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District/Municipal Courts
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ISLAND COUNTY,WA

IN THE DISTRICT COURT FOR ISLAND COUNTY AND THE MUNICIPAL COURTS FOR OAK HARBOR, COUPEVILLE AND LANGLEY

IN THE MATTER OF EMERGENCY RESPONSE TO A THREAT TO PUBLIC HEALTH	))))	ADMINISTRATIVE ORDER NO. 2020-0006

WHEREAS, ON February 29, 2020 Governor Jay Inslee declared a state of emergency due to the public health emergency posed by the coronavirus COVID-19; and

WHEREAS, on March 2, 2020 the Island County Health Department declared a state of emergency due to the spread of the coronavirus; and

WHEREAS, on March 4, 2020 the Washington State Supreme Court adopted 25700-B-602 , granting emergency authority to this court to adopt, modify, and suspend court rules and orders, and to take further actions concerning court operations, as warranted to address the current state of emergency; and

WHEREAS, March 11, 2020 the World Health Organization (WHO) declared the spread of the coronavirus a pandemic; and

WHEREAS, on March 12, 2020 Governor Inslee expanded the school closure order to K-12 schools statewide because of the coronavirus spread; and

WHEREAS, on March 13, 2020, President Trump declared a national state of emergency under the Stafford Act; and

WHEREAS, on March 16, 2020, Governor Inslee issue a proclamation closing all restaurants, bars, and other facilities for 14 days and imposed restrictions on meetings of fewer than 50 people; and

WHEREAS, the State of Washington was the epicenter of the viral outbreak in the United States, and continues to experience the second largest number of cases and the greatest number of deaths, but the State of New York now has the greatest number of cases, and the States of California, New Jersey and Massachusetts are among the states with the greatest number of cases, and the Massachusetts Supreme Judicial Court has closed all Massachusetts courts for 3 weeks, the New York Courts are closed for all non-essential business, various courts in California and New Jersey are closed for non-essential business; and

WHEREAS, the Washington State Supreme Court entered Order No. 25700-B-606 In the Matter of Statewide Response by Washington State Courts to the COVID-19

Public Health Emergency, which Order has been subsequently amended by the Supreme Court in subsequent Orders; and

WHEREAS, the World Health organization has recognized that the coronavirus can be transmitted by tiny aerosol particles that linger in the air and deemed further research in this area urgent; and

WHEREAS, the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) has determined that a Minimum Efficiency Reporting Value (MERV) of 13 and an air exchange rate of or approaching 6 exchanges per hour are required to adequately filter out coronavirus particles in indoor air; and

WHEREAS, the international scientific community is currently studying the risks of aerosol transmission of the coronavirus and the Centers for Disease Control (CDC) is currently in the process of upgrading its guidance regarding indoor air quality and the risks of transmission of the coronavirus through aerosol; and

WHEREAS, the Courts of Washington strive to promote access to justice, and access to court proceedings in a secure and healthy environment;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Until further order of this Court, the Courthouse, including the front counter, will remain open to the public except as stated below. Court staff will continue to answer telephone calls.
2. Whenever court is in session in either of the two courtrooms, regardless of whether a hearing is being conducted by telephone, by video, or in person, the courthouse shall be open to the public to attend the court session. Despite the restrictions reasonably required by the pandemic, court shall remain open to the public.
3. All jury panels scheduled for duty October 1, 2020 or thereafter are excused from jury duty. Pending further order of the Court, no jury trials will be held.
4. All cases scheduled for a jury trial will be continued and scheduled for Readiness on a date after September 21, 2020 at 1:00 pm or placed back on the pretrial calendar, as appropriate.
5. The Court will proceed with video, telephonic, or in person hearings as appropriate and at the discretion of the individual judicial officer. In cases in which it is necessary to conduct hearings in person, all such hearings shall be held consistent with public health and safety, access to justice, the opportunity for private and continual discussion between represented defendants and their attorneys, and in a manner that is open to the public. .
6. Arraignment on out of custody criminal cases filed on or after March 18, 2020 shall continue to be held whenever possible, consistent with the terms of this order. In the event it is not possible to hold an arraignment in a particular case, the arraignment may be deferred until a date 45 after the filing of charges.

7. As it applies in this Court, Criminal Rule for the Courts of Limited Jurisdiction 3.3 regarding Time for Trial is hereby amended as follows:
   - a) a new subsection (10) (e) is added regarding Excluded Periods, to recognize the need for and to create an excluded period for delay granted by the Court due to the coronavirus pandemic;
   - b) a new subsection (c) (2) (ix) is added to provide that a period of delay granted by the Court for reasons of public health shall reset the commencement date for speedy trial; and
   - c) Section (f) (1) is amended to provide that upon written agreement of the parties which need not be signed by the defendant or all defendants, the Court may continue the trial to a specified date.

   The Court finds good cause pursuant to CrRLJ 3.3 (f) and further finds that continuance of cases for reasons of public health is required in the administration of justice to balance access to justice and the duty to provide a safe environment for all participants in the justice system. The Court recognizes that the constitutional right to speedy trial remains unabridged; any constitutional speedy trial issues raised will be reviewed on a case by case basis.
8. As it applies in this Court, Criminal Rule for the Courts of Limited Jurisdiction 4.1 (a) (1) and (2) are each amended to provide that the speedy arraignment rule requiring arraignment within 14 days after the complaint or citation and notice is filed in court, is suspended based upon the public health concerns described above.
9. In criminal cases, all initial appearances, arraignments, detention hearings, guilty plea and sentencing hearings may be conducted by video, telephone, or in person. Access to justice in the short term is better promoted by providing court services to the litigants, and is better promoted in the long term by avoiding the creation of a backlog in judicial cases to the extent possible. For this reason, whenever possible the Court will hold arraignments and pretrial hearings rather than continue the hearings en masse.
10. Participation by video/telephonic conference may be arranged by calling the Court at (360) 675-5988 in advance of the hearing and providing the Court a telephone number at which the party will be available for the hearing.
11. Bench warrant turn-in calendars which resumed beginning the week of May 11, 2020 will continue to be held.
12. All attorneys and litigants are encouraged to handle routine matters such as continuances through agreed ex parte orders in order to minimize the need for in person hearings and, pertaining to defendants in custody, to minimize the need for jail staff to escort the inmates from their cells to the video conference room.

13. All contested hearings and mitigation hearings in civil traffic and other infraction cases will be scheduled to be heard in person or by mail pursuant to Infraction Rules for Courts of Limited Jurisdiction (IRLJ) as authorized by the IRLJ. Upon request, on a case by case basis, and for good cause shown, the Court will consider scheduling hearings by video or telephonically.
14. All court proceedings shall be held consistent with the requirements of *State v. Bone Club,* 128 Wn. 2d 254 (1995) and *The Seattle Times v. Ishikawa,* 97 Wn. 2d 30 (1982) and of the Revised and Extended Orders Regarding Court Operations of the Washington State Supreme Court.
15. All mediations, hearings and trials in Small Claims Court cases, all hearings in Name Change cases, and all hearings and trial in civil cases other than jury trials will be held in person. Upon request and for good cause shown, the court may permit mediations, hearings or trials in these matters to be held telephonically or by videoconference. All civil jury trials remain suspended pending further order of the court.
16. All Probation appointments will be conducted by in person or by telephone, as directed by Probation. Until further order of this Court, use of an electronic signature as defined by Supreme Court Emergency Order shall constitute an acceptable means for any judicial officer to sign any document requiring a judicial signature.

DATED this 22nd day of September, 2020.

Presiding Judge