



OREGON SUPREME COURT

April 20, 2020

Dear Oregon Lawyers:

I last wrote to you on March 27, when I issued Amended Chief Justice Order 20-006 and restricted court services during the COVID-19 pandemic. Today, I want to thank you again for your collaboration and respond to concerns expressed by members of the civil bar, who seek assurance that they will be able to move their cases forward to timely resolution.

Some of you may have heard that I was contemplating issuing a supplemental CJO that would extend certain deadlines in civil cases. I indeed had explored that possibility at the request of representatives of the civil bar. My current understanding from those same representatives, though, is that the civil bar now wishes to move its cases forward to the extent possible. Therefore, I will not be issuing a supplemental CJO, and all deadlines that apply in civil cases remain in place. Of course, parties may agree to extend those deadlines or seek a good cause extension.

I also want to make it clear to all Bar members that the statutes and rules that permit you to file motions remain in effect. Amended CJO 20-006 does not preclude a party from filing a motion, and, when necessary, you should do so. This letter provides as much clarity as I can about when and how those motions will be heard and decided, beginning with an explanation of our other obligations and priorities, and where we stand in our effort to move into a "remote environment."

The priorities set out in Amended CJO 20-006 support our overall goal to reduce the spread of COVID-19 and to minimize health risks to our communities. To achieve that goal, we must continue to minimize the number of judges, staff, litigants, case participants, interpreters, and members of the public who come into our courthouses. That means, as set out more fully in the CJO, that our first priority is to conduct required criminal trials, as well as Category 1 and Category 2 essential proceedings -- the listed criminal, civil commitment, family and protective order, and juvenile proceedings. In addition, as the CJO provides, courts will conduct, as Category 1 or Category 2 essential proceedings, particular trials or hearings that a Presiding Judge determines are essential.

Our next priority is to provide Category 3 essential proceedings, if permitted by local presiding judge policy and if remote means are reasonably available and feasible.

Like Category 2 essential proceedings, Category 3 proceedings affect families and children, and provide for their welfare.

To be able to conduct the essential proceedings outlined in the CJO, we have taken significant steps to acquire and use remote technology. In doing so, we have looked for tools that will enable us to comply with the open courts provision of the Oregon Constitution. The public has a right of access to court proceedings, and the technology we use must enable us to meet that requirement. We also must be able to ensure that our processes and systems are secure, and that the technology we use will allow us to make a record of our hearings.

We have been successful in those efforts, and, since late February, we have spent more than a half-million dollars acquiring computers, software, and phones that will enable us to use those tools. We are now in the process of distributing them and training our employees in their use. We also need to work with lawyers and parties to successfully adapt to this new environment, and we will soon be providing you with additional information you may need to join us in this effort.

As we make progress in our acquisition and use of remote technology, we plan to conduct more of the proceedings that are described in Amended CJO 20-006 as "essential" and also to conduct other, "non-essential" proceedings. We know that even "non-essential" proceedings are exceedingly important. People come to court because they need judicial decisions, and that need is even more evident in these uncertain times. We recognize your need to move your cases toward resolution, and our courts will do what is reasonable and feasible to decide motions in civil cases, including the following:

- If you are willing to submit your motions on the record, our courts can decide them now.
- If, instead, you request a hearing, our courts will accommodate your requests to the extent that remote hearings are reasonable and feasible. It will be up to the Presiding Judge in each court to make that determination.
- Some courts already are hearing civil motions remotely; others will do so over the coming weeks or months; Multnomah County plans to resume hearing civil motions, either remotely or in person (or a combination) beginning June 1.

In addition to any statutory and practical constraints that may apply, a number of factors will determine the extent to which each individual court can provide remote hearings. They include the need to conduct other, essential, proceedings; the number of motion hearings requested; the complexity of those hearings; the number of persons who

must appear; and the number of available judges and staff. Obtaining a ruling on a motion takes more than a judge. Staff must schedule and set up the hearing, record it, prepare an order, and issue and docket it. We still have fewer staff than we did before the 2008 recession, and many of our staff must stay at home for health reasons or to care for children or loved ones. We are working to enable both judges and staff to conduct hearings from home, but it will take some time to get those procedures in place.

Thank you for your understanding and close collaboration. We have a remarkable Bar, and, working together, I truly believe that we have helped to limit the spread of COVID-19. Our courts are determined to continue to do all that we can to enable our state to work its way out of this pandemic and its consequences, and we are committed to serving you, your clients, and members of the public. Please continue to provide us with your counsel and recommendations. If your suggestions or concerns are court-specific, please contact the Presiding Judge of the court. If you wish to address a larger issue, then write to us at CJOFeedback@ojd.state.or.us.

All the best,


Martha Walters
Chief Justice