In the Matter of Imposing "Level 2" and "Level 3" Restrictions on Court Operations	))))))	CHIEF JUSTICE ORDER No. 20-016 ORDER IMPOSING "LEVEL 2" AND "LEVEL 3" RESTRICTIONS ON COURT OPERATIONS

As Oregon's Chief Justice, I issued original Chief Justice Order 20-006 on March 16, 2020, and Amended Chief Justice Order 20-006 on March 27, 2020, both imposing "Level 3" restrictions on court operations. The emergency conditions that have resulted from the spread of COVID-19 continue, as does Governor Kate Brown's emergency declaration, which she extended through July 6, 2020, by signing Executive Order 20-24 on May 1, 2020. On March 23, 2020, Governor Brown issued Executive Order 20-12, which requires Oregonians to stay at home or at their place of residence to the maximum extent possible. And, on May 14, 2020, Governor Brown approved a Phase One reopening for some parts of the state, easing certain restrictions on Oregonians in relation to the COVID-19 state of emergency.

Given those considerations and the ongoing thinking of those in the public health community, and after consulting with the courts' Advisory Committee and the Oregon State Bar, I am issuing this new order, easing while continuing to impose restrictions on court operations. Generally, this order (1) imposes updated, eased, "Level 2" restrictions for courts in judicial districts that have moved to Phase One; (2) retains current "Level 3" restrictions for courts in judicial districts that have not yet moved to Phase One; and (3) imposes other requirements for court operations regardless of whether a judicial district is subject to Level 2 or Level 3 restrictions. This order becomes effective on June 1, 2020, and will remain in place until further order. As conditions change, or if there is a need to do so, I may order further restrictions or ease restrictions on operations.

Our goal is to continue to meet our courts' obligations to the public while also continuing to minimize health risks for judges, staff, litigants and case participants, interpreters, and members of the public who come into our courthouses and offices.

STATUTORY AUTHORITY:

1. ORS 1.002 provides that the Chief Justice of the Oregon Supreme Court is the administrative head of the judicial department of government in this state; shall exercise administrative authority and supervision over the courts of this state consistent with applicable provisions of law and the Oregon Rules of Civil Procedure; and, to facilitate exercise of that administrative authority and supervision, may make rules and issue orders as appropriate or take any other action appropriate to perform the functions of the office of Chief Justice.

2. ORS 1.002(9) provides that the Chief Justice may delegate the exercise of any powers specified in ORS 1.002 to the Presiding Judge of a court.

3. ORS 1.171(4) provides that a Presiding Judge may delegate the exercise of any of the administrative powers of the Presiding Judge to another judge of the court or to the Trial Court Administrator for the judicial district.

I HEREBY ORDER, pursuant to that authority, and as provided further below, that the following restrictions on court operations take effect on June 1, 2020. This order remains in effect until further order of the Chief Justice.

1. Definitions. As used in this order:

    a. "In the courthouse" means that a trial, proceeding, or hearing is being conducted, at least in part, in either the courthouse or an alternative physical location being used by the court, as opposed to being conducted entirely by remote means.

    b. "'Level 2' restrictions" apply in a judicial district that has moved to the Governor's Phase One reopening, as described in paragraph 19. "'Level 3' restrictions" apply in a judicial district that has not yet moved to Phase One, as described in paragraph 19.

    c. "Phase One" means the first phase of Governor Brown's reopening of Oregon by easing certain restrictions on Oregonians in relation to the COVID-19 state of emergency.

    d. "Presiding Judge" means the presiding judge of a judicial district or any person to whom that judge has delegated authority under this order.

    e. "Remote means" means making a court appearance or conducting a trial, proceeding, hearing, or other gathering by telephone, video, other two-way electronic communication device, or simultaneous electronic transmission.

    f. "Social distancing" means the minimum amount of physical distance between each person or other means approved by the State Court Administrator. The distance shall be determined by the social distancing requirements specified in the applicable Executive Order issued by the Governor. As of the date of this order, the distance is 6 feet between each person. When this order imposes social distancing requirements, members of the same household, and others if permitted by the Presiding Judge, are excepted from those requirements.

2. Trials

    a. Criminal trials subject to ORS 135.746, ORS 136.290, and ORS 136.295

        (1) This subparagraph applies to trials for defendants who are subject to ORS 135.746, ORS 136.290, or ORS 136.295, or who have constitutional rights to a speedy trial, where the defendant's statutory or constitutional rights have not been voluntarily waived, including defendants who have opted for bench trials.

        (2) The Presiding Judge may schedule a trial for any date that the Presiding Judge deems appropriate, as long as trial on that date is necessary to comply with a defendant's statutory or constitutional rights to speedy trial.

        (3) When a Presiding Judge schedules or postpones a trial, the defendant whose trial is being scheduled or postponed shall have a right to an

expedited hearing to address release issues, including, but not limited to, supervised release and security release reduction.

(4) Trials that are held shall be held in the courthouse, in compliance with social distancing requirements in the courtroom and throughout all court-controlled areas of the courthouse, and also with other requirements set out in paragraph 10. The court may utilize remote means within the courthouse to comply with social distancing requirements for trial participants and members of the public.

b. In-custody juvenile delinquency adjudications

(1) This subparagraph applies to a juvenile delinquency adjudication when the youth is in custody.

