

ORDER WITHDRAWING PARTIAL APPROVAL OF THE OPERATIONAL PLAN FOR  
THE RESUMPTION OF IN-PERSON PROCEEDINGS AND JURY TRIALS IN  
MANITOWOC COUNTY

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WHEREAS: The Wisconsin Supreme Court in light of the COVID 19 pandemic has entered certain orders related to the operations of the Circuit Court regarding in person appearances and jury trials;

WHEREAS: On March 22, 2020, the Wisconsin Supreme Court ordered that although the courts of the State of Wisconsin remain open, all civil and criminal jury trials scheduled to begin before May 22, 2020 are continued and rescheduled by the assigned judge to a date after May 22, 2020;

WHEREAS: on March 22, 2020, and as amended on April 15, 2020, the Wisconsin Supreme Court suspended, until further order of the court, most in-person hearings in the circuit courts, subject to exceptions for certain matters, including those approved by the chief judges of each district, if remote technology is not practicable or adequate to protect constitutional rights of the citizens of Wisconsin;

WHEREAS: On March 31, 2020, the Wisconsin Supreme Court issued Interim Rule 20-02 which suspended statutory deadlines for conducting non-criminal jury trials until further order of the court;

WHEREAS: On May 22, 2020, the Wisconsin Supreme Court ordered that the March 22, 2020 order regarding the suspension of jury trials, that Interim Rule 20-02 regarding suspension of deadlines for non-criminal jury trials, and the April 15, 2020 amended order regarding remote hearings, are extended for each circuit court until that circuit shall have prepared an operational plan for the safe resumption of in-person proceedings and jury trials and the plan shall have been approved by the chief judge of the applicable administrative district;

WHEREAS: On May 22, 2020, the Wisconsin Supreme Court outlined the specific criteria required in each circuit court operational plan as to how that circuit court will conduct in-person proceedings and jury trials so as to reduce to the greatest extent possible the risk of transmission of the virus that causes COVID-19 and that promotes the health and safety of all those present in the courtrooms, jury rooms, and other court related confined spaces of that circuit court;

WHEREAS: On June 19, 2020 the Circuit Judges of Manitowoc County, submitted an operational plan which contains a statement regarding communication with local justice partners regarding the safe resumption of in-person proceedings and jury trials in that circuit court; a requirement that all persons who are present in the courtrooms, jury rooms, and other court-related confined spaces shall wear face coverings, except as authorized on the record by said judge; outlines practices for appropriate sanitation/ hygiene of frequently touched surfaces and the hands of participants; specifies that notices regarding face coverings and availability of hand sanitizer and disinfecting wipes/ sprays in court-related areas will be appropriately posted and noticed; and incorporates many recommendations made in the Final Report of the Chief Justice's Task Force;

WHEREAS: On June 19, 2020 Chief Judge Barbara H. Key approved the Manitowoc County Circuit Court Operational Plan;

WHEREAS: On October 1, 2020 the Wisconsin Supreme Court ordered that if a circuit court determines changes in local conditions require a modification to the circuit court's approved operational plan, the circuit court shall submit information to the chief judge and the chief judge can withdraw approval of the operational plan as required to account for the changed conditions. Upon the chief judge's withdrawal of part or all of the operational plan, the circuit court shall again be subject to the provisions of the following Supreme Court orders:

1. In Re The Matter of Remote Hearings During the COVID-19 Pandemic (April 15, 2020)
2. In Re The Matter of Jury Trials During the COVID-19 Pandemic (March 22, 2020)
3. In the Matter of an Interim Rule re Suspension of Deadlines for Non-Criminal Jury Trials Due to the COVID-19 Pandemic (Interim Rule 20-02);

WHEREAS: On October 14, 2020 the Circuit Judges of Manitowoc County submitted a letter requesting partial withdrawal of their operational plan (attached);

THEREFORE IT IS ORDERED:

The operational plan of the Manitowoc County Circuit Court regarding procedures and practices for conducting jury trials and other in-person proceedings during the 2020 public health emergency and pandemic-COVID 19 is withdrawn in part. Specifically, the portion of the plan starting on Page 3, "Phase One: Resumption of limited in-person proceedings," through Page 4, "Phase Four: Resumption of all cases on an in-person basis with no restrictions" is hereby withdrawn. The remainder of the operational plan of Manitowoc County Circuit Court remains in effect.

