

NEWS FROM U.S. DISTRICT COURT

September 10, 2021

COVID UPDATE: As we mentioned in the July Newsletter, Renewed Standing Order 21-02, which authorized certain video hearings under the CARES Act lapsed on July 1st, when the spread of the COVID-19 virus in South Dakota had lessened. Now that 55 of South Dakota's 66 counties are listed as having "high" community spread and the total number of cases of people infected with the Delta variant continues to increase, Chief Judge Lange has entered [Second Renewed Standing Order 21-02](#), which reauthorizes the use of video teleconferencing for certain hearings including changes of plea and sentencing hearings as long as the defendant consents.

Updated Criminal Jury Instructions: The 2020 edition of the Manual of Model Criminal Jury Instructions for the District Courts of the Eighth Circuit is now available. To access these instructions, go to the district court's website located at www.sdd.uscourts.gov. On the blue menu bar, click on the **For Attorneys** tab and go to → **Jury Instructions** → **Eighth Circuit Model Jury Instructions** → **Criminal Instructions**. The manual is available in PDF format and Word format.

Passports and Criminal Cases: If you practice criminal law, you know that on occasion defendants are required to surrender their passports as a condition of pretrial release. When a passport is surrendered, the Clerk's Office prepares and docketed a PS 40 form in CM/ECF. Through the docketing process, the State Department receives notice of the passport surrender. Once surrendered, passports are stored in a locked evidence room in the Clerk's Office. At the conclusion of the case, the Clerk's Office completes the notice of disposition portion of the PS 40 form. Unless counsel or the Probation Office raise the issue at sentencing, and the Court orders otherwise, the Clerk's Office has no discretion; it must return the passport to the State Department upon entry of a judgment and conviction.

TIP OF THE MONTH—Flattening Files: When entering information into a PDF fillable form that will later be filed in CM/ECF, it is important to "flatten the file." Flattening the file not only decreases the file size, but it also keeps the integrity of the data entered on the form. Occasionally we find documents in CM/ECF that were created using a form but were not flattened. When this happens, information typed into fields does not show up unless you hover over the field. To flatten the file, select "print to PDF", instead of "save" or "save as". When PDFs are filed with fields that are still fillable, the content in the field can be modified by anyone who opens the form and may not display properly.