

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA**

**IN THE MATTER OF**  
  
**CHANGES TO COURT OPERATIONS  
DUE TO CORONAVIRUS DISEASE  
(COVID-19)**

**FOURTH AMENDED  
STANDING ORDER 20-03  
(SUSPENSION OF JURY  
PROCEEDINGS)**

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In response to the outbreak of the respiratory disease COVID-19 in South Dakota and bordering states, the Court on March 17, 2020, entered Standing Order 20-03, cancelling jury and grand jury proceedings through April 24, 2020. The COVID-19 virus then spread in the United States and within the State of South Dakota, prompting the Court in early April to extend cancellation of jury trials and restrictions on grand jury proceedings through July 6, 2020, through entering a First Amended Standing Order 20-03. In late May, this Court entered a Second Amended Standing Order 20-03 permitting grand jury proceedings to resume in Pierre in June. Since July 6, 2020, the Court, utilizing a procedure to mitigate risks of virus spread inside of courthouses, has successfully conducted jury trials in the District of South Dakota, as well as allowed grand juries to convene district wide. However, COVID-19 cases in South Dakota surged in a way making it hard to predict whether jury trials could be safely conducted in all divisions of the District of South Dakota, so the Court in late July entered a Third Amended Standing Order 20-03 to leave it to individual judges to evaluate and determine whether and when to conduct jury trials. In recent weeks, however, the spread of COVID-19 infections in South Dakota has intensified, with hospitals at or near capacity and deaths at record levels in this state. Conducting jury trials has become more difficult and federal courthouse closures for cleaning due to COVID-19 issues have become much more frequent. After considering current guidance from the Centers for Disease Control not to travel for Thanksgiving and after consulting with representatives of numerous agencies, including but not limited to the Federal Public Defender's Office, the United States Attorney's Office, the United States Probation Office, the United States Marshals Service, and the General Services Administration,

**IT IS ORDERED:**

1. The District of South Dakota hereby suspends all jury trials effective November 25, 2020, until January 25, 2021.


2. Non-jury proceedings, such as bench trials and hearings, may proceed as scheduled in the discretion of the presiding judge. The parties are encouraged to consider participation by telephone or video conferencing when that option is available. Second Renewed Standing Order 20-05 and the CARES Act authorize conduct of certain hearings in criminal cases by videoconference or by telephone if videoconference is unavailable.

3. New grand juries are due to be empaneled in Sioux Falls and Rapid City in December, but doing so requires too many people to gather in close proximity. Thus, grand jury proceedings are suspended effective immediately in Sioux Falls and in Rapid City. The grand jury already empaneled in the Central Division where infection rates are lower will be allowed to convene in December, and the U.S. Attorney may use that grand jury to consider indictments or superseding indictments district wide. During grand jury proceedings, all people in the courtroom must wear masks until and unless behind a plexiglass enclosure. No new grand jury will be empaneled in the Central Division until at earliest the week of January 25, 2021.

4. All deadlines established in civil cases will remain in place, although the Court will be receptive to motions from the parties to enlarge deadlines in civil cases due to disruption caused by social distancing requirements and travel restrictions. Parties are encouraged to consider conducting discovery through means that avoid unnecessary travel or personal contact, such as by telephone or video conferencing, and to consult and seek to agree, if possible, on any enlargement of civil case deadlines. Any dispute over whether discovery can be effectively accomplished consistent with applicable public health guidelines may be submitted to the Court by motion.

5. Except as set forth herein, Court business will proceed as usual to the extent possible consistent with public health guidelines.

DATED this 25<sup>th</sup> day of November, 2020.

  
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ROBERTO A. LANGE, CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA