

# UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO



## JURY TRIAL PROTOCOLS

The U.S. District Court for the District of Colorado has adopted the following protocols for conducting jury and bench trials in the Arraj and Rogers Courthouses in Denver during the COVID-19 pandemic.

### SUMMONING AND SCREENING OF POTENTIAL JURORS

- Anticipating a higher rate of excused jurors, the Jury Division has increased monthly jury pools by approximately 40%.
- All potential jurors will be informed of the courthouse mask requirement and urged to bring their own mask. Disposable masks will be available for those who show up without a mask.
- During the week prior to their expected service, potential jurors will be contacted and screened for factors that would automatically excuse the potential jurors from service. These factors include:
  - Currently experiencing any symptoms of COVID-19, including a fever, cough, shortness of breath, or recent loss of the sense of taste or smell;
  - Having had close contact in the last 14 days with any person who has been diagnosed within the last month with COVID-19;
  - Having been asked to self-quarantine by any doctor, hospital, or health agency; or
  - Recognized by the Centers for Disease Control (“CDC”) as a person at higher risk for severe illness from COVID-19.
- On their reporting day, jurors will be directed to an outdoor station to ask them again about the above-listed factors before they enter the courthouse.
- A separate security line will be established for potential jurors in order to promote social distancing and provide for orderly entry into the courthouse.
- Juror check-in will occur in the Arraj Jury Assembly Room, which will allow appropriate social distancing for approximately 50 potential jurors.

## **JURY SELECTION**

### **Civil Trials:**

- Courtroom A201 (the ceremonial courtroom) will be used to conduct voir dire.
- Jurors who are physically able will walk from the Jury Assembly Room to the ceremonial courtroom by stairs instead of elevators.
- Jurors will be seated in the gallery of the ceremonial courtroom, which will accommodate 22 jurors with adequate social distancing. An additional five jurors may be seated in the jury box, and four more jurors may be seated in front of the jury box, if necessary.
- Because the gallery will be occupied by the jury, spectators will not be permitted in the ceremonial courtroom. An audio link will be provided to allow members of the public to call in and listen to the proceedings.

### **Criminal Trials:**

- Courtroom A201 will be used to conduct voir dire.
- Jurors who are physically able will walk from the Jury Assembly Room to the ceremonial courtroom by stairs instead of elevators.
- Jurors will be seated in the gallery of the ceremonial courtroom, which will accommodate 22 jurors with adequate social distancing. An additional five jurors may be seated in the jury box, and four more jurors may be seated in front of the jury box, if necessary.
- Voir dire may be conducted in two rounds, if necessary. In such case, peremptory challenges will be exercised at the conclusion of both rounds against the entire qualified venire.
- A VTC link will be established between the ceremonial courtroom and the Jury Assembly Room so that the jurors seated in the Jury Assembly Room can follow along with the voir dire questions asked in the courtroom.
- Because the gallery will be occupied by the jury, spectators will not be permitted in the ceremonial courtroom. An audio link will be provided to allow members of the public to call in and listen to the proceedings.

## **EMPANELED JURIES:**

- Trial will take place in the assigned courtroom of the presiding judicial officer or, in the discretion of the presiding judicial officer, in the ceremonial courtroom.
- Jurors will sit in the gallery of the courtroom.
- Jurors with sight or hearing issues will be seated towards the front of the gallery.
- Jurors will be instructed to report to an alternate courtroom each morning and at the conclusion of lunch breaks, which will serve as the jury deliberation room.
- Beginning on the morning of the second day of trial, and on all mornings thereafter, jurors will be required to call the assigned courtroom deputy before 7:30 a.m. if he or she

is experiencing any COVID-19 symptoms.

### **TRIAL PROCEDURES:**

- Everyone in the courtroom must wear a mask.
- Masks may be removed for purposes of identification in-court and for the purposes of briefly allowing the jury to see the witness's or party's face by way of introducing the person to the jury.
- Attorneys and witnesses are encouraged to experiment with different styles of masks prior to trial so that they choose a mask that protects others, but also allows them to be understood more easily when speaking into a microphone.
- Two laptop computers will be set up in the jury deliberation room, which will allow an attorney to conduct a witness examination via VTC without a mask.
- Witnesses may testify in the courtroom with a mask or via VTC from the jury deliberation room without a mask.
- Attorneys may ask questions in the courtroom with a mask or via VTC from the jury deliberation room without a mask.
- Attorneys should address the court and the jury from the table where they are sitting and avoid use of the podium.
- Attorneys should speak from the same microphone for the duration of the trial and avoid touching the microphone. Microphone covers will be provided and changed out during the lunch break and before each day's trial session.
- Exhibits should be presented electronically or, if necessary, with the document viewer, to avoid passing out or touching paper.
- The Court has procured a two-way electronic transceiver system that will allow private encrypted conversations between people speaking in a quiet voice.
- One pair of transceivers will be offered to criminal defense counsel and the defendant to facilitate confidential communications between the two while in court and still allow for social distancing.
- A second set of transceivers, set on a separate secure channel, will be provided to one attorney for each side/party, the presiding judicial officer, and the court reporter in order to conduct bench conferences.
- Attorneys are encouraged to bring their own ear buds with microphone (male-end plug) for greater comfort and cleanliness when using the transceiver system. Criminal defense attorneys should also bring a set of earbuds for the defendant. Bluetooth is not supported by this system.
- Bench conferences may be conducted using the transceiver system described above. At the judge's discretion, the judge, one attorney for each side/party, and the court reporter, all wearing masks, can move to the jury deliberation room and/or hallway behind the courtroom to conduct bench conferences without using the transceiver system.
- Parties shall have one, or at most two, witnesses in the witness waiting areas at any one

time. Witnesses waiting to testify shall observe proper social distancing and wear masks.

- Because the gallery will be occupied by the jury, spectators will not be permitted in the trial courtroom. An audio link will be provided to allow members of the public to call in and listen to the proceedings.

### **Bench Trials:**

- Bench trials will be conducted in accordance with the trial procedures outlined above adjusted for the absence of a jury.
- Pursuant to the discretion of the presiding judicial officer, members of the public and other spectators will be permitted in the gallery of the courtroom. Spectators may only sit in designated locations in the gallery and must wear masks. In the alternative, an audio link will be provided to allow members of the public and other spectators to call in and listen to the proceedings.

### **GENERAL COURTHOUSE RULES:**

- All entrants to courthouses must abide by the entry requirements specified in General Order 2020-10.
- Masks must be worn at all times within the courthouse.
- Elevators are limited to two passengers at a time.
- Public bathrooms are limited to two occupants at a time.
- Each person must maintain at least 6 feet separation from other people.
- Hand sanitizer and wipes will be available in all courtrooms.
- Courtroom cleaning protocols have been enhanced; all high touch surfaces will be disinfected regularly.

Adopted by the Court on June 30, 2020.