

AMENDED TEMPORARY EMERGENCY ORDER

THIS ORDER IS ISSUED BY THE 70TH, 161ST, 244TH, AND 358TH DISTRICT COURTS OF ECTOR COUNTY, TEXAS.

State officials, and others, have considered the implementation of necessary emergency measures to address the existing corona virus pandemic. Governor Greg Abbott has issued public health disaster proclamations and other executive orders. The Texas Supreme Court and Court of Criminal Appeals (the "Courts") have issued Joint Emergency Orders recommending the implementation by all courts of certain procedures, and the modification and suspension of specified provisions which relate to the administration of all court proceedings. The Office of Court Administration (OCA) and the Presiding Judges of the Eleven (11) Texas Administrative Judicial Regions have published recommendations and guidelines for all courts to consider in pursuing effective docket control and court management during this pandemic. Furthermore, local officials have implemented necessary precautions and preventative measures.

In light of the aforementioned directives, recommendations, and guidelines, and balancing the rights and interests of all litigants and the responsibility of the courts to adopt procedures that are necessary and prudent under the existing circumstances to protect the health and safety of all litigants, their counsel, court personnel, court participants, and the public, **IT IS ORDERED** that:

1. **"IN-PERSON" JURY TRIALS (civil and criminal), including jury selection, for the 70th, 161st, 244th, and 358th District Courts may not proceed prior to FEBRUARY 1, 2021 unless authorization and approval, consistent with the requirements recited in Texas Supreme Court *Misc. Docket No. 20-9135* (November 11, 2020) and the Guidelines issued by OCA, has been obtained from the Administrative Judge for the Seventh Judicial**

Region, the local administrative district judge for Ector County, Texas, and appropriate local health officials. Furthermore, a jury trial plan for each anticipated “in-person” jury trial must be prepared, in consultation with the judges of the district courts and statutory county courts of Ector County, Texas, and thereafter approved by the Administrative Judge for the Seventh Judicial Region and the local administrative district judge for Ector County, Texas, before any such “in-person” jury trial may proceed. Any jury trial plan submitted for approval must be consistent with the Guidelines and requirements issued by the Texas Supreme Court and OCA, after all objections have been considered. Courts that proceed with approved “in-person” jury trials shall ensure that there is compliance with all necessary and required health and safety regulations and precautions.

2. Plea conference and pre-trial settings in the 70th, 161st, 244th, and 358th District Courts shall proceed at the discretion of the presiding court.

3. Unless otherwise notified by the presiding court, effective June 1, 2020, *“in-person proceedings”* for **“ESSENTIAL”** and **“NON-ESSENTIAL”** matters scheduled in the 70th, 161st, 244th, and 358th District Courts, **with the exception of “IN-PERSON” JURY TRIAL SETTINGS**, shall proceed in compliance with the directives, guidelines, and requirements of the **COVID-19 OPERATING PLAN FOR THE ECTOR COUNTY JUDICIARY**. **“ESSENTIAL”** and **“NON-ESSENTIAL”** matters are defined in the Courts' Emergency Orders, and the directives, recommendations, and Guidelines issued by OCA.

4. Scheduled *“in-person” proceedings* shall be restricted to the litigant(s), their counsel, other necessary participants, and the public, of which a cumulative “gathering” of persons for such proceeding, either in the courtroom or any other area of the courthouse, shall not exceed or be contrary to the maximum group size as designated by local, state, national, and judicial

directives, whichever is most restrictive. For *“in-person” proceedings, it is recommended that all participants (a) wear face coverings, to the extent it is possible to do so, and (b) be separated consistent with the recommended “social distancing” restrictions and other necessary precautions.* Proceedings may also be scheduled in compliance with the non-attendance, alternative means, and participation requirements and limitations recited in this Order, the Courts’ Joint Emergency Orders, and the guidelines, directives, and recommendations issued by OCA, the Texas Supreme Court, and the Presiding Judges of the Administrative Judicial Regions.

