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4 **IN THE SUPERIOR COURT FOR ISLAND COUNTY, WASHINGTON**

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6 IN THE MATTER OF:

7 THE RESPONSE BY ISLAND COUNTY
8 SUPERIOR COURT TO THE COVID-19
9 PUBLIC HEALTH EMERGENCY IN
10 WASHINGTON STATE AND ISLAND
11 COUNTY

No. 2022-05

**SIXTEENTH AMENDED EMERGENCY
ORDER**

COURT OPERATIONS: RESUMPTION OF
NORMAL OPERATIONS AND EXCEPTION
FOR REMOTE ATTENDANCE

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14 WHEREAS, the Island County Superior Court has been operating under a series of orders
15 issued pursuant to authority granting by the Supreme Court of Washington due to the state of
16 emergency proclaimed by Governor Inslee on February 29, 2020, due to the novel coronavirus
17 (COVID-19) pandemic; and

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19 WHEREAS, although the governor's state of emergency ended on October 31, 2022, the
20 Supreme Court of Washington has determined that ongoing challenges to court operations require
21 that some of the Supreme Court of Washington's orders remain in place;

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23 WHEREAS, on October 27, 2022, the Supreme Court of Washington issued the Order
24 Regarding Court Operations after October 31, 2022, No. 25700-B-697 (hereinafter, "October 27th
25 Order"). Paragraph 19 of the October 27th Order continues to authorize Presiding Judges of the
26 Washington courts to adopt, modify, or suspend local court rules and orders;

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28 WHEREAS, the federal Center for Disease Control and Prevention continues to consider
29 Island County to be at a, "Low" level of COVID-19 transmission for purposes of determining
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1 appropriate prevention measures. Nonetheless, the Court recognizes that some participants have
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3 become accustomed to the protocols adopted by the Court during this emergency to protect public
4 health and safety and prefer to continue to attend court hearings remotely rather than in person;

5 WHEREAS, The Court desires to provide guidance and direction for future court operations
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7 consistent with the aforementioned changes and developments. Now, therefore it is

8 ORDERED, ADJUDGED, AND DECREED:

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10 A. Court Remains Open. The Island County Superior Court and its courtrooms continue to
11 remain open to the public.
- 12 B. Court Operations After October 31, 2022. The Island County Superior Court will observe
13 the protocols set forth in the October 27th Order of the Supreme Court of Washington
14 described above. A copy of the October 27th Order is attached for ready reference.
- 15 C. Remote Appearances Generally. Although the Court is maintaining its protocols
16 authorizing remote appearances and participation as further detailed below, participants
17 are urged to review and to abide by the Court's terms governing such appearances under
18 LCR 7(b)(5)(C) and LCrR 8.2(b).
- 19 D. Protection Order Hearings. Remote appearances for the protection order calendar are
20 permitted only for case participants such as parties and attorneys (and witnesses, in cases
21 where a judicial officer authorizes presentation of evidence by third-party witnesses).
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23 **Remote appearances for the protection order calendar must be by video; telephone**
24 **appearances on the protection order calendar are not permitted except by leave of**
25 **court for good cause shown.** Specific login information for remote appearances in
26 protection order cases shall be obtained from court administration by calling 360-679-
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1 7361. The requirement for advance notice of intent to present testimony or to attend a
2 protection order hearing remotely set forth in Island County Local Rule 7(b)(5)(C)
3 remains suspended.
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5 E. Remote Participation – Other Civil Proceedings. Remote attendance and appearances
6 are permitted in other civil proceedings, including the Court’s Law & Motion Calendar,
7 and special-set hearings, via video or telephone using the Court’s Zoom application.
8 **Remote appearances for bench trials and other civil proceedings at which testimony**
9 **will be given must be by video; telephone appearances at evidentiary proceedings**
10 **are not permitted.** The requirement for advance notice of intent to present testimony or
11 to attend a protection order hearing remotely set forth in Island County Local Rule
12 7(b)(5)(C) remains suspended.
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16 F. Conflicting Orders. In the event that this order conflicts in any way with an order of the
17 Washington State Supreme Court, now in effect or hereinafter issued, the Supreme
18 Court’s orders shall prevail.
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20 G. Provisional Nature of Order. The Court may reinstate COVID-19 safety measures,
21 including the requirement of facemasks or the temporary suspension of jury trials or other
22 “in-court” proceedings if state or local public health guidance suggest that such measures
23 are necessary to protect the public.
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1 This order becomes effective as of November 30, 2022, and shall remain in effect unless
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3 modified or terminated by further court order before that time.

