

Administrative Office of the Courts

Supreme Court of New Mexico

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Judicial Information Division (JID)

PUBLIC HEALTH EMERGENCY ORDER **Standard Operating Procedure** **Version 1.0**

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PUBLIC HEALTH EMERGENCY ORDER

COURT / DEPARTMENT / DIVISION

District Courts

USER

District Court staff

PURPOSE

To provide instruction to the courts for processing cases filed under the Public Health Emergency Response Act, Section 12-10A-1*et seq.*

INTRODUCTION

This standard operating procedure provides guidance on how to process court cases that fall under the Public Health Emergency Response Act, including the filing of an application for an ex parte order for isolation or quarantine, and a petition contesting isolation or quarantine. The relevant statutes are quoted below.

12-10A-7. Procedures for Isolation or quarantine of persons.

A. Except as provided in Section 9 [12-10A-9 NMSA 1978] of the Public Health Emergency Response Act, before isolating or quarantining a person during a declared public health emergency, the secretary of health shall apply for and obtain a written, ex parte order from a court that authorizes the isolation or quarantine. Notice of the application for the ex parte order shall be given, unless it clearly appears from specific facts shown that immediate and irreparable injury, loss or damage will result before an affected person can be heard in opposition to the application. The evidence or testimony in support of the application may be presented or taken by telephone, facsimile transmission, video equipment or other method of electronic communication. The court shall grant the application for an ex parte order upon finding that clear and convincing evidence exists to believe isolation or quarantine is warranted to respond to the public health emergency.

B. The ex parte order shall:

- (1) state the specific facts justifying isolation or quarantine;
- (2) state the persons, group or class of persons affected by the ex parte order;
- (3) state that the persons being isolated or quarantined have a right to a court hearing under the Public Health Emergency Response Act and a right to be represented by counsel at the hearing; and
- (4) be served as soon as practicable to persons isolated or quarantined.

C. The secretary of health shall coordinate with the secretary of public safety and the director regarding execution of the ex parte order. The ex parte order shall be posted in a public and accessible place. If individual notice is not feasible, the secretary of health, the secretary of public safety and the director shall use the best means available to ensure that a person subject to the ex parte order is informed of the order and his rights.

D. A person who is isolated or quarantined may request a court hearing pursuant to Section 10 [12-10A-10 NMSA 1978] of the Public Health Emergency Response Act at any time before the expiration of the ex parte order. A person shall not be isolated or quarantined pursuant to an ex parte order for longer than five days without a court hearing to determine whether isolation or quarantine should continue.

E. The isolation or quarantine of a person shall terminate automatically on the expiration date of a court order authorizing isolation or quarantine, or before the expiration date of the court order, upon notice to the court, if the secretary of health determines that isolation or quarantine is no longer necessary to protect the public.

12-10A-9 Temporary hold upon secretary's order.

A. If the secretary of health makes a finding that a delay in isolating or quarantining a person will significantly jeopardize the secretary's ability to prevent or limit the transmission of a threatening communicable disease, then the secretary of health may, by public health order, isolate or quarantine a person without first obtaining a written, ex parte order from a court.

B. Following the imposition of isolation or quarantine pursuant to Subsection A of this section, the secretary of health, within twenty-four hours of the imposition, shall apply for an ex parte order that authorizes the isolation or quarantine and shall follow the procedures and meet the standards set forth in Sections 7, 8 and 10 [12-10A-7, 12-10A-8, 12-10A-10 NMSA 1978] of the Public Health Emergency Response Act.

C. In a subsequent application to a court, the secretary of health shall present facts in support of the need to issue a temporary hold before obtaining the ex parte order from the court that authorizes the isolation or quarantine.

12-10A-10. Court Hearing to contest isolation or quarantine.

A. A person who is isolated or quarantined under a temporary hold, ex parte order or court order may petition the court to contest the temporary hold, ex parte order or court order at any time prior to the expiration of the temporary hold, ex parte order or court order. If a petition is filed, the court shall hold a hearing within three business days after the date of the filing. The filing of a petition for a hearing does not stay an order of isolation or quarantine. At the hearing, the secretary of health shall offer clear and convincing evidence that the isolation or quarantine is warranted to respond to a public health emergency.

B. If the secretary of health wishes to extend an order for isolation or quarantine past the period of time stated in the temporary hold, ex parte order or court order, the secretary of health shall petition the court for an extension. Notice of the hearing shall be served to every person who is isolated or quarantined at least three days prior to the hearing. If it is not feasible to provide individual notice to every person isolated or quarantined, a copy of the notice shall be posted in a public and accessible place, using the best means available to ensure that every person subject to the order is informed of the order and their rights.

C. The hearing notice shall contain:

- (1) the date, time and place of the hearing;
- (2) the grounds upon which continued isolation or quarantine is sought;
- (3) the person's right to appear at the hearing; and
- (4) the person's right to counsel, including the right, if indigent, to be represented by counsel designated by the court.

D. The court may order an extension of the isolation or quarantine if it finds, by clear and convincing evidence, that there is an imminent health threat to others if the isolation or quarantine is terminated.

E. In no case shall the isolation or quarantine continue longer than thirty days from the date of a court order, unless the secretary of health petitions the court for an extension pursuant to the standards and procedures set forth in this section.

F. Upon notice to a court by the secretary of health that the conditions warranting isolation or quarantine no longer exist, the court shall issue an order terminating the isolation or quarantine.

12-10A-11. Hearing on Condition of isolation and quarantine.

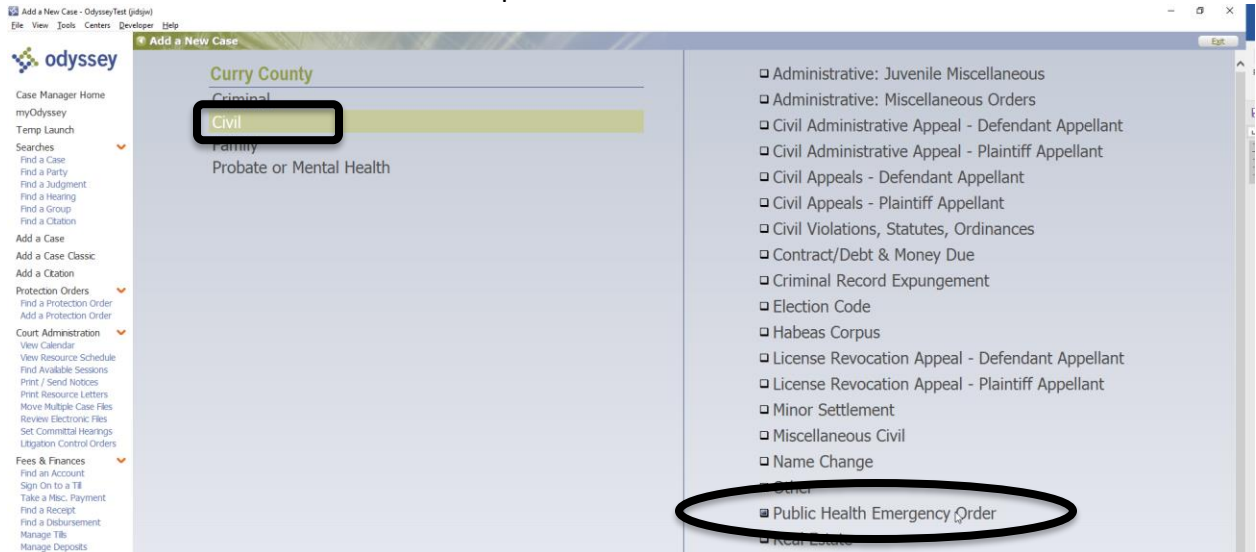
A. A person who is isolated or quarantined may request a hearing in court, as provided in Section 10 [12-10A-10 NMSA 1978] of the Public Health Emergency Response Act, for remedies regarding treatment or the terms and condition of the isolation or quarantine.

B. Upon receiving a request for a hearing pursuant to this section, the court shall fix a date for a hearing within seven days of the court's receipt of the request.

C. A request for a hearing does not alter an order for isolation or quarantine. If the court finds that the isolation or quarantine of a person is not in compliance with the provisions of the Public Health Emergency Response Act, the court may fashion remedies appropriate to the circumstances of the public health emergency.

STEPS

1. The New Mexico Secretary of Health shall file an application for an ex parte order from a court that authorizes the isolation or quarantine.



2. Initiate a case of the type Public Health Emergency Order by clicking on Add a Case, Civil and Public Health Emergency Order.



