

AUG 05 2020

Clerk of the Superior Court

By


DEPUTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

COVID-19 ORDER NUMBER 11

The World Health Organization (WHO), the United States Centers for Disease Control and Prevention (CDC), and the State of California have recognized that the world, country, and state face a life-threatening pandemic caused by the COVID-19 virus. Indeed, as of August 5, 2020 the California Department of Public Health has reported over 500,000 confirmed cases of COVID-19 – the most of any state in the country – with over 9,000 deaths. As of this date, there is no known cure or vaccination.

In response to the spread of COVID-19, Governor Newsom has declared a state of emergency in California. This was followed by the declaration of a national emergency by President Trump.

According to the CDC, COVID-19 “is thought to spread mainly from person-to-person . . . through respiratory droplets produced when an infected person coughs, sneezes, or talks.” The CDC has also stated that “[i]t may be possible that a person can get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose, or possibly their eyes.” There is mounting evidence that the airborne transmission

1 of COVID-19 is possible, and the WHO has recently acknowledged that “[s]ome outbreak
2 reports related to indoor crowded spaces have suggested the possibility of aerosol transmission,
3 combined with droplet transmission, for example, during choir practice, in restaurants, or in
4 fitness classes.” Finally, the WHO, the CDC, and the State of California have recognized that
5 COVID-19 may be spread by people who are not showing symptoms.
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7 To prevent the spread of COVID-19, the CDC, the California Department of Public
8 Health (CDPH), and the San Mateo County Health Department (SMCHD) have recommended
9 stringent social distancing measures of at least six (6) feet between people. In addition, on June
10 18, 2020, Governor Newsom issued a statewide order, requiring, among other things, that people
11 in California “wear face coverings . . . inside of, or in line to enter, any indoor public space.”
12 Finally, the CDC, the CDPH, and the SMCHD have recognized that contact tracing is one the
13 keys to reducing the spread of COVID-19 in the community.
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15 Consistent with these orders and recommendations, the Chief Justice has, among other
16 things, issued emergency orders: (1) “authorizing courts to adopt any proposed local rules or rule
17 amendments that are intended to address the impact of the COVID-19 pandemic to take effect
18 immediately, without advance circulation for 45 days of public comment”; and (2) suspending
19 “any rule in the California Rules of Court to the extent such rule would prevent a court from
20 using technology to conduct judicial proceedings and court operations remotely.”
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22 The Judicial Council has also adopted Emergency Rule 3 which states in relevant part
23 that:
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25 Notwithstanding any other law, in order to protect the health and safety of the public,
26 including court users, both in custody and out of custody defendants, witnesses, court
27 personnel, judicial offers, and others, courts must conduct judicial proceedings and court
28 operations as follows:

1 (1) Courts may require that judicial proceedings and court operation be conducted
2 remotely. [¶] . . .

3 (3) Conducting proceedings remotely includes, but is not limited to, the use of video,
4 audio, and telephonic means for remote appearances; the electronic exchange and
5 authentication of documentary evidence; e-filing and e-service; the use of remote
6 interpreting, and the use of remote reporting and electronic recording to make the official
7 record of an action or proceeding.”

8 Pursuant to its constitutional and other legal authority – including the inherent authority
9 of the Court to manage its courtrooms and proceedings – and balancing the rights of the parties
10 and the public in court proceedings with the health and safety of these parties, the public, court
11 staff, judicial officers, attorneys, witnesses, jurors, and others present at these proceedings,
12 among other considerations, the Court finds good cause to order:

13 1. No individual who:

14 (a) has tested positive for COVID-19 or displays any symptoms of a COVID-19
15 infection as identified by the CDC; or

16 (b) has been exposed within the past two (2) weeks to another person who has
17 tested positive for COVID-19 or displays any symptoms of a COVID-19 infection
18 as identified by the CDC,

19 may physically enter a courtroom. If that individual needs to appear for a court
20 proceeding and that proceeding cannot be continued, then the individual may arrange for
21 a remote appearance with the Court through audio or video conference.

22 The individual may physically enter a courtroom again only after:

23 (a) he or she has tested negative for COVID-19; or

24 (b) the person to whom the individual was exposed has tested negative for
25 COVID- 19; or

26 (c) the individual has displayed no symptoms of a COVID-19 infection as
27 identified by the CDC for at least two (2) weeks following his or her last exposure
28 to the other person who has tested positive for COVID-19 or who has displayed
any symptoms of a COVID-19 infection as identified by the CDC.

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2 2. Any individual who physically enters a courtroom must wear a facemask. The
3 facemask must cover both the nose and the mouth and may not contain a one-way vent.
4 Except for minor adjustments that would leave the face uncovered for less than ten (10)
5 seconds, a facemask must be worn at all times while in the courtroom unless otherwise
6 permitted by the judicial officer.
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10 3. Any individual who physically enters a courtroom must adhere to social distancing in
11 accordance with the guidelines issued by the CDC. This means that every individual in
12 the courtroom must stay at least six (6) feet apart to the extent practicable.
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14 4. Any individual who physically enters a courtroom must check in with Court staff. That
15 individual will be asked by Court staff to identify himself or herself and will be required
16 to sign in. The sign-in sheet will be used solely for purposes of contact tracing, if
17 necessary. If an individual does not wish to identify himself or herself and sign in, the
18 individual may attend the proceeding remotely through audio or video conference.
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21 5. According to the CDC, the County Health Officer, and health experts, contact tracing
22 is the key to preventing the spread of COVID-19. As a result, any individual who:
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24 (a) physically enters the courtroom; and

25 (b) has tested positive for COVID-19, displays any symptoms of a COVID-19
26 infection as identified by the CDC, has been exposed to another person who has
27 tested positive for COVID-19 or displays symptoms of COVID-19 infection as
28 identified by the CDC,

1 must as soon as practicably possible provide the judicial officer in that courtroom or the
2 presiding judge with sufficient information to identify any persons in the courthouse who
3 may have been in contact with or in the same room as the individual. In making any
4 disclosures about the possible risk of COVID-19 infection, the Court will not disclose the
5 name of the individual without his or her consent and will take reasonable measures to
6 ensure that the identity of the individual is not disclosed.
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10 6. Consistent with CDC guidelines, an individual has been exposed to another person for
11 purposes of this standing order if that individual has been within six (6) feet of the other
12 person for fifteen (15) minutes or longer (with or without a facemask) starting from 2
13 days before illness onset of that person (or, for asymptomatic persons, 2 days prior to
14 positive specimen collection) until the time the person is isolated.
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17 7. Any individual who is unable or unwilling to follow these orders may not physically
18 enter the courtroom and may be ordered to leave the courtroom. If that individual wishes
19 to appear for a court proceeding, then he or she must appear remotely through video or
20 audio conference. In addition, any physical or documentary evidence that the individual
21 may wish to introduce at the proceeding may not be physically present in the courtroom
22 and may only be presented virtually. The individual is responsible for ensuring that the
23 Court may receive that evidence virtually.
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LELAND DAVIS, III
28 ACTING PRESIDING JUDGE