

JUN 04 2020

1
2 SUPERIOR COURT OF THE STATE OF CALIFORNIA
3 IN AND FOR THE COUNTY OF LAKE
4

Krista D. Levier
Deputy Clerk

5 GENERAL ORDER ON THE REQUIREMENT OF WEARING FACE COVERINGS
6 AND MAINTAINING PHYSICAL DISTANCING
7

8 On May 21, 2020, the Lake County Public Health Officer issued an
9 Order (No. C20-06) requiring all members of the public to wear face
10 coverings when entering local businesses and facilities. On May 28,
11 2020, the Lake County Public Health Officer issued an Addendum
12 Order (No. C20-06A1) exempting from the requirement of wearing a
13 face covering a person that would suffer difficulty breathing or
14 other adverse physical or emotional consequences. The Orders of the
15 Public Health Officer direct social/physical distancing of 6 feet
16 and that wearing a face covering is not a substitute for social /
17 physical distancing. The court is acting to comply with the Order.
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19 On May 27, 2020, the court issued a General Order which includes
20 the order that all persons, including court staff and members of
21 the public, while physically present at the Lake County Superior
22 Court (Fourth floor of the Courthouse and the Clearlake Branch)
23 shall wear a face covering and maintain social/physical distancing.
24 Notice of the entry of this Order was provided to the public.
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26 The court has the duty to undertake reasonable measures to
27 protect the court staff and members of the public coming to the
28 court facility against the spread of COVID-19. The court has the
29 duty to provide access to justice and to adopt process to overcome
30 impairments or impediments to those coming to court to seek court

1 intervention. Based on the information from the Public Health
2 Officer, and credible information from public health agencies and
3 professionals, regarding the manner in which the virus may be
4 spread, the court reasonably acts to adopt measures to protect
5 court staff and court users and to evidence to the public that the
6 court is acting, to the extent possible, to effect a safe court
7 environment.

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9 The court has broad powers to provide for the orderly conduct of
10 court proceedings and to control, in the furtherance of justice,
11 the conduct of all persons before the court in any manner
12 pertaining to the proceeding. CCP, 128.5(a)(3)(5); People v.
13 Wallace (2008) 44 Cal.4th 1032, 1057 [trial courts have broad power
14 to control courtrooms and maintain order and security]; Rutherford
15 v. Owens-Illinois, Inc. (1997) [a court has inherent equitable,
16 supervisory and administrative power to exercise reasonable control
17 over court proceedings and adopt methods to insure the orderly
18 administration of justice].

19
20 The wearing of a face covering and maintaining physical
21 distancing has been determined by the State and local Public Health
22 Officer and credible public health agencies to be a valid and
23 prescribed protective measures against the COVID-19 contagion. The
24 wearing of a face covering is designed to protect the public from
25 the wearer and not the wearer from the public. Accordingly, the
26 failure to wear face covering while at court by a person is a
27 direct threat to the health and safety of others in attendance. The
28 wearing of a face covering and physical distancing furthers public
29 policy and are each a necessary requirement to protect the health
30 and safety of court staff and the public.

1
2 The wearing of a face covering by a witness, particularly during
3 a jury trial, under circumstances of physical distancing, may be
4 determined by the court to be an unreasonable interference with the
5 fair trial rights of a party.

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7 THEREUPON THE COURT FURTHER FINDS AND ORDERS AS FOLLOWS:
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9 1. FACE COVERING. All persons who enter, and at all times
10 while physically present at, the Lake County Superior Court (Fourth
11 Floor of the Courthouse and the Clearlake Branch) shall wear a face
12 covering. The face covering shall consist of a cloth or fabric
13 material and worn so as to fully cover the nose and mouth of the
14 wearer. The face covering shall not display obscene prints or
15 messages or otherwise be inappropriate for the workplace. The face
16 covering shall be worn in all areas of the court facility including
17 all common areas, the courtrooms and each courtroom gallery. Any
18 person entering or present at the court facility without a face
19 covering shall be contacted by court staff and directed to wear a
20 mask to be provided by the court. In the event the person will not
21 wear a face covering, the person will be directed to leave the
22 court facility and wait outside the courthouse providing staff with
23 a phone number at which the person may be contacted by the clerk
24 with instructions on the date, time and manner of the appearance.