3. The Add a New Case dialog will display.
4. Navigate to the Parties tab.

The screenshot shows the 'Add a New Case' interface with the 'Parties' tab selected. The case title is 'In the Matter of Mathew Martinez' and the type is 'Public Health Emergency Order'. The 'Group By' dropdown is set to 'Connection Type' and 'Related Parties View' is unchecked. Below this is a table for 'Party & Attorney Information' with two rows: 'Applicant' with the value 'NEW MEXICO DEPARTMENT OF HEALTH' and 'Respondent' with the value 'Martinez, Mathew Mark'.

Party & Attorney Information	
Applicant	NEW MEXICO DEPARTMENT OF HEALTH
Respondent	Martinez, Mathew Mark

5. The Applicant party will be the New Mexico Department of Health, which should default onto the case. Add the respondent to the Parties tab. Be sure to search for an already existing party record before adding a new party record.

The screenshot shows the 'Add a New Case' interface with the 'Causes' tab selected. The case title is 'In the Matter of Mathew Martinez' and the type is 'Public Health Emergency Order'. The 'Cause of Action Detail' section includes: 'Action Type' set to 'Action', 'Cause Code' set to 'Public Health Emergency Order', 'File Date' set to '03/24/2020', and 'Description' is empty. Below this, 'Filed By' is set to 'Applicant' and 'Filed Against' is set to 'Respondent'. The 'Remedies Sought' section has an 'Add Cause' button.

6. Add the Cause of Action “Public Health Emergency Order” to the Causes tab. The case is filed by the Applicant, which is the Kathyleen M. Kunkel, Cabinet Secretary, State of New Mexico Department of Health and is filed against the respondent.

Case Filed

D-905-PH-2020-00001

civil

Public Health Emergency Order
Filed On 03/24/2020

In the Matter of Mathew Martinez

assignment

Curry County
Reeb, David Peter

[Edit Case](#)

▶ Add Fees

▶ Print Label

add another case

▶ Same Type

▶ Same Party

▶ New Type

Done

7. Save the case.
8. Click the Edit Case hyperlink.

D-905-PH-2020-00001

Summary Detail Parties Events Service Hearings Conditions Causes Disposition Time Stds Financial Prot. Orders Warrants Bonds Exhibits Documents Appeals Atty Fees Notes Tasks

In the Matter of Mathew Martinez

Status **Pending**
Filed 03/24/2020
Type **Public Health Emergency Order**
Court Unit Curry County
Judicial Officer Reeb, David Peter
Hearing Officer Reeb, David Peter
Financial Balance 0.00

Cases

1. Public Health Emergency Order Action 03/24/2020 Dispositions

Most Recent Events & Hearings

03/24/2020 OPN: Application for Ex Parte Order Authorizing Quarantine

View Checklist

flags & actions due

9. When the case comes up, navigate to the Events tab and check that the opening event 1547 OPN: Application for Ex Parte Order Authorizing Quarantine has automatically docketed.

Date	Time	Result
03/30/2020	Mon 9:00 AM	HEARING (Judicial Officer: Reeb, David Peter; Location: Courtroom 3)

10. It is very important that the Judge’s Office is aware that the case has been filed because a telephonic hearing must be set for within 5 days of the granting of the ex parte order. Follow local court process to be sure the judge’s office is aware the case has been filed. The judge will review the Application for Ex Parte Order Authorizing Quarantine and either grant or deny the Ex Parte order. The Judge’s TCAA will set a hearing within 5 days of the granting of the order. The date of the hearing will be entered into the order and the order will also serve as the Notice of Hearing. Also embedded in the ordered is the name of a court-appointed attorney for the respondent. The respondent is given the opportunity to contact this attorney and be represented free of charge. Navigate to the Parties tab and enter the attorney on respondent.