(2) The Presiding Judge may schedule an adjudication for any date that the Presiding Judge deems appropriate.

(3) Adjudications that are held shall be conducted either in the courthouse or, if permitted by law, by remote means, or by a combination of in-the-courthouse or remote means, including with the consent of the parties under ORS 131.045. The Presiding Judge shall determine the mode of adjudication.

(4) If held in the courthouse, an adjudication shall comply with social distancing requirements in the courtroom and throughout all court-controlled areas of the courthouse, and also with other requirements set out in paragraph 10. The court may utilize remote means within the courthouse to comply with social distancing requirements for adjudication participants and members of the public.

c. All other jury trials in criminal and civil cases

(1) This subparagraph applies to all jury trials other than those addressed in subparagraph 2.a., including jury trials in criminal and civil cases.

(2) Except as provided in subparagraph 2.c.(3), all such trials scheduled to begin earlier than July 1, 2020, shall be postponed, and no such trials shall be scheduled to begin before July 1, 2020.

(3) A Presiding Judge may schedule a jury trial to begin on or after July 1, 2020, if, on the day the trial begins, the following conditions are met:

(A) The Governor has eased restrictions on gatherings in the jurisdiction where the trial is being held to permit gatherings of at least 50 persons in one location;

(B) The court has sufficient staff to hold the trial; and

(C) Social distancing can be maintained in the courtroom and throughout all court-controlled areas of the courthouse, and other requirements of paragraph 10 can be met.

(4) Jury trials shall be held in the courthouse. Jury trials shall comply with social distancing requirements in the courtroom and throughout all court-controlled areas of the courthouse, and also with other requirements set out in paragraph 10. The court may utilize remote means within the courthouse to comply with social distancing requirements for trial participants and members of the public.

(5) Each criminal defendant whose jury trial is rescheduled shall have a right to an expedited hearing to address release issues, including, but not limited to, supervised release and security release reduction.

d. Bench trials in any case

(1) This subparagraph applies to bench trials other than those addressed in subparagraph 2.a., including bench trials in criminal and civil cases, but excluding trials in Forcible Entry and Detainer (FED) proceedings, addressed in paragraph 4.

(2) If Level 2 restrictions apply in a judicial district,

(A) The Presiding Judge may schedule a bench trial for any date that the Presiding Judge deems appropriate, but only if the following conditions are met:

(i) The court has sufficient staff to hold the trial; and

(ii) If held in the courthouse, social distancing can be maintained in the courtroom and throughout all court-controlled areas of the courthouse, and other requirements of paragraph 10 can be met.

(B) Bench trials may be held in the courthouse or, if permitted by law, by remote means, or by a combination of in-the-courthouse and remote means. The Presiding Judge shall determine the mode of trial.

(3) If Level 3 restrictions apply in a judicial district,

(A) Except as provided in subparagraph 2.d.(3)(B), no trial shall begin earlier than July 1, 2020.

(B) A Presiding Judge may schedule a trial to begin before July 1, 2020, under subparagraph 8.a.

(C) Trials that are held shall be conducted by remote means if reasonably feasible and permitted by law, including with the consent of the parties under ORS 131.045.

(D) Each criminal defendant whose case is being rescheduled shall have a right to an expedited hearing to address release issues, including, but not limited to, supervised release and security release reduction.

(4) Any bench trial held in the courthouse must comply with social distancing requirements in the courtroom and throughout all court-controlled areas of the courthouse, and also with other requirements set out in paragraph 10. The court may utilize remote means within the courthouse to comply with social distancing requirements for trial participants and members of the public.

3. Essential Proceedings

a. Category 1 essential proceedings

(1) The proceedings described in subparagraph 3.a.(3) shall be scheduled in accordance with the court's regular scheduling procedures or as required by law.

(2) In such proceedings, parties are expected to appear in person unless the Presiding Judge orders that either the category of proceeding or the particular proceeding be conducted by remote means. If held in the courthouse, a proceeding must comply with social distancing requirements in the courtroom and throughout all court-controlled areas of the courthouse, and also with other requirements set out in paragraph 10.

(3) The following are Category 1 essential proceedings:

(A) The following criminal proceedings, when the defendant is in custody: arraignments, probable cause hearings, release hearings, probation violation hearings, plea hearings, sentencing hearings, aid-and-assist hearings, and any other hearing that will directly lead to the release of the defendant or the resolution of the case;

(B) Grand jury proceedings or preliminary hearings for felony indictments; and

(C) Civil commitment hearings.

b. Category 2 essential proceedings

(1) The proceedings described in subparagraph 3.b.(4) shall be scheduled in accordance with the court's regular scheduling procedures or as required by law.

(2) The proceedings shall be held either in the courthouse or, if permitted by law, by remote means or by a combination of in-the-courthouse or remote means. The Presiding Judge shall determine the mode of the proceedings.

(3) Any proceeding held in the courthouse must comply with social distancing requirements in the courtroom and throughout all court-controlled areas of the courthouse, and also with other requirements set out in paragraph 10.

