FILED
JUL 29 2020
CLERK SUPREME COURT

In the Iowa Supreme Court

In the Matter of Resuming Appellate Oral Arguments During COVID-19))) **July 29, 2020**

On May 22, 2020, the court issued a supervisory order suspending all in-person oral arguments until July 13, 2020. The May 22 order also allowed Iowa's appellate courts to conduct oral arguments through videoconference or telephone through December 31, 2020, or to nonorally submit cases previously scheduled for oral argument. As the appellate courts begin to resume in-person oral arguments, the Iowa Judicial Branch continues to balance the need to take measures to reduce the spread of the novel coronavirus/COVID-19 with its commitment to conduct the important work of Iowa's appellate courts. In doing so, it is essential for the judicial branch to provide information to Iowans on preparations the branch is taking to mitigate the spread of the virus as in-person oral arguments resume in the Judicial Branch Building.

This supervisory order consolidates all of the information regarding the measures taken by the branch to reduce Iowans' exposure to COVID-19 when they are in Iowa's appellate court-controlled spaces and provides the policies and procedures that appellate courts and court staff shall follow as in-person oral arguments resume. In order to inform Iowans about the safety measures the judicial branch is taking to ensure the health and safety of judges, court staff, attorneys, parties, and all Iowans who access court services, the judicial branch has shared information on the steps that each court controlled space shall complete to resume in-person court services prior to July 13. This information, as well as all the supreme court's supervisory orders, weekly updates, and press releases are found on the Iowa Judicial Branch's dedicated COVID-

19 webpage at https://www.iowacourts.gov/iowa-courts/covid-19-information-and-updates/. The judicial branch gratefully acknowledges the information provided by the Jumpstart Jury Task Force, the Jumpstart Family Law Trials Task Force, the University of Iowa College of Public Health, the Iowa Department of Public Health, and the Centers for Disease Control and Prevention.

IN-PERSON ORAL ARGUMENTS

I. Public Areas of the Judicial Branch Building.

a. *Personal Protective Equipment:* Everyone entering the Judicial Branch Building must wear coverings (facemasks or face shields) covering the nose and mouth consistently throughout the building. A face covering will be provided to any person entering the building who does not have one. Requests by any individual requiring an exception to wearing a face covering may be considered by justices or judges on an individualized basis, and should be made at least 48 hours prior to oral argument.

b. *Entrance:* The entrances and travel paths for court participants shall be clearly marked.

c. *Hallways and queuing areas:* The Judicial Branch Building shall place physical distancing markers and signage throughout hallways and queuing areas indicating where individuals should stand or sit to maintain physical distancing.

d. *Restrooms:* Physical distancing markers shall be placed inside and outside restrooms, with occupancy limits established for restrooms. The Judicial Branch Building shall maintain frequent restroom sanitizing procedures and place signage about the importance of hand washing.

e. *Elevators:* There shall be no more than two people occupying any elevator in the Judicial Branch Building. Stairwells are available as alternatives to elevators (as appropriate) and marked with proper signage.

f. *Courtrooms:* Appellate courts shall ensure, to the greatest extent possible, that individuals enter and exit courtrooms in patterns that maintain physical distancing. Courts shall mark courtrooms to ensure physical distancing, including markings showing where participants should sit or stand to ensure six feet of distance from others. Courtrooms will also be reconfigured as necessary to accommodate physical distancing. Seating is available on a first-come, first-served basis. The Iowa Supreme Court will continue to livestream oral arguments on its Youtube channel at the following link https://www.youtube.com/channel/UCL6EU7W8kqDKnKPUzMdxr_g/featured. Although the Iowa Court of Appeals does not have the equipment to livestream in person oral arguments, the court will continue to livestream its remote oral arguments on its Youtube channel at the following link https://www.youtube.com/channel/UC5YFPOlrqxU1hxqUJaZKHWw/featured.

g. *Cleaning:*

   i. Court staff are encouraged to regularly clean high-touch surfaces in common areas such as door handles, stair railings and elevator buttons.

   ii. Between oral arguments, court staff will clean the counsel tables, podium, microphone, and other common areas that attorneys come into contact with during the course of the oral

argument before the attorneys for the next argument proceed beyond the bar.

