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APR 09 2020

ANGIE SPARKS, Clerk of District Court
By *[Signature]* Deputy Clerk

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**MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY**

IN RE: CONTINUANCES DUE TO
NOVEL CORONAVIRUS AND
COVID-19 DISEASE.

Cause No. SB-2020-14

SECOND AMENDED ORDER

On March 20, 2020, the First Judicial District Court issued an Amended Order (Order) relative to the Court's operations being adversely affected by the ongoing coronavirus pandemic. Pursuant to paragraph 19 of the Order, this Second Amended Order is intended to extend the date certain continuances set forth in the Order through May 29, 2020.

Accordingly, **IT IS HEREBY ORDERED** that the Lewis and Clark County and Broadwater County courthouses located in Helena and Townsend will remain open subject to the following limitations:

1. All jury trials (criminal and civil) currently scheduled to begin on or before May 29, 2020 are vacated, to be reset by the presiding judge.
2. For purposes of any asserted criminal speedy trial violation analysis, any delay directly attributable to this Second Amended Order shall be

1 charged to the State as institutional delay. See *State v. Ariegwe*, 2007 MT 204,
2 338 Mont. 442, 167 P.3d 815.

3 3. Any criminal defendant in custody who has been quarantined in
4 the Lewis and Clark County Detention Center (LCDC) or the Broadwater County
5 Detention Center (BCDC) by a CDC order or other foreign or domestic public
6 health official shall not be allowed to appear in court without prior court
7 permission.

8 4. Any litigant, including but not limited to non-custodial
9 defendants, counsel and/or witnesses who have been quarantined by a CDC order
10 or other foreign or domestic public health official shall not be allowed to appear
11 in court without prior court permission.

12 5. Any criminal defendant who requests a continuance, bond
13 review, motion to suppress, or any other motion shall be excused from appearing
14 personally before the court if they are in custody at the LCDC, the BCDC or any
15 other custodial location. Any paperwork requiring a defendant's signature will
16 be processed by either the Lewis and Clark County Sheriff's Office or the
17 Broadwater County Sheriff's Office.

18 6. Any criminal defendant scheduled for a motion to suppress,
19 evidentiary hearing, bench trial, or any other scheduled evidentiary hearing shall
20 only be transported from the LCDC or the BCDC (unless such person has been
21 quarantined) if other appearance arrangements cannot be made by phone, video,
22 skype, google chat, or by other agreements of the parties.

23 7. All transport requests shall be made by defendant's attorney.
24 No defendant shall be transported unless requested by his/her attorney.

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1 8. For any jury trial (civil or criminal) continued by this Second
2 Amended Order, the parties shall, in good faith, engage in traditional plea
3 negotiations or settlement negotiations via phone, video, skype, google chat, or
4 by other social safe means as agreed to by the parties.

5 9. This Second Amended Order does not vacate any pending
6 deadlines (criminal and civil) other than the jury trial dates.

7 10. Attorneys or *pro-se* individuals seeking to modify any other
8 deadlines must file a motion.

9 11. All non-jury proceedings such as bench trials, in-person
10 hearings, change of plea hearings, bond hearings, summary judgment hearings,
11 and any other in-court appearances may be held at the presiding judge's
12 discretion. Attorneys or *pro-se* individuals may request to continue such hearings
13 or request leave to appear remotely by appropriate motions. Telephonic or video
14 appearances are encouraged so long as deemed appropriate by the presiding
15 judge. This Order does not limit a judge's discretion to consider and decide a
16 pending matter without oral argument.

17 12. Until further notice, a district court judge shall preside over
18 preliminary criminal matters filed in district court such as initial appearances and
19 arraignments. Counsel shall be prepared to present bond arguments and/or
20 suggested bond conditions at arraignments. These proceedings shall be
21 conducted by telephonic or video means to the greatest extent possible.

22 13. All DN status hearings before a district judge are vacated
23 through May 29, 2020.

24 14. All in-court and group Drug Court proceedings/meetings are
25 suspended until May 29, 2020.

1 15. Counsel or *pro-se* individuals are encouraged to electronically
2 file all pleadings. Compliance with Local Rule 5Jiii (“A hard copy original of an
3 emailed document must be provided within five business days”) is waived
4 through May 29, 2020.

5 16. Litigants and attorneys who arrive at court and report they are
6 not feeling well shall be ordered to reschedule their appearance.

7 17. The public and practicing bar are encouraged to continue using
8 First Judicial District Court services while strictly following all applicable public
9 health guidelines.

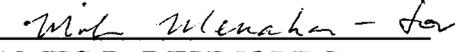
10 18. In the event any individual being held in custody at the LCDC
11 or the BCDC tests positive for the novel coronavirus or COVID-19, the Lewis
12 and Clark County Sheriff or the Broadwater County Sheriff shall immediately
13 notify each other by email as well as all district judges, justices of peace, and
14 city/municipal judges in Helena, East Helena, and Townsend.

15 19. The First Judicial District Judges will continue to assess the
16 public health situation during the pendency of this Order. They may vacate,
17 extend or amend this Order as circumstances require.

18 ORDERED this 9th day of April 2020.

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21 
22 MIKE MENAHAN
23 Chief District Court Judge

24 
25 KATHY SEELEY
District Court Judge

26 
27 JAMES P. REYNOLDS
28 District Court Judge

29 
30 MICHAEL F. McMAHON
31 District Court Judge

- 1 c: Leo Gallagher, Lewis and Clark County Attorney (hand-delivered)
- 2 Cory Swanson, Broadwater County Attorney (via email)
- 3 Suzanne Seburn, Office of Public Defender (via email)
- 4 Leo Dutton, Lewis and Clark County Sheriff (hand-delivered)
- 5 Wynn Meehan, Broadwater County Sheriff (via email)
- 6 Angie Sparks, Lewis and Clark County Clerk of Court (hand-delivered)
- 7 Val Hornsveld, Broadwater County Clerk of Court (via email)
- 8 Honorable Mike McGrath, Montana Supreme Court Chief Justice (via email)
- 9 Honorable Kirk Flynn, Broadwater County Justice of Peace/City of Townsend
Judge (via email)
- 10 Honorable Mike Swingley, Lewis and Clark County Justice of Peace (hand-
delivered)
- 11 Honorable Annie Peterson, City of Helena Judge (hand-delivered)
- 12 Montana Bar Association (via email)
- 13 Montana Judges Association (via email)

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