The Manitowoc County Circuit Court is therefore subject to the provisions of the following Supreme Court orders:

1. In Re The Matter of Remote Hearings During the COVID-19 Pandemic (April 15, 2020)
2. In Re The Matter of Jury Trials During the COVID-19 Pandemic (March 22, 2020)

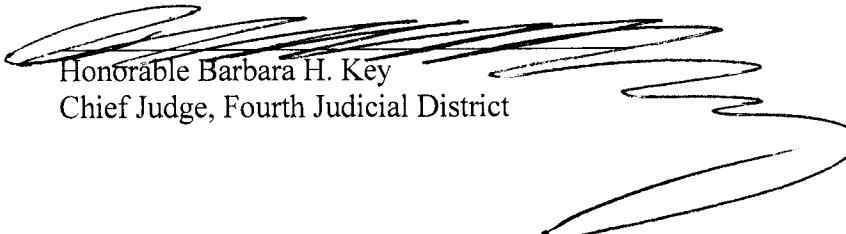
3. In the Matter of an Interim Rule re Suspension of Deadlines for Non-Criminal Jury Trials Due to the COVID-19 Pandemic (Interim Rule 20-02)

The Manitowoc County Circuit Court shall hold no in-person appearances, other than those subject to exceptions in the April 15, 2020 Supreme Court Order, or those otherwise approved by the Chief Judge.

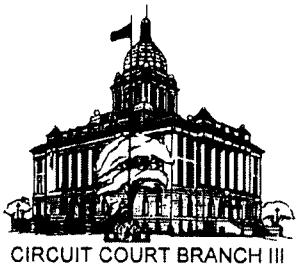
The withdrawal of this portion of the operational plan of the Manitowoc County Circuit Court will expire upon approval of an amended operational plan.

IT IS FURTHER ORDERED that the provisions of this order shall be subject to further modification or termination by future orders.

Dated this 15 day of October, 2020.

  
Honorable Barbara H. Key  
Chief Judge, Fourth Judicial District

ROBERT DEWANE, CIRCUIT JUDGE



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October 14, 2020

Hon. Barbara Key, Chief Judge  
Fourth Judicial District  
415 Jackson Street  
Oshkosh, WI 54901

**Re: Manitowoc County Operational Plan**

Dear Judge Key:

On Monday, September 28, 2020, I met with the other judges in Manitowoc County to discuss the increasing COVID-19 test numbers in our county. We decided at that time, based on not only our county's COVID-19 situation but also on those in neighboring counties, to move as many hearings as possible to Zoom but to still stay in Phase 3 of our plan in order to conduct any statutorily-required jury trials. We informed our County Bar Association of this at our MCCAC meeting on Friday, October 2<sup>nd</sup>.

The other judges and I have continued to meet, and this past Monday unanimously decided to propose to our county's COVID-19 committee that we ask for withdrawal of your approval of the portions of our plan regarding allowing in-person hearings, including jury trials. We would like to continue to require those who enter the courthouse to adhere to the masking and social distancing portions of the plan as our courthouse will remain open. We believe this to be the safest course of action for a number of reasons.

As of today's date, Manitowoc County is listed by the New York Times as a "hot spot" for COVID-19 infection with 449 cases reported in the last seven (7) days. According to our County Health Department, Manitowoc County has 1,861 confirmed cases (+73 cases on October 13<sup>th</sup> alone) and nearly twice as many active cases versus recovered cases. While our numbers are not as high as some of our neighboring counties, our confirmed cases have sharply and continually increased over the last week. Given how the infection rate is progressing in both our county and our neighboring counties, we unanimously believe that this is a necessary step for our court system to play its role in promoting public health.

I can indicate that when we met with our County's COVID-19 committee and proposed our desire to make this request, it was met with unanimous support. It was discussed at today's

meeting that we ask for your approval of the in-court portions of our plan to be withdrawn indefinitely at this time. I can indicate that all of our judges recognize both the public health risk involved with and the need to conduct statutorily-required in-person hearings. The three of us are committed to meeting on at least a weekly basis in order to assess our situation and determine if we can safely move back to holding in-person hearings and jury trials.

The circuit court is now asking that you withdraw approval of the Manitowoc County Operating Plan starting at Page 3, "Phase One: Resumption of limited in-person proceedings," through Page 4, "Phase Four: Resumption of all cases on an in-person basis with no restrictions." Both Judge Rohrer and Judge Dietz have reviewed this letter and support this request.

Thank you for addressing the modification of the operation plan moving forward.

Sincerely,



Robert Dewane  
Circuit Judge

cc: Hon. Mark R. Rohrer  
Hon. Jerilyn M. Dietz  
Lynn Zigmunt, Clerk of Court