(4) The following are Category 2 essential proceedings:

(A) In criminal proceedings:

(i) Case management and docket hearings; and

(ii) Out-of-custody arraignments on citations, within 30 days of issuance of the citation;

(B) In family and protective order proceedings:

(i) Hearings on immediate danger motions;

(ii) Hearings on applications for orders of assistance to obtain custody of a child held in violation of a custody order;

(iii) Hearings on protective order applications, motions, and renewals (Family Abuse Prevention Act (ORS 107.700-107.735), Elderly Persons and Persons with Disabilities Abuse Prevention Act (ORS chapter 124), Sexual Abuse Protection Orders (ORS 163.760-163.777), Extreme Risk Protection Orders (ORS 166.525-166.543), Emergency Protection Orders (ORS 133.035), and stalking orders (ORS 30.866; ORS 163.744)); and

(iv) Hearings on contested protective orders, including exceptional circumstances hearings;

(C) In juvenile dependency proceedings:

(i) Protective custody order applications;

(ii) Shelter hearings;

(iii) Jurisdiction and disposition hearings and trials;

(iv) Hearings on a parent's objection to the child's continued placement in substitute care; and

(v) Hearings on motions to dismiss;

(D) In juvenile delinquency proceedings:

(i) Delinquency in-custody initial appearances;

(ii) For in-custody youth,10-day detention review hearings and 28/56-day detention duration hearings; and

(iii) Waiver hearings under ORS 419C.349.

(E) In probate proceedings, temporary guardianships or conservatorships;

(F) Specialty Court proceedings;

(G) Proceedings involving isolation or quarantine under ORS 433.123 and ORS 433.133, or isolation of contaminated property under ORS 433.142; and

(H) Habeas corpus proceedings under ORS 34.370, including any trial held on such a petition.

(5) Specialty Court proceedings conducted in person should be conducted in compliance with the public health directives issued by the Oregon Health Authority. Within the limitations presented by the current COVID-19 pandemic, specialty courts should work with community partners to employ practices that best approximate recognized best-practice standards.

c. Category 3 essential proceedings

(1) This paragraph applies to the proceedings described in subparagraph 3.c.(5).

(2) If "Level 2" restrictions apply in a judicial district,

(A) The proceedings shall be scheduled in accordance with the court's regular scheduling procedures or as required by law, but only if the following conditions are met:

(i) The court has sufficient staff to hold the proceeding; and

(ii) If held in the courthouse, social distancing can be maintained in the courtroom and throughout all court-controlled areas of the courthouse, and other requirements of paragraph 10 can be met.

(B) A proceeding may be held in the courthouse or, if permitted by law, by remote means, or by a combination of in-the-courthouse and remote means, The Presiding Judge shall determine the mode of the proceedings.

(3) If "Level 3"restrictions apply in a judicial district,

(A) The proceedings shall be scheduled in accordance with the policy developed by the Presiding Judge. The policy should take into account the local court's ability to operate with minimal staffing, the safety of court staff and the public, and any constitutional or statutory mandates for timely hearings. If permitted by such

policy, such proceedings may be scheduled to begin on a date before July 1, 2020. Such proceedings shall be conducted by remote means if reasonably feasible and permitted by law.

(B) Notwithstanding subparagraph 3.c.(3)(A), a party may seek to have a proceeding scheduled to begin at an earlier time than permitted by the local policy, and the Presiding Judge may so order, if, after consulting with the parties and other affected persons, the Presiding Judge determines that the proceeding should occur within that time frame; that the court has sufficient staff to conduct the proceeding; and that it can be conducted by remote means or that sufficient social distancing can be maintained in the courtroom and throughout all court-controlled areas of the courthouse, and other requirements of paragraph 10 can be met.

(4) A proceeding held in the courthouse must comply with social distancing requirements in the courtroom and throughout all court-controlled areas of the courthouse, and also with other requirements set out in paragraph 10.

(5) The following are Category 3 essential proceedings:

(A) In criminal proceedings:

(i) Hearings on out-of-custody case resolutions, including pleas, change of plea, and sentencing; and

(ii) Judicial settlement conferences in criminal cases;

(B) In civil proceedings, case management hearings and temporary restraining order hearings, when the request seeks to address an irreparable immediate harm;

(C) In family law proceedings:

(i) Hearings on pre-judgment and post-judgment status quo matters;

(ii) Hearings on motions to enforce parenting time;

(iii) Any hearing the Presiding Judge deems necessary to hold in the interest of the public's health; and

(iv) Family law facilitation and mediation;

(D) In juvenile dependency proceedings:

(i) Permanency hearings; and

(ii) Hearings on motions by parents for visitation/parenting time.

4. Forcible Entry and Detainer (FED) Proceedings

a. Each court shall permit a plaintiff to file an FED complaint, and the court shall issue a summons for service by the plaintiff, unless prohibited by law. The complaint and the summons shall be in the form required by law and subparagraph 4.c.

b. All first appearances under ORS 105.137 shall be postponed without the need for a motion. No party shall be required to appear on the date set by summons for the initial first appearance, and no answer shall be required at that time. Although not required, the court shall allow a defendant to file an answer before the rescheduling of any first appearance.

c. Attachment A to this order sets out a form explanation of the first appearance postponement described in subparagraph 4.b (including translations). The court shall attach to the summons described in subparagraph 4.a. an explanation of the postponement, in a form substantially similar to Attachment A (including translations).