25
26 2. EXEMPTIONS FOR HEALTH CONDITIONS. Any person, whether a
27 party or counsel, who has a scheduled court appearance and who
28 requests an exemption from the wearing of a face covering shall
29 contact the court clerk at least 3 court days prior to the
30 scheduled hearing date. The person shall advise that the wearing of

1 a face covering causes difficulty breathing or other medical or
2 emotional consequences other than general inconvenience, discomfort
3 and annoyance. The person shall advise whether the face covering
4 can be worn for a certain period of time, or not at all, and advise
5 of the suggested alternatives to face covering to insure the health
6 and safety of others present. The judge of the Department in which
7 the appearance is scheduled will review and determine the request,
8 which may include other factors such as the age of the person, the
9 nature and scope of the proceeding, the amount of time the person
10 is expected to be present in court, the ability of the court to
11 conduct the proceeding remotely, the ability of the court to safely
12 conduct the proceeding with others present including maintaining a
13 6 foot physical distance perimeter around the person without a
14 mask, and the imposition of other protective measures including a
15 face shield or plexiglass barrier if available to the court. Upon
16 determination, the court shall instruct the clerk to inform the
17 person as follows:

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19 A. REQUEST DENIED. There has not been an adequate showing
20 that the exemption is requested due to the face covering causing
21 difficulty breathing or other adverse physical or emotional
22 consequences, or adequate protections for the health and safety of
23 others cannot be accomplished if the request is granted.

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25 B. REQUEST GRANTED. The request has been granted and the
26 terms upon which it has been granted, which may include an order to
27 conduct the appearance and proceeding remotely by utilizing
28 audio/video teleconferencing platform, requiring appearance by
29 telephone, resetting the appearance to another time on the
30 scheduled date or to another date to effect the appearance when

1 other court users are not present or the requirement that other
2 protective measures be utilized.

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5 3. EXEMPTION FOR TRIAL WITNESS. At the request of a party,
6 counsel or witness, the trial court may act to grant an exemption
7 to the wearing of a face covering by a witness. The court may act
8 to order a witness to remove a face covering on the request of a
9 party or on the motion of the court. Any exemption granted or order
10 for removal shall be only while the witness is seated at the
11 witness stand and for the time the witness is actually rendering
12 testimony. The witness shall wear a face covering at all other
13 times.

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15 A. REQUEST FOR EXEMPTION/REMOVAL. Any party requesting that
16 any witness to the proceeding be allowed or required to remove the
17 face covering shall advise the court of the same at the pre-trial
18 conference in a jury trial or the start of a hearing. The party
19 shall provide a concise written statement of the material facts and
20 legal basis for the request based on the specific circumstances of
21 the case.

22
23 B. CONSENT OF WITNESS. Prior to the start of the trial or
24 hearing, each party shall ask each of their listed or intended
25 witnesses whether the witness will consent to the removal of the
26 face covering during testimony or demands not to remove the face
27 covering and shall advise the court of the response of each
28 witness.

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1 C. DETERMINATION OF REQUEST FOR REMOVAL. The trial judge
2 shall review and determine the request including consideration of
3 the consent or refusal of the witness, the reason advanced for the
4 request, the likelihood of there being interference in the
5 reliability of the testimony by the wearing of the face covering or
6 by the compulsory removal of the face covering, the ability of the
7 court to conduct the proceeding safely with others present
8 including maintaining a 6 foot physical distance perimeter around
9 the witness not wearing a face covering, the amount of time the
10 witness is expected to be rendering testimony, the ability of the
11 court to conduct the witness testimony remotely, and the imposition
12 of other protective measures including a face shield or plexiglass
13 barrier if available to the court.

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15 D. REMOVAL ON MOTION OF THE COURT. In the event that during
16 the testimony of a witness wearing a face covering, the court
17 determines that the wearing of the face covering is interfering
18 with the ability of the participants in the trial to hear and
19 understand the testimony of the witness and ensure an accurate
20 record of the testimony of the witness or is otherwise interfering
21 with the fair trial rights of a party, the court may act to require
22 removal of the face covering of the witness. Prior to requiring
23 removal of the face covering, the court shall act to attempt other
24 measures for the testimony to be heard and understood, consider
25 whether the proceeding can be safely conducted with others present
26 including maintaining the 6 foot physical distance perimeter around
27 the witness and whether the testimony of the witness may be
28 conducted remotely and the imposition of other protective measures.


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1 4. SOCIAL/PHYSICAL DISTANCING. All persons who enter, and at all
2 times while physically present at, the Lake County Superior Court
3 (Fourth Floor of the Courthouse and the Clearlake Branch) shall
4 maintain physical/social distancing of six (6) feet or the
5 requirements set by the court for the use and occupancy of the
6 court facility or as directed by the trial judge during a trial or
7 hearing.

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9 A. COUNSEL TABLE. The seating at counsel table does not
10 permit seating at the table while maintaining physical distancing
11 of 6 feet. Unless otherwise requested by counsel and the party,
12 counsel will be seated at counsel table and any party, defendant,
13 investigating officer or other person associated with the trial of
14 the action will be seated behind counsel table in a location as
15 directed by the trial judge. In the event that a party, a defendant
16 or investigating officer is not being seated at counsel table, the
17 court will make the interpreter equipment available for
18 communication between the counsel and the party.

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21 5. EFFECTIVE. This order is effective immediately and shall
22 remain in effect until modified or terminated by further order of
23 the court.

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26 DATED: JUNE 4 , 2020



PRESIDING JUDGE
LAKE COUNTY SUPERIOR COURT