Date	Type and Comment
03/24/2020	OPN: Application for Ex Parte Order Authorizing Quarantine
03/25/2020	ORD: Application for Ex Parte Order for Quarantine Granted
03/30/2020	HEARING (Judicial Officer: Reeb, David Peter)

11. When the order is received in the clerks’ office, navigate to the Events tab and docket the order using one of the following event codes:
- 9074 ORD: Application for Ex Parte Order Granted
 - 9075 CLS: Application for Ex Parte Order Denied

D-905-PH-2020-00001

Summary Detail Parties **Events** Service Hearings Conditions Causes Deposition Time Stds Financial Prot. Orders Warrants Bonds Exhibits

In the Matter of Mathew Martinez
Type: Public Health Emergency Order

Events

Date	Type and Comment
03/24/2020	OPN: Application for Ex Parte Order Authorizing Quarantine
03/25/2020	ORD: Application for Ex Parte Order for Quarantine Granted
03/30/2020	HEARING (Judicial Officer: Reeb)

Add Service Detail

Type: **Ex Parte Order for Quarantine**

Service Form: [Field]

Issue Date: 03/25/2020 Time: [Field]

Volume: [Field] Page: [Field] # Pages: [Field]

Comment: [Field]

Print All Documents
 Print Only Unprinted Documents
 Don't Print Documents

Subpoena Applications

Issued To	Attorney	Type	Anticipated Method	Anticipated Server
Martinez, Mathew M		Responder	[Field]	[Field]

Save/Print Save Exit

12. Navigate to the Events tab. Add related service to the Order event. Use the service type Ex Parte Order for Quarantine. The Applicant is responsible for serving the respondent with the application and the ex parte order.

The screenshot shows a web-based interface for a legal case. At the top, the case number is 'D-905-PH-2020-00001'. Below it, there are tabs for 'Summary', 'Detail', 'Parties', 'Events', 'Service', 'Hearings', 'Conditions', 'Causes', 'Disposition', 'Time Stds', and 'Financials'. The 'Service' tab is active. The case title is 'In the Matter of Mathew Martinez' with the type 'Public Health Emergency Order'. A 'Group By' dropdown is set to 'Event'. Below this, there is a list of events: 'on ORD: Application for Ex Parte Order for Quarantine Granted' and a checked entry for '03/25/2020 Ex Parte Order for Quarantine Martinez, Mathew Mark unserved'. A 'Modify Service Tracking' window is open, containing two sections: 'Service Details' and 'Tracking Details'. The 'Service Details' section includes fields for 'Service ID #', 'Name' (filled with 'Martinez, Mathew Mark'), 'Address', and 'Person to Serve' (filled with 'Martinez, Mathew Mark'). The 'Tracking Details' section includes fields for 'Volume', 'Page', and '# of Pages'; 'Anticipated Method' (dropdown); 'Anticipated Server' (dropdown); 'Server Name' (text); 'Sent to Server' (date and time); 'Received by Server' (date and time); 'Service Date' (filled with '03/26/2020' and time); 'Return Date' (filled with '03/27/2020' and time); 'Actual Server' (dropdown); 'Server Name' (text); 'Serving Officer' (dropdown); 'How Served?' (dropdown); 'Received by Court' (date and time); 'Mileage' (text); and 'Comment' (text with a green checkmark icon). At the bottom of the window are buttons for 'Response', 'Save', and 'Exit'.

13. When the Return of Service is returned to the court, Navigate to the Service tab and enter the service information.

D-905-PH-2020-00001

Summary Detail Parties **Events** Service Hearings Conditions Causes Disposition Time Stds Financial Prot. Orders Warrants Bonds

In the Matter of Mathew Martinez
Type Public Health Emergency Order

Events

Date	Type and Comment
03/24/2020	OPN: Application for Ex Parte Order Authorizing Quarantine
03/25/2020	ORD: Application for Ex Parte Order for Quarantine Granted
03/25/2020	Ex Parte Order for Quarantine
03/30/2020	HEARING (Judicial Officer: Reeb, David Peter)

Add Event

Type: RETURN OF SERVICE
Date: 03/27/2020 Time: 12:30 PM
Party: Respondent
Due: Completed:
Comment:
 Docketable Include on Appeal
 Print Event Barcode Upon Save
Document Type:
Document:
Security Group:
Doc Link ID:
Does not affect case aging clock

quick links
Add Next
Add Related
Add Hearing
Add Service
Relationships

Save/Print Save Exit

14. Then navigate to the Events tab and docket the Return of Service.

Court Session

Court Session: DPR AM
Date: Monday, March 30, 2020
Resources: Reeb, David Peter, Courtroom 3, Hays, Casey, Quintero, Debi

Calendar: Ninth Judicial District Court
Time: 8:00 AM - 12:00 PM
 Show Rescheduled Hearing
 Show Resulted Hearings
 Show Hearing Comments
Capacity: 30m of 4h

Filter Clear Filter Create List

Type / Duration	Case Number / Style or Defendant	Lead Attys
9:00 AM HEARING 30m	D-905-PH-2020-00001 In the M	

Add Journal

In the Matter of Mathew Martinez Inactive
Type Public Health Emergency Order

Result: 03/30/2020 9:00 AM Defendant Info Add Journal

Type: HEARING Result: Held Parties Present: All
Start: End: Dur: Comment:
 Docketable Include on Appeal

Resources Load Hearings Warrants

Type Resource
Judge: Reeb, David Peter
Courtroom: Courtroom 3
Trial Court: Hays, Casey
Administrative Assistant:
Court Monitor: Quintero, Debi

Add Bond Setting Amend Bond Setting

Bonds Convert Add Attorney

Save/Copy Save Exit Forms

13. After the hearing is held, result the hearing, enter the parties present and load the session resources. As a result of the hearing, the judge will issue an order either granting or denying the extension of the quarantine or isolation for up to 30 days.

Add Judgment

Type: Public Health Emergency Order f Judge: Reeb, David Peter
Date: 03/30/2020 Stops case aging clock

Details (1 of 1)

Causes: Public Health Emergency Order

Judgment: Add

Save Exit

14. When the order is received in the clerks' office, navigate to the Disposition tab and enter a judgment of:
- Public Health Emergency Order for Quarantine Denied or
 - Public Health Emergency Order for Quarantine Granted, whichever is appropriate. Be sure to check the cause of action and save.