5. *“In-person” proceedings* for **“ESSENTIAL”** matters may occur contrary to the applicable maximum group size limitation if the law requires the presence of a group size that would exceed this limitation, such as for grand jury proceedings and deliberations.

6. Counsel for any litigant appearing in the 70th, 161st, 244th, or 358th District Courts shall inquire and thereafter **immediately advise the presiding court** should it become known, or suspected, that any litigant, their counsel, or any necessary participant to a scheduled court proceeding has, or is believed to have: (a) contracted, tested positive for, or been in known close contact with any person who is confirmed to have contracted or tested positive for COVID-19; (b) recently traveled to any area where the presence of COVID-19 has been diagnosed, confirmed, and reported; and (c) elevated fever or temperature, persistent coughing or sneezing, shortness of breath or difficulty breathing, chills, repeated shaking with chills, muscle pain, headache, sore throat, loss of taste or smell, diarrhea, or other flu-like symptoms. If these circumstances or symptoms exist, such person or persons will not be permitted to enter the courthouse or any courtroom.

7. Recognizing that the facilities, means of technology, and other accommodations where these courts are situated are archaic and less than ideal, to extent it is possible, feasible, authorized by the county's IT Department, and can be successfully implemented, these courts will use reasonable efforts to preside over "**ESSENTIAL**" and "**NON-ESSENTIAL**" matters by utilizing remote, alternative means, i.e., videoconferencing, teleconferencing, ZOOM access, Webex access, or other suitable means. If remote, alternative means are utilized by any court under such circumstances, the litigant(s), their counsel, any necessary participant to be involved in said proceeding, or the public, may elect to participate remotely, i.e., videoconferencing, teleconferencing, ZOOM access, Webex access, or by other suitable means. Remote, alternative means will not be utilized by any court if the litigant(s), their counsel, or any necessary participant to such proceeding cannot successfully participate for reasons beyond the court's control.

8. The courts may travel and engage in activities that are reasonably necessary to conduct court proceedings as permitted for "**ESSENTIAL**" matters. As such, the courts may conduct scheduled proceedings in a location away from Ector County. Reasonable notice and access to the litigants, their counsel, necessary participants, and the public will be provided if circumstances justify the need for such action.

9. With reference to the court settings identified in this Order, and the appearance of litigants, their counsel, or other necessary participants to any such scheduled proceeding, counsel of record shall immediately contact the courts with any questions or concerns.

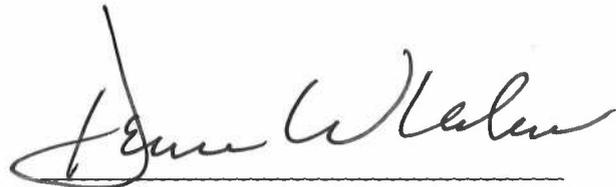
10. All litigants, their counsel, and other participants who are to be involved in a proceeding that is scheduled pursuant to this Order, shall comply with the provisions and directives of this Order, the Courts' Joint Emergency Orders, any subsequent Court Orders, the

COVID-19 OPERATING PLAN FOR THE ECTOR COUNTY JUDICIARY, and all applicable local, state, and national directives.

The limitations and deadlines stated in this Order shall remain in effect until further Order of the 70th, 161st, 244th, and 358th District Courts, or any presiding court, and may be modified as necessary, consistent with the recommendations, directives, and guidelines received from the Texas Supreme Court, OCA, the Presiding Judges of the Administrative Judicial Regions, or appropriate local health authorities.

IT IS SO ORDERED.

SIGNED the 17TH day of November, 2020.

A handwritten signature in black ink, appearing to read "Denn Whalen", written over a horizontal line.

**DENN WHALEN
PRESIDING JUDGE
70TH DISTRICT COURT
LOCAL ADMINISTRATIVE JUDGE**