

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH**

IN THE MATTER OF EXTENSION OF THE PROTOCOL FOR HEARINGS TO BE CONDUCTED TELEPHONICALLY IN RESPONSE TO THE COVID-19 VIRUS	General Order No.: <u>20-006</u>
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In its General Order 20-002, the United States Bankruptcy Court for the District of Utah ordered that, unless otherwise ordered by the hearing judge, all hearings scheduled in the Court through April 13, 2020 would be conducted by telephone in order to stem the spread of the COVID-19 virus. The order further provided that the Court could extend it as the exigencies of the circumstances merited, and the Court did so in its General Order 20-004, extending the telephonic hearing procedure through May 1, 2020, and a second time in its General Order 20-005, extending that procedure through May 31, 2020.

The State of Utah has developed a “color-coded health guidance system . . . to guide health behaviors for individuals and businesses” during the COVID-19 pandemic.¹ The guidance system is visually represented by a dial consisting of four levels of risk posed by the COVID-19 virus: high (red), moderate (orange), low (yellow), and new normal (green).² Utah moved from the high-risk level to the moderate-risk level on May 1, 2020.³ Effective as of May 16, most of the counties in Utah were further downgraded to the low-risk level.⁴ Salt Lake City itself, however, where this Court sits, remains in the moderate-risk level,⁵ although its mayor recently suggested that it may transition to low-risk status by the end of this week.⁶

Under the moderate-risk level guidelines, individuals are asked to “[l]eave home infrequently, stay 6 feet away from others when outside the home,” and wear face coverings “in public settings where other

¹ *Utah’s Health Guidance System*, CORONAVIRUS.UTAH.GOV, <https://coronavirus.utah.gov/utahs-health-guidance-system/> (last visited May 26, 2020).

² *Id.*

³ Andy Larsen, *As Utah Turns the Dial from Red to Orange, Here Is the Coronavirus State of the State*, SALT LAKE TRIB., May 3, 2020, <https://www.sltrib.com/news/2020/05/03/utah-turns-dial-red/>.

⁴ *Governor Issues Executive Order Moving Much of Utah to Yellow Health Risk Status*, CORONAVIRUS.UTAH.GOV, <https://coronavirus.utah.gov/governor-issues-executive-order-moving-much-of-utah-to-yellow-health-risk-status/> (last visited May 26, 2020).

⁵ *Utah’s Health Guidance System*, CORONAVIRUS.UTAH.GOV, <https://coronavirus.utah.gov/utahs-health-guidance-system/> (last visited May 26, 2020).

⁶ Ben Winslow, *SLC May Move to ‘Yellow’ By the End of This Week as Utah’s Health Orders on COVID-19 Expire*, FOX 13 SALT LAKE CITY, May 26, 2020, <https://www.fox13now.com/news/coronavirus/local-coronavirus-news/covid-19-health-orders-expire-this-week-but-utah-may-stay-yellow-for-a-while>.

social distancing measures are difficult to maintain,” while employers are asked to “[m]inimize face-to-face interactions,” and “[m]ake every possible effort to enable working from home as a first option.”⁷ Both individuals and employers are asked to take “extreme precautions.”⁸ Social distancing constitutes an essential part of such precautions; even the low-risk level guidelines require the general public and employers to “[m]aintain social distancing when in public settings.”⁹

Given the nature of hearings in this Court, which can consist of large calendars involving many attorneys, the Court believes that, in order to comply with the current guidance from the State of Utah, it must extend the telephonic hearing procedure. Doing so minimizes face-to-face interactions among Court staff while enabling them to work from home as a first option, while at the same time permitting members of the public who have hearings before the Court to abide by the directive to leave home as infrequently as possible. The Court has considered the possibility of holding in-person hearings using social distancing measures and masking, but believes that it is not compatible with current guidance, and any benefit derived from such hearings is substantially outweighed by the risk of transmission of the virus. This remains true even if Salt Lake City transitions to the low-risk level. The Court concludes that the better course is to continue to hold hearings telephonically, which the Court has found adequate to the task to this point.

Accordingly, and after reviewing the current circumstances concerning the COVID-19 virus, the Court determines a further extension of its prior orders is warranted and hereby ORDERS as follows:

Unless otherwise ordered by the hearing judge, all hearings scheduled in the Court shall be conducted by telephone at least until such time as Salt Lake City transitions to the new normal-risk level. Transition to such level will not necessarily signal the return of in-person hearings, however. When the city achieves that transition, the Court will reevaluate the information and circumstances regarding the COVID-19 virus to determine the advisability and feasibility of in-person hearings. Counsel and parties with hearings in this Court are instructed to contact chambers to make arrangements to appear telephonically.

The Court may extend or revise this order as the exigencies of the circumstances merit.

⁷ *Utah’s Moderate Risk Phase*, CORONAVIRUS.UTAH.GOV, <https://coronavirus.utah.gov/utahs-moderate-risk-phase/> (last visited May 26, 2020).

⁸ *Id.*

⁹ *Utah’s Low Risk Phase*, CORONAVIRUS.UTAH.GOV, <https://coronavirus.utah.gov/utahs-low-risk-phase/> (last visited May 26, 2020).

Dated this 28th day of May, 2020.

BY THE COURT:

/s/ R. Kimball Mosier
R. KIMBALL MOSIER, Chief Judge

/s/ Kevin R. Anderson
Kevin R. Anderson, Judge

BY THE COURT

/s/ Joel T Marker
Joel T. Marker, Judge

/s/ William T. Thurman
William T. Thurman, Judge

[END OF ORDER]