Forms Save/Copy Save Exit

ty Pmts Notes Tasks

Inactive Case Close

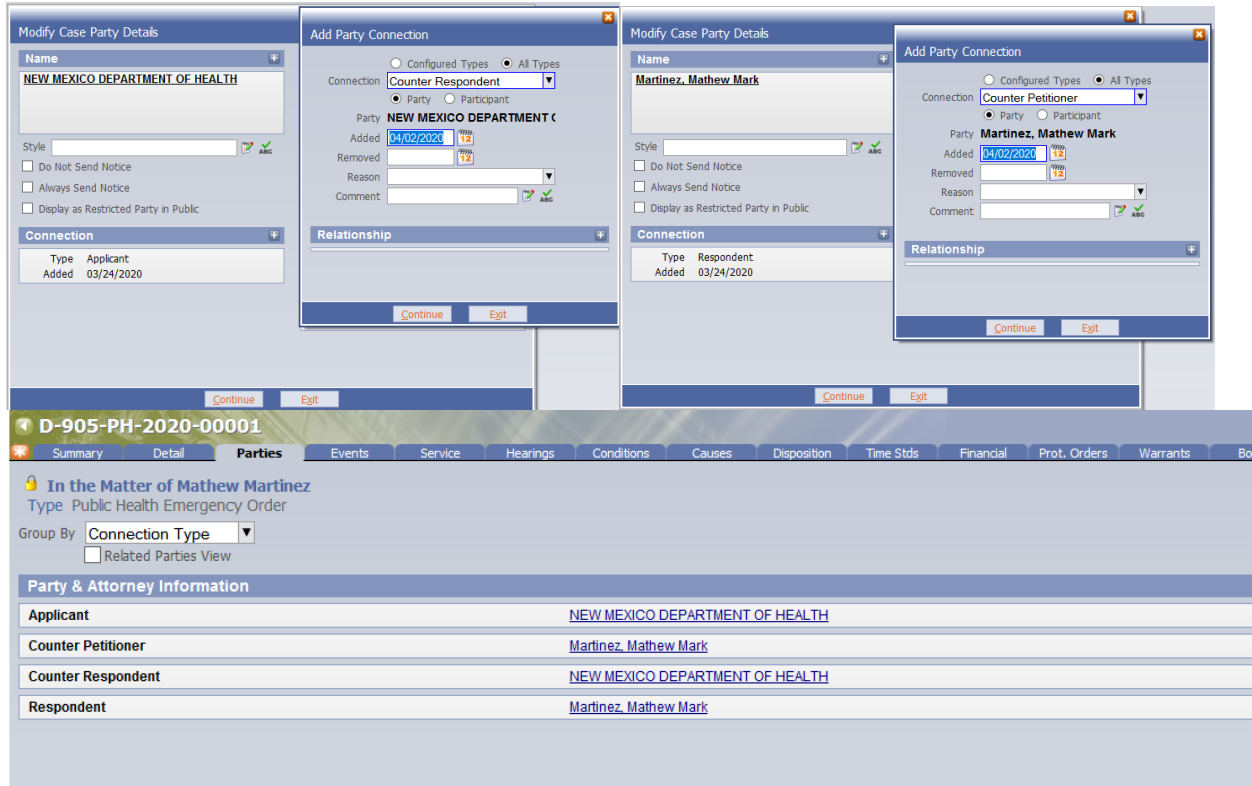
+

15. Click the Case Close button.

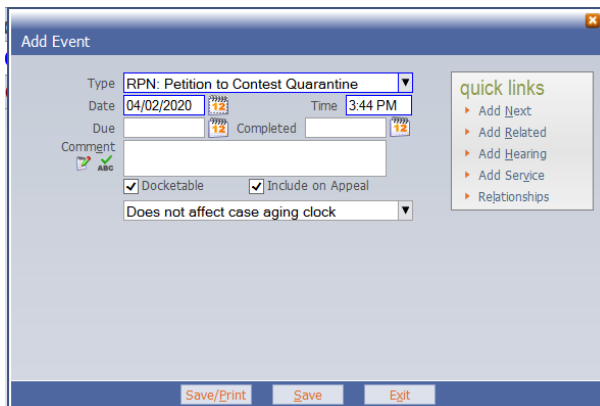
The screenshot shows a 'Case Close D-905-PH-2020-00001' dialog box. The date is 03/30/2020 and the time is 3:41 PM. The 'Today and Future Hearings' section is checked, with 'Hearing Type' set to '31-9-1.6 Hearing; ADJUDICATORY', 'Hearing Reason' set to 'Vacated', and 'Setting Reason' set to 'Vacated'. The 'Add Events' checkbox is also checked, and an 'Add Event' sub-dialog box is open. The 'Add Event' dialog has 'Type' set to 'CLS: ORDER, APPLICATION, PETITION O', 'Date' set to 03/30/2020, and 'Time' set to 3:42 PM. At the bottom of the main dialog are 'Save' and 'Exit' buttons, and at the bottom of the 'Add Event' dialog are 'Continue' and 'Exit' buttons.

16. Use the case close dialog to docket 3559 CLS: Order, Application, Petition Or Motion Denied or 3560 CLS: Order, Application, Petition Or Motion Granted whichever is appropriate in the Add Events box. Save.

The screenshot shows the 'Disposition' tab for case D-905-PH-2020-00001. The case title is 'In the Matter of Mathew Martinez' and the type is 'Public Health Emergency Order'. The 'Statistical Closure' table shows a disposition of 'Order, Application, Petition or Motion Granted' on 03/30/2020, with a 'Case Status' of 'Final Closed'. The 'Disposition Detail' section shows a disposition of 'Public Health Emergency Order for Quarantine Granted' on 03/30/2020, with a judicial officer of 'Reeb, David Peter' and an action of 'Public Health Emergency Order' on 03/24/2020.



17. The respondent may contest the ex parte order by filing a petition, becoming the counter petitioner. Add the connection type of counter respondent to the New Mexico Department of Health and add the connection type of counter petitioner to the Case Party Record of the respondent.



Docket the petition using event code 2546 RPN: Petition to Contest Quarantine. The petition may also be accompanied by an entry of appearance and a request for hearing/setting. Docket the events.

03/24/2020	Public Health Emergency Order	Action
04/02/2020	Public Health Emergency Order	Action

Causes of Action Detail

Action Type:

Cause Code: File Date:

Description:

Filed By: Filed Against:

18. A new Cause of Action must also be added to the case. Navigate to the Causes tab and enter an additional cause of action of Public Health Emergency Order.
19. It is very important that the reopening of the case be communicated to the judge's office because a hearing must be set within 7 days of the filing of the petition.

D-905-PH-2020-00001

Summary Detail Parties Events Service **Hearings** Conditions Causes Disposition Time Stds Financial Prot. Orders

In the Matter of Mathew Martinez
 Type: Public Health Emergency Order

Sort:

Date	Time	Result
HEARING (Judicial Officer: Reeb, David Peter; Location: Courtroom 3)		
03/30/2020	Mon 9:00 AM	Held
HEARING (Judicial Officer: Reeb, David Peter; Location: Courtroom 1)		
04/07/2020	Tue 9:30 AM	

20. The TCAA will set a telephonic hearing on the petition within 7 days of the receipt of the petition. The hearing must be a telephonic hearing because the petitioner should not be allowed in the courthouse because they are contagious.

Courtroom Minutes for Case # D-905-PH-2020-00001

In the Matter of Mathew Martinez
Type Public Health Emergency Order

Result 04/07/2020 9:30 AM Defendant Info Add Journal

Type HEARING Result Held Parties Present All
Start End Dur Comment

Resources Load Hearings Warrants

Type	Resource
Judge	Reeb, David Peter
Courtroom	Courtroom 1
Trial Court	Hays, Casey
Administrative Assistant	Quintero, Debi
Court Monitor	

Add Bond Setting Amend Bond Setting

Bonds Convert Add Attorney

Save/Copy Save Exit Forms

21. After the hearing is held, result the hearing, enter the parties present and load the session resources. As a result of the hearing, the judge will issue an order either granting or denying the petition contesting the quarantine order.

Add Judgment

Type Petition to Contest Quarantine Denied Judge Reeb, David Peter
Date 04/08/2020 Stops case aging clock

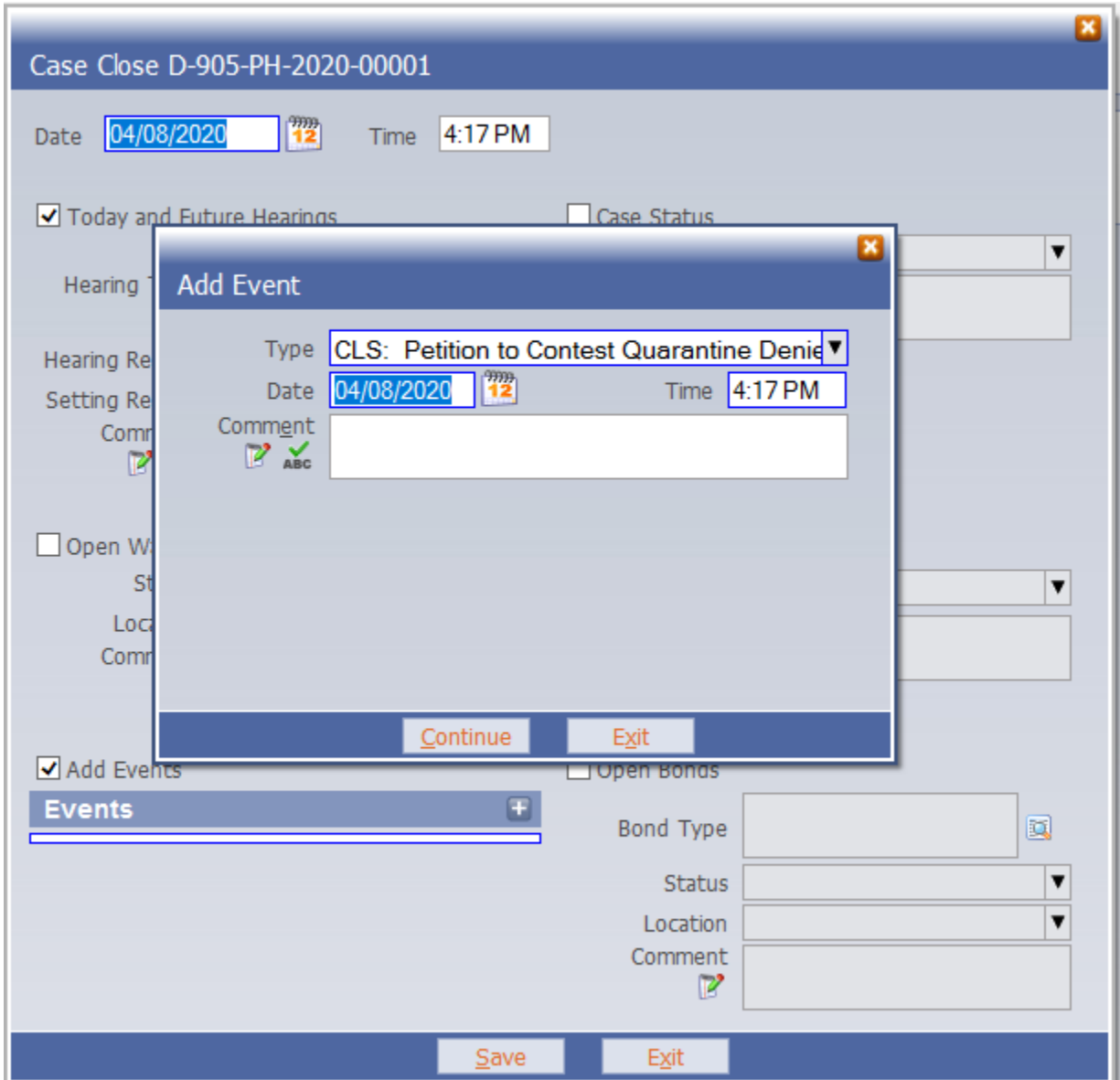
Details (1 of 1)

