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U.S. BANKRUPTCY COURT
DISTRICT OF NEVADA
MARY A. SCHOTT, CLERK OF COURT

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

**IN RE: BANKRUPTCY COURT
TRANSITION TO IN-PERSON HEARINGS**

ADMINISTRATIVE ORDER 2023-02

On January 31, 2020, the Department of Health and Human Services (“HHS”) determined for the first time that a Public Health Emergency existed nationwide as the result of the COVID-19 pandemic (“COVID Emergency Declaration”). The COVID Emergency Declaration has been routinely extended by HHS since it was first issued almost exactly three years ago. President Biden has stated publicly that he intends to end the COVID Emergency Declaration as of May 11, 2023; however, it is uncertain whether it will be extended further.¹

In response to the HHS COVID Emergency Declaration, and not as a matter of convenience, the Bankruptcy Court for the District of Nevada issued a series of administrative orders. Those administrative orders temporarily allowed bankruptcy court hearings to be conducted by remote means (i.e., by telephone and video conference). Among other things, and subject to the discretion of the presiding judge in particular cases, those administrative orders temporarily permitted participation by counsel and the presentation of witness testimony via remote means during evidentiary hearings and trials in bankruptcy cases and adversary proceedings. The administrative orders allowing bankruptcy court hearings and trials to be conducted by remote means were a reasonable, necessary, and temporary response to the COVID Emergency Declaration issued by HHS. They were issued to promote, preserve, and protect the health and safety of the parties, witnesses, their attorneys, and bankruptcy court staff. They also allowed for the efficient and effective administration of bankruptcy cases in Reno by remote means after the retirement of Hon. Bruce T. Beesley on August 31, 2021, and during the subsequent search for a successor.

Since HHS first issued the COVID Emergency Declaration three years ago, effective vaccines, while not mandatory, have become widely available. Other early-onset oral medications to treat COVID-19 infections are also now available for some patients. The Southern Nevada Health District (“SNHD”) reports that in their service area, 88.32% of persons over 18 years old have initiated the vaccination process, and 72.38% of persons over 18 years old have completed the vaccination process. As of January 29,

¹ <https://aspr.hhs.gov/legal/PHE/Pages/default.aspx>

2023, SNHD reports that using a 7-day average, 40.0 confirmed COVID-19 cases are reported in Clark County per day.² The Washoe County Health District reports that 63.1% of the population in their service area is fully vaccinated, and that an average of 24.9 confirmed COVID-19 cases are reported on a 7-day average as of January 31, 2023. The Center for Disease Control reports that as of January 24, 2023, the community transmission level for COVID-19 was “Low” in every county in the State of Nevada.³ On January 6, 2023, Nevada Governor Joe Lombardo issued Executive Order 2023-001 rescinding all COVID-19 Era Declarations, Executive Orders, and Emergency Directives.⁴ On that same date, Governor Lombardo also issued Executive Order 2023-002, requiring the Nevada Department of Administration to develop of a plan to ensure that State workers return to pre-pandemic, normal and customary office conditions by July 1, 2023.⁵

Remote hearings in Nevada’s bankruptcy courts were a temporary response to the HHS COVID Emergency Declaration and the COVID-19 pandemic in general. While imperfect from the standpoint of creating an appropriate evidentiary record, holding bankruptcy hearings and trials via remote means over the last three years yielded certain practical efficiencies, as well as a degree of convenience for parties and their counsel. During calendar year 2022, and in contemplation of a return to pre-pandemic Court operations over time, the Clerk of Court polled members of the bankruptcy bar seeking input as to the types of hearings that are best suited to in-person courtroom proceedings. That poll reflected that the majority (62%) preferred to have all evidentiary hearings in bankruptcy cases, and all trials in adversary proceedings, held in-person in a courtroom setting.

On January 5, 2023, a notice was posted to this website⁶ advising of the Court’s intention to begin phasing out the administrative orders that temporarily allowed bankruptcy court hearings to be conducted by remote means, and to return to in-person hearings in our courtrooms. This Administrative Order will mark the commencement of that process.

Unless the presiding judge in a particular bankruptcy case or adversary proceeding orders otherwise, counsel, parties, and all witnesses must appear in person at any evidentiary hearing or trial that will be conducted by a judge of the United States Bankruptcy Court for the District of Nevada on or after July 1, 2023. Unless the presiding judge in a particular bankruptcy case or adversary proceeding orders otherwise, this change does not affect any court orders

² The United States Census Bureau reports that Clark County has an estimated population of over 2.29 million as of July 1, 2022.

<https://www.census.gov/quickfacts/fact/table/clarkssummitboroughpennsylvania,clarkcountynevada/PST045222,PST045221>

³ <https://www.cdc.gov/coronavirus/2019-ncov/your-health/covid-by-county.html>

⁴ https://gov.nv.gov/Newsroom/ExecOrders/2023/Executive_Order_2023-001/

⁵ https://gov.nv.gov/Newsroom/ExecOrders/2023/Executive_Order_2023-002/

⁶ <https://www.nvb.uscourts.gov/news-rss/announcements/2023/0105-covid/>

entered prior to February 1, 2023 that authorized attorney appearances and/or witness testimony via remote means (i.e., via telephone or videoconference) at an evidentiary hearing or trial scheduled on or after July 1, 2023.

The Court anticipates that the vacancy on the bankruptcy bench in Reno occasioned by Judge Beesley's retirement will be filled in the near term. It is the consensus of the existing judges that their new colleague should have the opportunity to provide input as to how and when additional bankruptcy court hearings will return to an in-person courtroom setting. As a result, until further notice, all current procedures governing remote appearances at preliminary hearings, duty judge calendars, hearings on reaffirmation agreements, and all other non-evidentiary hearings, remain unchanged.

This Administrative Order 2023-02 is effective until further notice.

DATED this 6th day of February, 2023.



August B. Landis, Chief Judge
UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA