVID-19. Parties and witnesses who are scheduled to appear for in-court proceedings in a case shall notify the court, in writing, by telephone, or by e-mail, if the person cannot appear due to suspected or actual exposure to COVID-19.

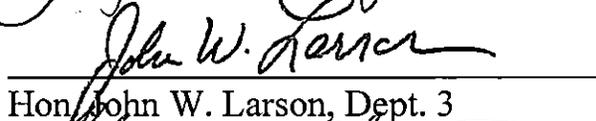
D. Courtrooms and court proceedings shall remain open to the public, though non-essential visits to the Mineral and Missoula courthouses are discouraged. No person who has an elevated risk of transmitting the novel coronavirus that causes COVID-19 may attend any in-court hearing or proceeding. To the extent an individual's presence is required at a courthouse, court staff will promote the use of social distancing and other mitigation strategies as recommended by the CDC and Montana DPHHS.

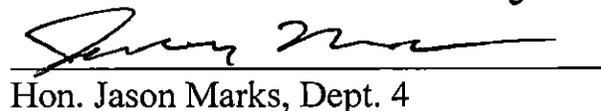
E. This order will be updated as necessary.

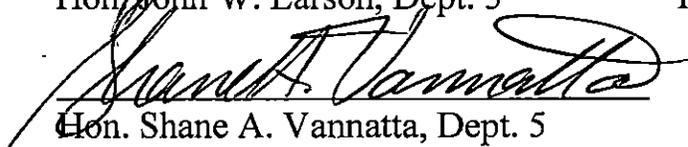
SO ORDERED: March 17, 2020.


Hon. Leslie Halligan, Dept. 1


Hon. Robert L. Deschamps III, Dept. 2


Hon. John W. Larson, Dept. 3


Hon. Jason Marks, Dept. 4


Hon. Shane A. Vannatta, Dept. 5