h. *Signs:* Signs shall be posted in all court-controlled public areas stating:

i. *"Do NOT enter if any of the following apply:*

a) *You have recently been in close contact with someone who has COVID-19.*

b) *You have tested positive for COVID-19 in the last 14 days.*

c) *You are experiencing symptoms of COVID-19 per CDC guidelines."*

ii. *"A mask must be worn when entering this space."*

iii. *"Upon entering, please maintain 6 feet of distance in all directions between yourself and others."*

iv. *"The number of people permitted in the courtroom/ office is (X)."*

i. *Enforcement of protocols:* Judges, court staff, and security personnel shall enforce physical distancing, face coverings, and admittance policies as necessary.

j. *Reporting concerns:* Appellate courts shall post state court administration contact information for members of the public to report lack of compliance with required protocols.

II. Oral Argument Protocol for Attorneys.

a. Screening obligation: Attorneys should self-screen for COVID-19 symptoms 24 hours in advance of their scheduled in-person oral argument, asking themselves whether they have recently been in close contact with someone who has COVID-19, whether they have tested positive for COVID-19 in the last 14 days, and whether they are experiencing symptoms of COVID-19 per CDC guidelines. If the

answer to any of these questions is yes or attorneys contract any other illness prior to oral argument that would prohibit them from entering the Judicial Branch Building, attorneys must notify the court via the Appellate Clerk of Court's Office that they need to reschedule the argument or conduct the argument remotely.

b. *Check-in:* The Iowa Supreme Court and Iowa Court of Appeals will check-in attorneys via telephone before oral arguments. When attorneys arrive in the rotunda outside of the courtroom, they will see a sign with the phone number to call to check in for their arguments.

c. *Interactions necessitating less than six feet of distancing:* For interactions where six feet of distancing is not possible, courts shall install temporary Plexiglas dividers.

d. *Preparation room:* Attorneys may prepare for their argument in the attorney preparation room immediately to the right of each court's entrance so long as they maintain physical distancing and follow the other safety protocols discussed herein. The preparation rooms are available on a first-come, first-served basis. If the Iowa Court of Appeals is not in session, the attorney preparation room on the third floor will be available to attorneys arguing before the Iowa Supreme Court and vice versa. Attorneys may also prepare in the light court on the second floor as long as they maintain the safety protocols discussed herein.

e. *Attorney seating:* If more than one attorney is presenting argument for a side, the arguing attorneys may mutually agree not to adhere to physical distancing between themselves (thus enabling them to sit less than six feet apart), but attorneys are still required to wear their face coverings when not arguing. The court encourages only

one attorney per side to proceed beyond the bar with a maximum of two attorneys per side.

f. Protocol during the oral argument:

i. Everyone in the courtroom, including the judges and justices, shall wear face coverings.

ii. Arguing attorneys will be permitted to remove their face coverings while at the podium presenting their arguments.

iii. The appellate courts have the discretion to allow attorneys to argue at their respective counsel tables or at the usual podium.

g. Attorneys-in-waiting: If attorneys waiting for their oral argument do not use the attorney preparation room, they should sit in the courtroom gallery if there is space or outside the courtroom.

h. Report of post-argument COVID-19 positive test: If, after the conclusion of an oral argument, the courts learn that any argument attendee has tested positive for COVID-19, courts shall immediately follow the judicial branch's contact tracing protocol and consider further action necessary based on contacts the affected person had with other court attendees, including contacting local public health officials relating to contact tracing, disinfection, and related measures.

i. Water permitted. Appellate courts will not provide attorneys water at counsel tables. Arguing attorneys may bring their own bottles of water into the courtroom, but they must dispose of their bottles and any other items before they leave the counsel table area.

REMOTE ORAL ARGUMENTS

Iowa's appellate courts may continue to conduct oral arguments using videoconference or telephone through December 31, 2020, at their discretion. The appellate court will provide the parties the link to the remote oral argument. The Iowa Supreme Court will record and livestream these oral arguments on its Youtube channel at the following link https://www.youtube.com/channel/UCL6EU7W8kqDKnKPUzMdxr_g/featured and the Iowa Court of Appeals will livestream remote oral arguments on its Youtube channel at the following link https://www.youtube.com/channel/UC5YFPOlrqxU1hxqUJaZKHWw/featured to permit simultaneous viewing of the remote oral arguments. Attorneys should treat remote oral arguments with the same level of professionalism as they would treat an in-person oral argument, and the normal courtroom decorum rules still apply.