d. Subject to Chief Justice order, the court shall reschedule the case for a first appearance to take place after July 1, 2020, or a later date if there is an applicable moratorium on evictions in effect on July 1, 2020, and shall notify all parties of the time, date, and place of the rescheduled first appearance.

e. When the date for first appearance is rescheduled, all parties shall appear in the courthouse or as otherwise directed at such rescheduled first appearances, on the date set.

f. All trials under ORS 105.137(6) scheduled to begin before July 1, 2020, shall be postponed, and no trial shall be scheduled to begin before that date. A landlord who wishes to have the court enter an order that a defendant pay rent pending trial shall file a motion for such an order.

g. Notwithstanding subparagraph 4.d., a Presiding Judge may schedule a first appearance to take place before July 1, 2020, under subparagraph 8.a., but only on motion of a party filed after the court has issued the first appearance postponement described in subparagraphs 4.b. and 4.c.

h. Notwithstanding subparagraph 4.f., a Presiding Judge may schedule a trial to begin before July 1, 2020, under subparagraph 8.a.

i. A Presiding Judge may schedule a trial to begin on or after July 1, 2020, but only if the following conditions are met:

(1) Level 2 restrictions apply in the judicial district;

(2) No applicable moratorium on evictions is in effect;

(3) The court has sufficient staff to hold the appearance or trial; and

(4) If held in the courthouse, social distancing can be maintained in the courtroom and throughout all court-controlled areas of the courthouse, and other requirements of paragraph 10 can be met.

j. Any first appearance that takes place, or trial that is held, under subparagraph 4.f, 4.g., or 4.h., shall be held either in the courthouse or, if permitted by law, by remote means, or by a combination of in-the-courthouse or remote means. The Presiding Judge shall determine the mode of first appearance or trial.

k. Any first appearance taking place or trial held in the courthouse must comply with social distancing requirements in the courtroom and throughout all court-controlled areas of the courthouse, and also with other requirements set out in paragraph 10. The court may utilize remote means within the courthouse to comply with social distancing requirements for trial participants and members of the public.

5. Motions

a. A Presiding Judge may schedule hearings on motions that do not require witness testimony in accordance with the court's regular scheduling procedures or as required by law, but only if the following conditions are met:

(1) The court has sufficient staff to hear the motion; and

(2) If held in the courthouse, social distancing can be maintained in the courtroom and throughout all court-controlled areas of the courthouse, and other requirements of paragraph 10 can be met.

b. Any hearing on such a motion may be held in the courthouse or, if permitted by law, by remote means, or by a combination of in-the-courthouse and remote means. The Presiding Judge shall determine the mode of hearing.

c. Any hearing held in the courthouse must comply with social distancing requirements in the courtroom and also with other requirements set out in paragraph 10.

d. The provisions of the Uniform Trial Court Rules that require parties to request that certain motions be heard by telecommunication are waived:

(1) Certain motions in criminal cases under UTCR 4.050(2); and

(2) Certain motions in civil cases under UTCR 5.050(2).

6. Other Court Proceedings

a. This paragraph applies to all proceedings not addressed in paragraphs 2 through 5, including ancillary proceedings.

b. Scheduling and mode of proceedings

(1) If Level 2 restrictions apply to a judicial district,

(A) A Presiding Judge may schedule and hold proceedings, including ancillary proceedings, in accordance with the court's regular scheduling procedures or as required by law, but only if the following conditions are met:

(i) The court has sufficient staff to hold the proceeding; and

(ii) If held in the courthouse, social distancing can be maintained in the courtroom and throughout all court-controlled areas of the courthouse, and other requirements of paragraph 10 can be met.

(B) Proceedings may be held in the courthouse, or, if permitted by law, by remote means, or by a combination of in-the-courthouse and remote means. The Presiding Judge shall determine the mode of the proceedings.

(2) If Level 3 restrictions apply in a judicial district,

(A) Except as provided in subparagraph 6.b.(2)(B), no proceeding shall be held before July 1, 2020.

(B) A party may seek to have a such a proceeding scheduled for a time earlier than July 1, 2020, and the Presiding Judge may so order, if, after consulting with the parties and other affected persons, the Presiding Judge determines that the trial, hearing, conference, or proceeding should occur within that time frame; that the court has sufficient staff to conduct it; that it can be conducted by remote means or that sufficient social distancing can be maintained in the courtroom and throughout all court-controlled areas of the courthouse, and other requirements of paragraph 10 can be met.

(C) Ancillary proceedings

(i) Except as provided in subparagraphs 6.b.(2)(C)(ii) and (iii), ancillary proceedings shall be postponed or limited to the extent the underlying court proceeding is itself postponed or limited by Level 3 restrictions and this court order.

(ii) The arbitrator, mediator, or person presiding over the ancillary proceeding has authority to order that a particular proceeding take place, if the person presiding, after consulting with the parties and other affected persons, determines that there is a need for an in-person ancillary proceeding; that social distancing can be maintained if not conducted by remote means; and that the person presiding can order other reasonable precautions to protect the health of the participants.

(iii) The Presiding Judge may order that certain ancillary proceedings continue, including family law facilitation and mediation.

c. A proceeding held in the courthouse must comply with social distancing requirements in the courtroom and throughout all court-controlled areas of the courthouse, and also with other requirements set out in paragraph 10.

d. "Ancillary proceeding" means any court-annexed mandatory or voluntary arbitration or a mediation, settlement conference or similar settlement effort associated with a pending court proceeding, excluding settlement conferences described in subparagraph 3.a.(5)(C)(ii).

