

In the Supreme Court of the State of Idaho

**RE: COMMENCEMENT OF
JURY TRIALS**

**ORDER
November 9, 2020**

This Court's September 10, 2020 Order Re: Commencement of Jury Trials established a standard for the commencement of jury trials based upon the COVID-19 incidence rate in the county in which a trial was scheduled to be held. A primary purpose of that Order was to address the substantial health and safety risks upon all jury trial participants caused by community spread of the novel coronavirus, while seeking to also protect the legal rights of parties.

Since the entry of that order, data provided by the Idaho Department of Health and Welfare at coronavirus.idaho.gov evidences an increasing incidence of COVID-19 cases throughout the state. That data shows that the weekly moving average incidence rate of COVID-19 cases in the state has increased from September 13, 2020 to November 8, 2020 by 335%, with an average week over week increase of 21%. The moving average incidence rate statewide has trended upwards for seven of the last eight weeks.

In addition, since the recording of statewide case counts in Idaho began on March 13, 2020, there have been only nine days with case counts over 1,000. All nine days have occurred since October 23, 2020.

The virus is easily transmitted, especially in group settings, and it is essential that the spread of the virus be slowed to protect public health and safety as well as safeguard the ability of Idaho's healthcare professionals to manage the recent increase in cases.

In accordance with established law and rules of the Court, court administrators, judges, court clerks, jury commissioners, and lawyers must adhere to established time lines and other legal requirements in preparation for a given jury trial. In addition, all trial participants must invest many resources in preparation for a jury trial. In addition to the investment of court professionals, jurors and witnesses are summoned to court well in advance and must set aside time to appear and make arrangements to ensure appearance. Parties to a case must themselves prepare for trial. When a jury trial is cancelled, all those summoned to court must be notified of the cancellation and preparations are disrupted or must be made again at a future date.

Under the terms of the September 10, 2020 Order, cancellations of the scheduled commencement of jury trials around the state are substantially increasing as the incidence of COVID-19 cases are rapidly increasing statewide. The percentage of counties with sufficiently low incidence rates to commence jury trials has decreased from 91% of counties on September 10, 2020, to only 5% of counties on November 6, 2020. The number of cancellations of jury trials on a weekly basis is

now creating significant interruptions in court business, as well as challenges and hardships for all jury trial participants.

In order to address the continuing rise in the incidence of COVID-19 cases in the state, foster public safety, mitigate against the spread of the coronavirus, while recognizing the substantial resources being expended despite the high incidence rate preventing the holding of jury trials, pursuant to Idaho Court Administrative Rule 48, no jury trial, whether criminal or civil, shall commence in Idaho state courts before January 4, 2021. This order shall not otherwise effect any deadlines in any existing pretrial orders.

As used in this order, the word "commence" means the first day members of a jury venire are required to physically appear at a courthouse or designated facility. This order shall be deemed to have tolled the time utilized to calculate the right to a speedy trial pursuant to I.C. §19-3501.

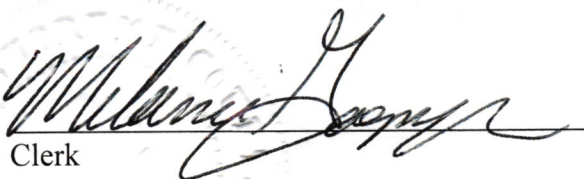
Further, the Court strongly encourages robust participation in alternative dispute resolution procedures including the use of senior judges which can be furnished without cost to the parties by the Idaho Supreme Court until December 31, 2020.

IT IS SO ORDERED.

DATED this 9 day of November, 2020.


Roger Burdick,
Chief Justice, Idaho Supreme Court

ATTEST:


Clerk