Causes
 All
 Public Health Emergency Order
 Public Health Emergency Order

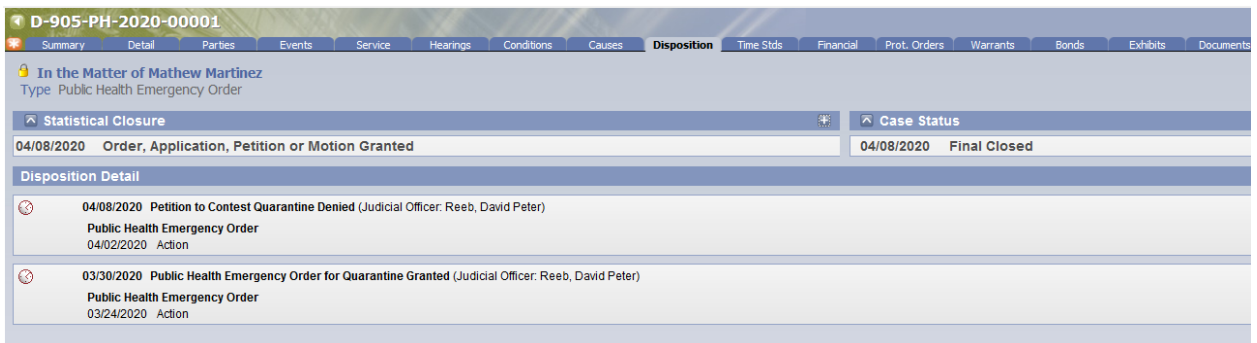
Judgment Add

Save Exit

22. When the order is received in the Clerk's Office, navigate to the Disposition tab and enter the new judgment of Petition to Contest Quarantine Denied or Petition to Contest Quarantine Granted. Check mark the empty cause of action box.



23. Click on the Case Close button. Use the case close dialog to docket 9077 CLS: Petition to Contest Quarantine Granted or 9078 CLS: Petition to Contest Quarantine Denied, whichever is appropriate in the Add Events box. Save.



D-905-PH-2020-00001		Forms	Save/Copy	Save	Exit
Summary Detail Parties Events Service Hearings Conditions Causes Deposition Time Sids Financial Prot. Orders Warrants Bonds Exhibits Documents Appeals Atty Pmts Notes Tasks					
In the Matter of Mathew Martinez Type: Public Health Emergency Order					
Events Previous Next					
Date	Type and Comment				
03/24/2020	OPN: Application for Ex Parte Order Authorizing Quarantine				
03/25/2020	ORD: Application for Ex Parte Order for Quarantine Granted				
03/25/2020	Ex Parte Order for Quarantine				
03/27/2020	RETURN OF SERVICE Party: Respondent Martinez, Mathew Mark				
03/30/2020	HEARING (Judicial Officer: Reeb, David Peter)				
03/30/2020	CLS: ORDER, APPLICATION, PETITION OR MOTION GRANTED				
03/30/2020	Public Health Emergency Order for Quarantine Granted				
04/02/2020	RPN: Petition to Contest Quarantine				
04/07/2020	HEARING (Judicial Officer: Reeb, David Peter)				
04/08/2020	CLS: Petition to Contest Quarantine Denied				
04/08/2020	Petition to Contest Quarantine Denied				