7. Exhibits

a. Notwithstanding UTCR 6.050(3) and UTCR 21.070(3)(p), when a trial, proceeding, or hearing is to be conducted by remote means, any exhibit that can be converted to PDF may be submitted through the court's electronic filing (eFiling) system.

b. When submitting exhibits through the eFiling system, the filer shall designate the exhibits as described in UTCR 21.070(6).

c. The submission of exhibits through the eFiling system must comply with UTCR 21.040(1), (2), and (4), to the extent applicable, except that the court may direct that multiple exhibits in a particular proceeding be submitted as separate eFiled documents.

d. Exhibits submitted as a unified single PDF file under this paragraph must:

(1) Be accompanied by an index that identifies each exhibit, located at the beginning of the submission, and each identified exhibit must be electronically linked to the index; and

(2) Include an electronic bookmark for each exhibit.

e. The court may reject submissions that do not comply with this paragraph.

f. A Presiding Judge shall determine how nondocumentary exhibits, such as audio or video exhibits, are to be submitted for a trial, proceeding, or hearing.

8. Presiding Judge Authority; Remote Appearances and Hearings

a. Notwithstanding subparagraphs 2.c.(2), 2.d.(3)(A), 3.c.(3), 4.d., 4.f., and 6.b.(2)(A), requiring that certain trials or proceedings begin on or after July 1, 2020, each Presiding Judge has discretion to schedule a particular trial or proceeding before that date upon a determination, after consulting with the parties and other affected persons, that it should occur earlier; that the court has sufficient staff to conduct the trial or proceeding; and that it can be conducted by remote means or, if held in the courthouse, that social distancing can be

maintained in the courtroom and throughout all court-controlled areas of the courthouse, and other requirements of paragraph 10 can be met.

b. If this order permits a Presiding Judge to schedule a trial, proceeding, or hearing, and a party believes that such a trial, proceeding, or hearing should be scheduled but that the Presiding Judge has failed to schedule it or has scheduled it on a date that is later than it should be scheduled, the party may file a motion asking that it be scheduled or rescheduled for good cause.

c. When scheduling trials, proceedings, and hearings, the Presiding Judge is expected to prioritize the trials listed in subparagraphs 2.a. and 2.b., and the essential proceedings listed in paragraph 3.

d. Each Presiding Judge shall have authority to suspend any Supplementary Local Rule that may be an impediment to Level 2 or Level 3 operations, as applicable, including any requirement that an *ex parte* submission be made in person.

e. Except as provided in subparagraph 8.e.(5), each Presiding Judge shall have authority to order that an appearance be made or a proceeding be conducted by remote means.

(1) If a Presiding Judge has ordered that a certain category of appearance or proceeding be conducted by remote means, no motion requesting appearance by remote means need be filed.

(2) For any testimony to which ORS 45.400 may apply, good cause exists for the testimony to given by remote means, and no motion need be filed. However, if the Presiding Judge determines on its own motion, or on motion of a party, that such testimony would result in prejudice to a party and that the prejudice outweighs the good cause for permitting the remote means testimony, as provided in ORS 45.400(3)(a) and (c), then the testimony shall not be given by remote means.

(3) If a Presiding Judge has ordered that an appearance or proceeding be made or conducted by remote means, and a party contends that that order is not permitted by law or results in violation of the party's rights, the party may file a motion seeking an order that the appearance or proceeding be held in the courthouse. This subparagraph applies to any crime victim who contends that an order results in a violation of the victim's statutory or constitutional rights.

(4) When a statute or rule requires that a person "personally appear," "appear personally," "appear in person," make a "personal appearance," or be "present in court," the Presiding Judge may direct or permit the person to appear by remote means without coming to the courthouse.

(5) A Presiding Judge may not order that an appearance be made or a proceeding be conducted by remote means if a statute expressly prohibits such an appearance or proceeding, or the constitution prohibits such an appearance or proceeding.

9. All Other Court Services

a. The public shall have access to all circuit courts, the Oregon Tax Court, and the Oregon Appellate Courts. Each Presiding Judge shall determine an appropriate means of ensuring access, so that each court continues to provide justice services in the local community, including time-sensitive service when required.

b. Each Presiding Judge shall ensure that:

(1) The court provides information about how it will provide justice services under subparagraph 9.a., including how to file documents with the court and how to contact the court, in a telephone message on the court's main phone line, in a prominent place on or near its courthouse doors, and on its website;

(2) The information described in subparagraph 9.b.(1) is also communicated to local community partners, local bar associations, and media outlets;

(3) The court answers telephones during its business hours or otherwise develops a method for responding in a timely manner to messages received; and

(4) If needed, the court provides a drop-box for the filing of documents with the court.

c. Court functions and services

(1) If Level 2 restrictions apply in the judicial district, the court shall conduct all regular court functions and provide all regular court services, provided that the following conditions can be met:

(A) The court has sufficient staff to hold a trial, proceeding, or hearing, or to provide any other court service;

(B) For services provided at the courthouse, social distancing can be maintained in the courtrooms and throughout all court-controlled areas of the courthouse; and

(C) Other conditions set out in paragraph 10 can be met.

