

**RESUMPTION OF TRIALS AND EVIDENTIARY HEARINGS
U.S. Bankruptcy Court, W.D. Washington**

**For Website Publication
October 2020**

The Bankruptcy Court for the Western District of Washington may hold a limited number of trials and evidentiary hearings in-person, in-court, beginning the week of October 5. This is subject to the discretion of the assigned judge. This is also dependent upon the courthouses in Seattle and Tacoma being able to operate consistently with the current applicable orders from the Governor of the State of Washington (“the Governor”), the Chief Judge of the District Court for the Western District of Washington (“the Chief Judge”), and local, state, and county public health guidance. These general standards and protocols apply to all bankruptcy chambers in the district; however, individual chambers within the Bankruptcy Court may have additional or different protocols that are generally consistent with these standards. Individual chambers will post information on their chamber’s procedures page of the Bankruptcy Court’s website.

OMNIBUS MOTIONS CALENDARS

Due to the nature of the Court’s omnibus motions calendars, regularly scheduled motions calendars will continue to be held telephonically for the foreseeable future, pending further announcement.

FACIAL COVERINGS, MASKS, FACE SHIELDS

Evidentiary hearings and trials will be conducted in compliance with any conditions set by the Governor, General Orders of this Court and the District Court, and public health officials. Facial coverings or masks and observing 6-foot social distancing will be required for all hearing participants while they are in a courtroom or any other location in the courthouse. Attorneys and witnesses who appear in court shall wear a mask and a face shield when not speaking during the court proceeding. Attorneys and witnesses may lower their mask when speaking during court proceedings. See District Court General Order 10-20. **Each attorney and witness are responsible for providing their own face shield and mask.**

COURTROOM CAPACITY LIMIT

Each courtroom within the courthouses in the Western District of Washington will have an established capacity limit that sets the number of people who can be in the courtroom at any given time (“the Capacity Limit”) This is provisionally estimated at 10 people per courtroom, inclusive of judge, courtroom staff and court security officer (“CSO”). The CSO will be responsible for keeping the number of people in the courtroom at, or under, the Capacity Limit. The Capacity Limit will be posted outside the courtroom with instruction that those entering will ensure that the 6-foot distance shall be observed while waiting to take a seat. At the close of the hearing or session, the presiding judge shall remind all those in the courtroom to leave orderly while observing 6-foot distancing.

The parties to an evidentiary hearing or trial should notify the assigned judge’s courtroom deputy if it is anticipated that counsel, party representatives, and others attending with them, when combined with other anticipated participants, will exceed the Capacity Limit, or if special arrangements for the courtroom configuration, or participation via remote video or audio feeds, are desired.

COURTROOM PROTOCOL FOR EVIDENTIARY HEARINGS AND TRIALS:

- **Personal Protection Equipment and Social Distancing:** The expectation is that all courtroom participants in all proceedings, as well as the public, will observe 6-foot social distancing and wear a facial covering while in the courtrooms, courthouse public spaces, and common areas. Attorneys and witnesses appearing in court shall wear a mask and a face shield when not speaking during the court proceeding and may lower their mask when speaking during court proceedings. **Participants are responsible for providing their own mask and face shield.**
- **Counsel Tables:** Social distancing restrictions will likely limit presence at counsel table to two (2) persons. Each participant is encouraged to have physical contact only with the chair and counsel table to which the participant is assigned. In some courtrooms, additional counsel tables may be available to accommodate additional participation.
- **Conference Rooms:** Attorney conference rooms will be available and may be used if social distancing can be maintained. Depending on the size of the

conference room, capacity may be limited to two (2) persons per conference room.

- **Confidential Communications in Court:** Passing notes between lawyers and other participants will not be permitted. Consistent with the District Court General Order 3-14, counsel may use an electronic device, including a cell phone, to communicate by text messaging or email with co-counsel or the client in the courtroom.
- **Personal Hygiene:** Gloves are not required, but all participants are reminded to refrain from touching their faces and to wash hands at the conclusion of every court session. The court will provide hand sanitizer and disinfecting wipes for use during the proceedings.
- **Exhibits:** Each judge will establish a procedure for the submission of exhibits, either electronic exhibits, hard copy exhibits, or a combination. Provisions for exhibits will remain a judge by judge determination.
- **Podium:** The podium will not be used. Counsel will remain at counsel table, seated, when addressing the court or examining a witness.
- **Witnesses:** Evidentiary hearings and trials that entail the taking of testimony will necessarily involve witnesses. Witnesses may be reluctant or even unwilling to appear in response to a request or an issued subpoena. Counsel should exercise caution in requesting the court to enforce a subpoena on any witness who has expressed personal health concerns.
- **Witness Seating:** Depending on the configuration of the individual courtroom, witnesses shall be seated in the existing witness box with a plexiglass partition, or at a separate table with a plexiglass partition, preserving a minimum 6-foot distance from any other participant.
- **Microphones:** Microphones will be provided at the witness stand and at counsel tables. Microphone covers will also be provided. Each speaker will cover the microphone before they first begin speaking and will dispose of the microphone cover when their testimony or the hearing is complete.
- **Water Provided:** Shared water pitchers will not be provided. Participants in the Tacoma courthouse are encouraged to bring empty water bottles to the courthouse and fill them at the touchless water fountain located on each floor. There are no touchless water fountains in Seattle; bottled water will be provided.

- **Public Access:** All courtroom proceedings will be open to the public. When current guidance prohibits the public from accessing the courthouse in person, the court will provide public access via phone conference lines.