Court staff will contact attorneys prior to the oral argument to set up a test meeting of equipment and remote conferencing software. Attorneys should be in the same remote location, using the same computer, audio, and video equipment during this test meeting as they will be using during the oral argument. Court staff will explain how the arguing attorney will receive the link for the oral argument, how time will be kept and displayed, and any changes to how the argument will be conducted due to its remote nature, and will also answer any questions attorneys may have.

Attorneys should use the following checklists to ensure that they are prepared for their remote oral arguments:

I. Test Meeting Checklist

- ☐ Make sure the court has your email address.

- Court staff will schedule a practice session several days before the scheduled argument.
- Download the GoToMeeting or Zoom app, whichever is being used for the remote oral arguments. Links to download the GoToMeeting app on Windows and Mac are available here: https://support.goto.com/meeting and links to download the Zoom app on Windows and Mac are available here: https://zoom.us/download. You do not need to set up an account or purchase a license. If not downloaded beforehand, you will be prompted to download the program when joining the practice session.
- Join the test meeting at the scheduled time via the link that court staff will send you.
- Discuss your lighting, background, audio, and video in your test meeting. Your test should be on the same computer and in the same location as the actual oral argument. While Zoom offers free virtual backgrounds, GoToMeeting does not and participants using GoToMeeting should consider a neutral background wall.
- Discuss with court staff what to do if there are technical difficulties during the oral argument. GoToMeeting and Zoom allow separate video and telephonic conferencing, so you can quickly switch to a telephone-only argument if the video conferencing app malfunctions.
- Familiarize yourself with GoToMeeting or Zoom. Locate the mute icon (a microphone image).
- Practice disconnecting from and rejoining GoToMeeting or Zoom with court staff.

- Verify that your screen name accurately represents your identity.

II. Day of Argument Checklist

- Join the meeting 15 minutes before your oral argument session via the emailed link. Each argument will have an individual meeting link. Do not share this link with anyone else.
- Check in with the meeting coordinator and make sure your camera and microphone are working properly.
- If using GoToMeeting, set View at "Active Cameras" so you can see judges, opposing counsel, and the timer. If using Zoom, set view in "Gallery View."
- Wait until prompted to start your argument.
- Listen for the judges or justices asking questions. Multiple speakers at the same time result in none of them being understandable.
- When you're not speaking, mute your microphone to avoid background noise.
- If a participant's camera freezes but the audio still works, the argument will continue.
- Wait for the bailiff to adjourn court before hanging up/logging off.

Attorneys are encouraged to adhere to the following best practices:

- Test run your argument remotely in advance of the scheduled argument to ensure that you are familiar with your equipment and that the equipment works.
- Avoid bright lights or windows in the background.

- If using the conference call feature for audio, keep the phone as close as possible.
- Speak slowly and avoid talking over each other.
- Avoid flipping through notes, clicking your pen, etc. near your computer microphone or telephone to keep background noise at a minimum.
- Desktop or laptop computers generally provide better video and audio quality than tablets or mobile phones. The use of headphones may enhance the audio quality.
- It is acceptable to stand or sit during your oral argument so long as your positioning does not negatively affect the quality and your camera is positioned so that your face is visible.
- Look directly at the webcam, not the screen.

The court will continue to monitor circumstances and update this order as necessary.

Dated this 29th day of July, 2020.

The Iowa Supreme Court

By
Susan Larson Christensen, Chief Justice

Copies to:

Iowa Supreme Court
Iowa Court of Appeals
Chief Judges
Senior Judges
District Court Judges
District Associate Judges
Magistrates
State Court Administrator
District Court Administrators

Supreme Court Clerk
District Court Clerks
Chief Juvenile Court Officers
The Iowa State Bar Association
Polk County Bar Association
The Iowa State Association of Counties
The Iowa State Sheriffs' and Deputies' Association
Iowa Attorney General
Iowa State Public Defender
Iowa League of Cities
Iowa State Police Association
Iowa Peace Officers Association
Iowa Department of Public Safety
Iowa Association for Justice
Iowa Defense Counsel Association
Iowa Academy of Trial Lawyers
Iowa Court Reporters Association
Iowa Clerks Association
Association of Corporate Counsel-Iowa Chapter
Iowa Organization of Women Attorneys
Thomson Reuters (Westlaw)
Mead Data Central, Inc. (Lexis)
Legislative Services Agency