(2) If Level 3 restrictions apply in the judicial district, the court shall continue to provide essential services when it can do so while maintaining social distancing. Essential services include the following:

(A) Receiving court filings and payments;

(B) Issuing notices, orders, and judgments;

(C) In family law cases, signing stipulated orders and judgments;

(D) Maintaining the court's register of actions or case register; and

(E) Additional services that the court deems essential.

d. If any person in or about to enter a courthouse exhibits symptoms associated with COVID-19, the Presiding Judge may direct the person to leave the courthouse.

10. Requirements for Proceedings Held in Person

For all trials, proceedings, or hearings, and for any other court services taking place at the courthouse or otherwise provided in the courthouse, all judges and court staff shall take the following precautions:

a. Require and maintain social distancing;

b. For trials or proceedings held in a courtroom, a Presiding Judge may:

(1) Require that specified persons in the courtroom, excluding witnesses when testifying, wear masks; and

(2) Provide masks and information about how to use them;

c. In other areas where court operations are conducted, recommend that people wear masks, as appropriate, and provide masks and information about how to use them;

d. Maintain vigilance about cleaning in accordance with other OJD guidelines; and

e. Require any other reasonable precautions to protect the health of all participants, including victims, interpreters, and court staff.

11. Remote Work Assignments

a. If Level 2 restrictions apply in a judicial district, judges and staff shall be assigned to work either at the courthouse or a non-home workplace, or from home, as directed by the Administrative Authority for the purpose of providing court or other services in accordance with the Level 2 restrictions set out in this order.

b. If Level 3 restrictions apply in a judicial district, all judges and staff shall be assigned to work from home, or otherwise directed not to work in the courthouse or other non-home workplace, unless the Administrative Authority directs that they be in the courthouse or the non-home workplace to provide court or other services in accordance with the Level 3 restrictions set out in this order.

c. The Administrative Authority should avoid directing persons in high-risk categories, or those with good cause, to work in the courthouse or a workplace other than the person's home.

d. "Administrative Authority" means a Presiding Judge, a Trial Court Administrator, the State Court Administrator, a Division Director, or, in the Appellate Courts, any other judge or employee so designated in writing by the Chief Justice or Chief Judge.

e. "High risk" includes the category of persons whom the Centers for Disease Control has identified as being at higher risk for serious illness due to COVID-19 and similarly situated persons. As of the date of this order, and as applicable to this paragraph, that category includes the following persons:

(1) Persons 65 and older;

(2) Persons with high-risk conditions including chronic lung disease or moderate to severe asthma or serious heart conditions;

(3) Persons with certain underlying medical conditions, particularly if not well controlled, such as diabetes, renal failure, or liver disease, and also chronic kidney disease or metabolic disorders;

(4) Persons with weakened immune systems, including from cancer treatment, smoking, bone marrow or organ transplant, immune deficiencies, poorly controlled HIV or AIDS, and prolonged use of corticosteroids and other immune-weakening medications; and

(5) Persons of any age with severe obesity (body mass index [BMI]>40).

12. Expectations for Attorneys

When trials, proceedings or hearings are held in the courthouse, except as otherwise provided in subparagraph 15.a., attorneys shall appear in person, unless the attorney is excused or the Presiding Judge has adopted a procedure that allows attorneys to appear by remote means. An attorney who has concerns about appearing in person due to COVID-19-related issues should seek to be excused; request either a postponement or an appearance by remote means if desired, reasonably feasible, and permitted by law; and, if necessary, take steps to help the client find suitable counsel. A request for postponement, appearance by remote means due to concerns about COVID-19, or request for substitute counsel should be granted as appropriate.

13. Meetings, Conferences, and Travel

a. Maximum size of meetings or conferences

(1) If Level 2 restrictions apply in a judicial district, no in-person meetings or conferences of more than 25 people may be held, except as authorized by the Presiding Judge, State Court Administrator, or designee.

(2) If Level 3 restrictions apply in a judicial district, no in-person meetings or conferences of more than 5 people may be held, except as authorized by the Presiding Judge, State Court Administrator, or designee.

(3) Judges and staff should hold or attend in-person meetings only after weighing the benefits and risks, and considering the available alternatives.

(4) All other meetings and conferences should be conducted by remote means.

b. Other meeting and conference restrictions

(1) In-person meeting and conference participants shall maintain social distancing.

(2) Those who do not participate in person should try to attend by remote means.

c. Travel restrictions

All in-state and out-of-state work-related travel is prohibited, except for travel within a judicial district by judge or staff working within that district, or as otherwise authorized by the State Court Administrator or designee.

14. Public Safety and Community

a. Courts should work with attorneys and their local bar associations to ensure that every possible opportunity to reduce risk and preserve the function of Oregon courts has been identified and explored.

b. Courts should work with the Criminal Justice Advisory Committee, their Local Public Safety Coordinating Councils, and other stakeholder groups to explore criminal justice system issues and ensure the health of those who are incarcerated and coming to court.

c. Courts should explore alternatives to current arrest and detention policies, including the use of cite-in-lieu of arrest where appropriate, to keep jail populations at a minimum.

