

Ordered this 10<sup>th</sup> day of June, 2020



Hon. Jennifer R. Dorow  
Chief Judge

STATE OF WISCONSIN

CIRCUIT COURT  
THIRD JUDICIAL DISTRICT

Special Order  
20-SO-04 (45)

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**IN THE MATTER OF:  
APPROVAL OF THE OPERATIONAL  
PLAN FOR OZAUKEE COUNTY**

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**WHEREAS:** In light of the COVID-19 Statewide and National states of emergency, the Wisconsin Supreme Court 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 to be 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; and

**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; and

**WHEREAS:** On May 22, 2020, the Wisconsin Supreme Court ordered that the March 22, 2020 order regarding the suspension of jury trials, 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 prepares an operational plan for the safe resumption of in-person proceedings and jury trials and the plan is approved by the chief judge of the applicable administrative district; and

**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 COVID-19 virus 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; and

**WHEREAS:** On June 10, 2020, the Honorable Paul Malloy, Presiding Circuit Judge of Ozaukee County, submitted operational plans regarding resumption of in-person proceedings and jury trials, both of which contain statements regarding communication with local justice partners on 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; specify 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 incorporate many recommendations made in the Final Report of the Chief Justice's Task Force;

**THEREFORE IT IS ORDERED:**

The operational plans of the Circuit Court of Ozaukee County regarding procedures and practices for conducting jury trials and other in-person proceedings during the 2020 public health emergency and COVID-19 pandemic are hereby approved and are effective as of this date. All previous orders identified in the May 22, 2020 order of the Wisconsin Supreme Court cease to apply to the Circuit Court of Ozaukee County and that circuit court must continue to follow its operational plans as approved by the chief judge until further notice of the Wisconsin Supreme Court.

**IT IS FURTHER ORDERED:**

The provisions of this order shall be subject to further modification or termination by future orders.

FILED  
06-10-2020  
Ozaukee County, WI  
Mary Lou Mueller CoCC  
2020GF000083

APPROVED:

DATE SIGNED: June 10, 2020

Electronically signed by Paul V. Malloy  
Circuit Court Judge

BY THE COURT:

DATE SIGNED: June 10, 2020

Electronically signed by Jennifer R. Dorow  
Chief Judge District 3

## **COVID-19 Operating Plan for the Ozaukee County Circuit Courts**

Recognizing the need to ensure the health and safety of litigants, attorneys, visitors, court staff, judges, and other individuals entering the buildings housing the courts, the courts of Ozaukee County will implement the following protective measures:

### **General**

1. The county judiciary has established a Covid-19 Jury Committee to discuss and consider the recommendations outlined in the Wisconsin COVID- 19 Task Force report and presented its own findings and recommendations to the Presiding Judge. The Committees findings and recommendations provide guidance for the reopening of the judicial system and procedures necessary to safely hold jury trials.
2. All judges will use all reasonable efforts to conduct proceedings remotely until each judge finds it appropriate and feasible to begin in person hearings.
3. Before calendaring in-person hearings, the Clerk of Courts and judiciary has addressed staffing needs and has procured any equipment and supplies deemed necessary.
4. The Ozaukee County Judiciary, Clerk of Courts, Sheriff's Office and all stakeholders will maintain communication with the local health authority and the county Division of Emergency Management, and will adjust this operating plan as necessary with any changes in the public health conditions in the county.
5. Judges will begin setting non-essential in-person proceedings no sooner than June 15, 2020.

### **Judge and Court Staff Health**

1. Judges, reporters and the Court Commissioner who can perform the essential functions of their job remotely may continue to do so, but not after July 15, 2020, or at the direction of the Presiding Judge.
2. The following procedures have been implemented to monitor the health of Judges and Court Staff:

- a. Required daily self assessment of temperature, respiratory symptoms and general health
  - b. Consideration of possible exposure to large groups or infected persons
3. All persons who are present in the courtrooms, jury rooms and other court-related confined spaces shall wear face covering, unless a judge specifically determines on the record that it is necessary for a person not to wear a face covering during the person's testimony in order for the judge or jury to weigh the person's credibility.
  4. Protective Measures:
    - a. Physical barriers in courtrooms
    - b. Hand sanitizers readily available at all point of entry, courtrooms, and other appropriate locations within the Ozaukee County Justice Center
    - c. Disposable face masks will be made available at all points of entry and will be distributed by staff
    - d. Seating arrangements in all courtrooms that encourage appropriate social distancing
    - e. Facemasks, hand sanitizer available to all Judges and Court staff
    - f. Barriers may be erected between chairs at counsel tables as determined necessary by each branch to ensure social distancing
    - g. Court staff shall sanitize equipment used by multiple persons between uses

### **Scheduling**

1. The following court schedules are established to reduce occupancy in the court building:
  - a. No more than one jury trial to be conducted in the Justice Center at any one time to reduce numbers of persons in the Justice Center.
  - b. Limitations on criminal court calendars to 10 in person cases per 1.5 hours
  - c. Courts to schedule criminal calendars in such a manner to reduce occupancy in the building, including consideration of staggered start times.
  - d. Conference rooms are to be used on a reserved only basis

### **Vulnerable Populations**

1. Individuals who are over age 65 and individuals with serious underlying health conditions, such as high blood pressure, chronic lung disease, diabetes, obesity, asthma, and those whose immune systems are compromised such as by chemotherapy for cancer or other conditions requiring such therapy are considered to be vulnerable populations.
2. Each judge will include information on orders setting hearings, dockets notices, and in other communications notifying individuals who are in vulnerable populations of the ability to contact the court to identify themselves as a vulnerable individual and receive accommodations.

