

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

STATE OF IDAHO

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RE: FOURTH DISTRICT  
JURY TRIALS SUSPENSION

ADMINISTRATIVE ORDER

NO. 22-01-12

Because the COVID-19 case numbers were less than 25 per 100,000 population on January 6, 2022 in each county, jury trials were permitted to commence in the counties of this district the week of January 17, 2022. See Administrative Order No. 22-01-07.

Since that order (January 7, 2022), COVID-19 cases in the counties of this district have significantly increased. Moreover, the COVID incident rates used in the calculation to permit trial the week of January 17 have been subsequently revised based on updated information reported by the Idaho Department of Health and Welfare, with each of the counties, other than Elmore, having rates well above 25.<sup>1</sup> Concerningly, the revised numbers do not even reflect nearly 15,000 backlogged additional positive tests that have yet to be processed, according to the Idaho Department of Health and Welfare. *Id.* Further, because numerous people are using at home rapid tests, which are not included in the numbers reported by Health and Welfare, the actual incidence rate is believed to be much higher than that officially

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<sup>1</sup>The COVID-19 revised seven day moving average for Ada County for last week was 32.3; in Elmore County it was 18.2 (and as of January 11 is 75.8); in Boise County it was 31.0 (currently 40.1) and in Valley County it was 84.0 (currently 102.8). See *Idaho Supreme Court's COVID-19 Incidence Trends for Safety Protocol Considerations for the week of January 7, 2022*. See also, <https://public.tableau.com/app/profile/idaho.division.of.public.health/viz/DPHIdahoCOVID-19Dashboard/Home>

reported. Testing positivity rate in the Treasure Valley is reported to be over 35 percent and hospitals have seen a dramatic increase in hospitalizations over the past several days.

Therefore, it appears there is a substantially increased risk to the health and safety of persons summoned for jury duty in this district:<sup>2</sup> Also, summoning large numbers of jurors, including health care workers would further deplete the reserve of those involved in providing or facilitating health care in the community. In addition, staffing of the courts and the justice partners prosecuting and defending cases have been significantly impacted by the latest COVID wave.

The Idaho Supreme Court's current directive regarding jury trials provides:

[A]n administrative district judge may, in the exercise of discretion, enter an order prohibiting the commencement of jury trials or the impanelment of a grand jury in a county where there are circumstances beyond the previously published incidence rates which pose a substantial increase in the health or safety risks to participants.<sup>3</sup>

Accordingly, jury trials in the counties of this district may not commence the week of January 17, 2022 nor thereafter until further order of the Administrative District Judge.

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<sup>2</sup>See *Biggest Wave Yet: Some Clinics Close Urgent Care, Unable to Handle COVID Spike*, <https://www.idahostatesman.com/news/local/community/boise/article257196907.html> (January 11, 2022). (According to Primary Health's Chief Medical Officer, "this is the biggest wave we've experienced yet. . . . Over the last seven days, Primary Health saw a positivity rate of 34%. . . . We are in very, very concerning territory. . . . So this is truly a crisis"). See also <https://www.ktvb.com/article/news/health/coronavirus/idaho-omicron-spike-covid-idhw-briefing/277-79868656-d375-4edf-b58c-2bd1bfb64fd1> ("Medical officers with two of Idaho's largest health systems -- Saint Alphonsus and St. Luke's -- said a 'fifth wave' of COVID is beginning, and the number of hospital employees becoming infected with the virus could mean health-care capacity may be as strained, or perhaps more strained, than what Idaho experienced in September, when crisis standards of care were activated." . . . 'The train's coming back. This is very much like the beginning of the pandemic again. And this time it's gonna flatten us, quite honestly. We need to be prepared for that,' said Dr. Steven Nemerson, chief clinical officer for Saint Alphonsus Health System.").


<sup>3</sup> *Idaho Supreme Court's November 29, 2021 Amended Emergency Order Regarding Court Services*, at 4 (#8)

The time used to calculate the right to a speedy trial pursuant to I.C. § 19-3501 will be tolled during such time that trials are not permitted in this district pursuant to this Order.<sup>4</sup>

Administrative Order No. 22-01-07 is hereby rescinded.

IT IS SO ORDERED.

Dated this 12<sup>th</sup> day of January 2022.

  
HONORABLE STEVEN J. HIPPLER  
Administrative District Judge  
Fourth Judicial District

cc: All Judges  
Sandra Barrios, Trial Court Administrator, Fourth Judicial District  
Phil McGrane, Ada County Clerk of Court  
Mary T. Prisco, Boise County Clerk of Court  
Shelley Essl, Elmore County Clerk of Court  
Douglas Miller, Valley County Clerk of Court  
Jan Bennetts, Ada County Prosecutor  
Adam Strong, Boise County Prosecutor  
Daniel Page, Elmore County Prosecutor  
Brian Naugle, Valley County Prosecutor  
Jayme Sullivan, Boise City Prosecutor  
Charles Wadams, Garden City Prosecutor  
Tony Geddes, Ada County Public Defender  
Rob Chastain, Boise County Public Defender  
Terry Ratliff, Elmore County Public Defender  
Scott Erekson, Valley County Public Defender  
Randy Rutland, Ada County Jury Commissioner  
Ashley Turner, Boise County Jury Commissioner  
Eileen Kirkland, Elmore County Jury Commissioner  
Tammy Angier, Valley County Jury Commissioner  
Robert Reisig, Administrative Staff Attorney  
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<sup>4</sup> *Id.*, at 4.