15. Persons Held In-Custody in County Jail

a. A Presiding Judge shall permit an attorney wishing to be heard on a motion for release to appear by remote means when reasonably feasible and permitted by law.

b. Each Presiding Judge should work with the local district attorney's office, criminal defense attorneys, sheriff's office, and community corrections department or other agency to identify persons housed in their jails who can be safely released or are eligible for release, including release under ORS 137.520 and ORS 137.750, for the purpose of managing the jail population by reducing those jail populations.

16. Fines, Fees, and Costs

As permitted by law, courts are strongly encouraged to waive or suspend fines, fees, and costs for persons with limited financial resources.

17. Appellate Courts, Tax Court, and Office of the State Court Administrator

a. Appellate Courts

(1) The restrictions and other requirements described in paragraphs 9, 10, 11, 12, 13, 14, and 18 apply, to the extent practicable, to the Supreme Court and the Court of Appeals. To the extent that those courts are able to continue to conduct their ordinary operations using remote services and remote means, they should do so.

(2) If either court schedules an oral argument in the courthouse, or an oral argument that is a combination of in-the-courthouse and remote means, the oral argument must comply with social distancing requirements and with other requirements set out in paragraph 10.

(3) The Chief Justice of the Supreme Court and the Chief Judge of the Court of Appeals may delegate authority to take actions under this order.

b. Tax Court

(1) The restrictions and other requirements described in paragraphs 5, 7, 9, 10, 11, 12, 13, 14, and 18 apply, to the extent practicable, to the Tax Court. To the extent that the Tax Court is able to continue its ordinary operations using remote services and remote means, unless provided otherwise in this subparagraph, it should do so.

(2) Scheduling and mode of proceedings

(A) If Level 2 restrictions apply, the Tax Court Judge may schedule proceedings in the courthouse, or proceedings that are a combination of in-the-courthouse and remote means, for any date that that judge deems appropriate, but only if the proceeding can be held in compliance with social distancing requirements and other requirements set out in paragraph 10.

(B) If Level 3 restrictions apply,

(i) Except as provided in subparagraph 17.b.(2)(B)(ii), no proceedings shall be held before July 1, 2020.

(ii) The Tax Court Judge may schedule a proceeding to begin before July 1, 2020, if the judge determines that the proceeding can be conducted by remote means or otherwise determines that the proceeding should occur within that time frame and can be held in compliance with social distancing requirements and other requirements set out in paragraph 10.

(C) Any proceeding held in the courthouse shall comply with social distancing requirements and with other requirements set out in paragraph 10.

(3) The Tax Court Judge may delegate authority to take actions under this order.

c. (1) The "Level 2" restrictions described in paragraphs 9, 10, 11, 12, 13, 14, and 18 apply, to the extent practicable and except as described in subparagraph 17.c.(2), to the Office of the State Court Administrator and the Divisions within that Office.

(2) The Citizen Review Board shall schedule and conduct periodic reviews of cases involving children in foster care using only remote means during the period of either Level 2 or Level 3 restrictions.

18. Notice and Communication

Presiding Judges, Trial Court Administrators, and the State Court Administrator and designees must work together to:

a. Use all reasonable means to inform judges, staff, lawyers, and the public of these restrictions; and

b. Post information about these restrictions and local court operations on court websites or in other publicly available locations.

19. Application

a. Circuit courts

(1) The Level 2 restrictions described in this order apply in a judicial district when the Governor has approved one or more counties in that district to move to Phase One. In any judicial district in which Level 2 restrictions apply, the restrictions become effective on either June 1, 2020, or the effective date of the Governor's Phase One approval, whichever is later. Once in effect, Level 2 restrictions continue until further order.

(2) The Level 3 restrictions described in this order apply in any judicial district to which subparagraph 19.a.(1) does not apply.

(3) Any restriction or requirement imposed in this order that is not specifically labeled as a Level 3 or Level 2 restriction applies regardless of whether one or more counties in a judicial district have been approved to move to Phase One.

b. Appellate courts, Tax Court, and the Office of the State Court Administrator

(1) The Level 2 restrictions described in this order that apply to the appellate courts, the Tax Court, and the Office of the State Court Administrator and its Divisions become effective on either June 1, 2020, or the effective date of the Governor's Phase One approval for Marion County, whichever is later. Until that time, applicable Level 3 restrictions apply.

(2) Any restriction or requirement imposed in this order not labeled as a Level 3 or Level 2 applies regardless of whether Marion County has moved to Phase One.

c. Once in effect, all restrictions imposed in this order continue until further order, and they may be extended or amended by further order.

20. This order supersedes Amended Chief Justice Order 20-006, issued on March 27, 2020.

21. This order takes effect on June 1, 2020.

Dated this 15th day of May, 2020.

Martha L. Walters
Chief Justice

ATTACHMENT A

[ADD OFFICIAL COUNTY CIRCUIT COURT NAME, LETTERHEAD OR SEAL]

NOTICE OF COURT DELAYS RELATING TO COVID-19 VIRUS

Due to the COVID-19 virus, Oregon Supreme Court Chief Justice Martha L. Walters has ordered that all Forcible Entry and Detainer (FED) first appearances in court be postponed, including the appearance that this Summons tells you that you must attend.

THE DATE SET BY THIS SUMMONS IS POSTPONED

The date set for first appearance by the attached Summons is postponed. You should not go to the courthouse on that date. There will be no penalties for not appearing on the date set out in the Summons.