3. Vulnerable populations who are scheduled for court will be accommodated by scheduling hearings for remote audiovisual means unless an in person hearing is required by the presiding judge.

### **Social Distancing**

1. All persons not from the same household who are permitted in the court building will be required to maintain adequate social distancing of at least 6 feet.
2. Elevator to be closed for public use.
3. Each restroom has been evaluated to determine the appropriate capacity to ensure social distancing and the maximum capacity has been posted on each restroom door.
4. Signage and notifications will be placed in public areas of the Justice Center to encourage social distancing

### *Gallery*

5. The maximum number of persons permitted in the gallery of each courtroom has been determined and posted. The maximum capacity of the courtroom will be monitored and enforced by court staff.
6. The gallery of the courtroom has been marked to identify appropriate social distancing in the seating.

### *Well*

7. In each courtroom, the counsel tables, witness stand, judge's bench, and clerk, court reporter, and bailiff seating have been arranged in such a way so that there is social distancing of at least 6 feet between each space.

### **Hygiene**

1. Hand sanitizer dispensers have been placed near the entrances to the building, near the entrance of each courtroom, and in other areas deemed appropriate.
2. Disinfectant wipes or spray have been placed near the door of the courtroom, at counsel tables, at the witness stand, on the judges' benches, and in the hallways.
3. Notices and/or signage outlining appropriate hygiene, social distancing, or public safety have been posted in multiple locations on each floor of the court building.
4. Vending machines have been covered or removed to prevent usage.
5. Courtroom equipment will be sanitized between uses by different persons.
6. Pens will be sanitized between uses or used by only one person.
7. Documents will be e-filed prior to hearings whenever practicable to avoid unnecessary handling of paper documents.
8. Sanitizing wipes will be available at counsel tables for departing counsel or litigants to wipe down hard surfaces before departing table.

### **Screening**

1. When individuals attempt to enter the court building, court security will ask the individuals if they are feeling feverish; have a cough, shortness of breath, or difficulty

breathing; or have been in close contact with a person who is confirmed to have COVID-19. Individuals who indicate yes to any of these questions will be refused admittance to the court building. If required to appear in court, the appropriate court office will be immediately notified.

2. Ozaukee Sheriff's Office staff who are screening individuals entering the court building will be provided personal protective equipment as deemed appropriate by the Ozaukee Sheriff's Office..
3. Staff who are doing the screening will have a listing of court official phone numbers in order to notify the courts of individuals who may have been denied entrance.

### **Face Coverings**

1. All individuals entering the Justice Center will be required to wear face coverings at all times.
2. All persons who are present in the courtrooms, jury rooms and other court-related confined spaces shall wear a face covering, unless a judge specifically determines on the record that it is necessary for a person not to wear a face covering during the person's testimony in order for the judge or jury to weigh the person's credibility.
3. Individuals will be encouraged to bring a cloth face covering with them, but if the individual does not have a cloth face covering, a disposable face mask will be provided.

### **Cleaning**

1. Court building cleaning staff will clean the common areas of the court building so that common spaces are cleaned at least every 24 hours.
2. Court building cleaning staff will clean the courtrooms between morning and afternoon proceedings, and at the end of each day the courtroom is used.
3. Court building cleaning staff have been provided cleaning supplies shown to be effective with this coronavirus.
4. Court building cleaning staff have been trained on proper cleaning techniques and provided appropriate personal protective equipment.

### **Jury Trials**

1. No jury trials will be conducted until after July 1, 2020.
2. Social distancing will be of the utmost concern when dealing with jurors.
3. The Court Commissioner's courtroom shall be converted in such a manner so as to ensure proper social distancing of jurors, litigants, attorneys and staff and will be the designated courtroom for all jury trials.
4. Courtroom conversion will entail, but not limited to, the following:
  - a. expansion of the jury box
  - b. removal of bench style gallery seating to allow socially distanced seating for voir dire
  - c. Plexiglas shields will be installed to shield court staff, jurors and the judiciary from witnesses

- d. jury deliberation room shall be reconfigured to allow social distancing during deliberations
- 5. Jurors will be required to wear masks at all times during jury service. One will be provide for them if they do not provide their own.
- 6. Jurors will be assigned a seating position for the duration of the trial
- 7. While in the Justice Center, Jurors will be supervised by court staff/bailiffs at all times other than during deliberations to insure proper social distancing, safe routes of travel and access to hygiene materials.
- 8. Any food provided during jury service shall be individually packaged.
- 9. 12 sets of jury instructions will be provided during deliberations.
- 10. Courtroom will be cleaned during lunch break of trial
- 11. Overflow seating for spectators will be provided with a video feed to reduce numbers in courtroom
- 12. Media to be provided a designated area for A/V equipment and outlets shall share one video feed

**Certification**

I have conferred with all judges of courts and Court Commissioner with courtrooms in the Justice Center, the Clerk of Courts and Ozaukee Sheriff's Department regarding this Operating Plan. In developing the plan, I consulted with the findings of the Jury Committee. I will ensure that the judges of courts with courtrooms in the court building covered by this Operating Plan will conduct proceedings consistent with the plan.

Dated \_\_\_\_\_

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Hon. Paul V. Malloy, Presiding Judge

Approved:

Dated \_\_\_\_\_

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Hon. Jennifer Dorow, Chief Judge