You will receive a notice in the mail when court operations are no longer restricted. That notice will give you a new date and time to appear in court. Follow the instructions in that future notice. You may be required to appear at that time in person, by phone, or by some other electronic means.

You may contact the _____ County Circuit Court with questions at:

___-____-_____ during the following hours/days: _____.

[Add the following in Spanish, Russian, Vietnamese, and others as appropriate and as can be provided by OJD's Court Language Access Services: "Your landlord is trying to evict you. The date set by the attached Summons is postponed. You should not go to the courthouse on that date. There will be no penalties for not appearing on the date specified in the Summons. You will receive a notice in the mail when court operations are no longer restricted. That notice will give you a new date and time to appear in court. Follow the instructions in that future notice. You may be required to appear at that time in person, by phone, or by some other electronic means. You may contact the _____ County Circuit Court with questions at: ___-____-_____ during the following hours/days: _____."]

[ADD OFFICIAL COUNTY CIRCUIT COURT NAME, LETTERHEAD OR SEAL]

NOTICE OF COURT DELAYS

Relating to COVID-19 Virus

Due to the COVID-19 virus, Oregon's Supreme Court Chief Justice has ordered that all FED (Forcible Entry and Detainer) first appearances in court be postponed during this crisis, including the one that this Summons tells you that you must attend.

THE DATE SET BY THIS SUMMONS IS POSTPONED.

You should not go to the courthouse on that date. There will be no penalties for failure to appear on the date specified in the attached summons.

You will receive a notice in the mail when court operations are no longer restricted, which will give you a new date and time to appear in court. Follow the instructions in that future notice. You may be required to appear at that time in person or by phone or electronically.

You may contact the _____ County Circuit Court with questions at:

___-____-_____ during the following hours/days: _____.

SPANISH

El proprietario del inmueble busca desalojarlo. La fecha indicada en esta citación judicial ha sido postergada. No se debe presentar en el tribunal ese día. Quedará libre de toda sanción por no comparecer en la fecha indicada en el llamamiento judicial adjunto. Una vez que se normalicen las operaciones regulares del tribunal, le notificaremos la fecha y hora en la que tendrá que comparecencer. Siga las instrucciones de esa notificación. Tendrá entonces que comparecer en persona, por teléfono u otro medio electrónico. Si tiene preguntas, puede comunicarse con el Tribunal de Circuito del Condado de _____ al: ___-____-_____ en el siguiente horario: _____.

[ADD OFFICIAL COUNTY CIRCUIT COURT NAME, LETTERHEAD OR SEAL]

NOTICE OF COURT DELAYS

Relating to COVID-19 Virus

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You will receive a notice in the mail when court operations are no longer restricted, which will give you a new date and time to appear in court. Follow the instructions in that future notice. You may be required to appear at that time in person or by phone or electronically.

You may contact the _____ County Circuit Court with questions at:

___-____-_____ during the following hours/days: _____.

RUSSIAN

Внести следующее на испанском, русском и вьетнамском языках: «Ваш домовладелец пытается вас выселить. Дата, указанная в этой повестке, откладывается. Вы не должны приходить в здание суда в этот день. В случае неявки во время, указанное в прилагаемой повестке, штрафы не взимаются. Когда судебное производство больше не будет ограничено, вы получите уведомление по электронной почте, в котором будет указана новая дата и время для вашего появления в суде. Следуйте инструкциям в этом будущем уведомлении. От вас могут потребовать явиться в суд в это время лично, по телефонной или в электронной связи. Вы можете обратиться в окружной суд округа _____ с вопросами по адресу: ___-____-_____ в следующие часы/дни: _____.

[ADD OFFICIAL COUNTY CIRCUIT COURT NAME, LETTERHEAD OR SEAL]

NOTICE OF COURT DELAYS

Relating to COVID-19 Virus

Due to the COVID-19 virus, Oregon's Supreme Court Chief Justice has ordered that all FED (Forcible Entry and Detainer) first appearances in court be postponed during this crisis, including the one that this Summons tells you that you must attend.

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You may contact the _____ County Circuit Court with questions at:

___-____-_____ during the following hours/days: _____.

VIETNAMESE

Thêm những điều sau đây bằng tiếng Tây Ban Nha, tiếng Nga và tiếng Việt: "Chủ nhà của bạn đang muốn trục xuất bạn. Ngày được chỉ định trong trát tòa này đã bị hoãn lại. Bạn không nên đến tòa án vào ngày đó. Sẽ không có hình phạt cho việc không ra hầu tòa vào ngày được chỉ định trong tờ trát tòa đính kèm. Bạn sẽ nhận được một lá thơ thông báo khi các hoạt động của tòa án không còn bị hạn chế, lá thơ đó sẽ cho bạn một ngày và giờ mới để ra hầu tòa. Theo sự hướng dẫn của lá thơ thông báo trong tương lai. Bạn có thể được yêu cầu ra hầu tòa tại thời điểm đó trực tiếp hoặc qua điện thoại hoặc điện tử. Bạn có thể liên lạc với Tòa Thượng Thẩm Quận _____ với các thắc mắc ở số: ___-____-_____ trong những giờ/ngày như sau: _____.