4 DATED this 28 day of November, 2022.

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7 CAROLYN CLIFF
8 Island County Superior Court

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11 CHRISTON C. SKINNER
12 Island County Superior Court

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF STATEWIDE RESPONSE)
BY WASHINGTON STATE COURTS TO THE) ORDER REGARDING COURT
COVID-19 PUBLIC HEALTH EMERGENCY) OPERATIONS AFTER
)
) OCTOBER 31, 2022
)
) No. 25700-B-697
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)

WHEREAS, Washington courts have been operating under a series of orders issued by this Court following Governor Inslee’s proclamation of a state of emergency on February 29, 2020, due to the novel coronavirus disease (COVID-19) pandemic; and

WHEREAS, such orders have been necessary to ensure court operations could continue and justice could be administered safely and effectively during the COVID-19 pandemic; and

WHEREAS the governor’s state of emergency proclamation will end on October 31, 2022, justifying the rescission in whole or in part of some of this Court’s orders modifying court operations; and

WHEREAS the ongoing challenges to court operations due to the COVID-19 pandemic require that some of this Court’s orders remain in place for the safe and effective administration of justice;

~~NOW, THEREFORE,~~ pursuant to the Supreme Court's authority to administer justice and
to ensure the safety of court personnel, litigants, and the public,

IT IS HEREBY ORDERED:

That the following provisions of the Court's current emergency orders remain in effect
until further order of the Court:

With Respect to Civil Matters:

1. Courts have authority to conduct all proceedings in civil matters, including civil jury trials and non-jury trials, by remote means or in person with strict observance of public health measures.
2. Courts shall continue to prioritize and hear all emergency civil matters that can be heard by telephone, video, or other remote means, or in person with strict observance of public health measures. Courts should also continue to hear non-emergency civil matters, understanding that emergency matters retain priority.
3. With respect to all civil matters, courts should encourage parties to stipulate in writing to reasonable modifications of existing case schedules and remote methods of service and to conduct discovery, pretrial hearings, and alternative dispute resolution by remote means whenever possible.
 - a. *Presumption of Remote Depositions:* With respect to discovery, depositions shall be performed remotely absent agreement of the parties or a finding of good cause by the Court to require the depositions be performed in person. Absent agreement of the parties, with respect to remote depositions where only the deponent and their counsel are in the same room, the

technology used must include video/audio for both the deponent and their counsel. If the deposition is being recorded (see CR 30(b)(8)), the recording need only be of the deponent witness and not of other participants to the deposition proceeding.

- b. *Presumption of Remote Service:* With respect to filing and service, other than initial service of process to establish personal jurisdiction, remote methods (i.e., electronic service) shall be used absent agreement of the parties or a finding of good cause by the court to require in-person methods. Where a party seeks to compel a third-party witness to a deposition, hearing, trial or other proceeding, in-person service is required of both the initial subpoena and any motion to compel, unless remote service is agreed to in writing by the third-party witness.

With Respect to Criminal and Juvenile Offender Matters:

4. Courts have authority to conduct nonjury trials by remote means or in person, with strict observance of public health measures.
5. Courts should continue to hear **out of custody** criminal and juvenile offender matters by telephone, video, or other means that do not require in-person attendance when appropriate. In addition, courts may hear matters that require in person attendance if those hearings strictly comply with public health measures.
6. The Court finds that obtaining signatures from defendants or respondents for orders continuing existing matters places significant burdens on attorneys, particularly public defenders and all attorneys who must enter correctional facilities to obtain signatures in person. Therefore, this Order authorizes

~~continuing those matters without the need for signatures on written orders.~~

Additionally:

- a. Defense counsel is not required to obtain signatures from defendants or respondents on orders to continue criminal or juvenile offender matters consistent with this order. An attorney's signature on an order to continue constitutes a representation that the client has been consulted and agrees to the continuance, and courts shall allow attorneys to waive their clients' presence unless their presence is deemed necessary by the court.
 - b. Courts shall provide notice of new hearing dates to defense counsel and unrepresented defendants.
 - c. Defense counsel shall provide notice to defendants and respondents of new court dates.
 - d. After December 31, 2022, any inconsistencies between this paragraph and CrR 3.3 or CrRLJ 3.3 shall be governed by amended rules that go into effect on January 1, 2023.
7. Courts should continue to allow telephonic or video appearances for all scheduled criminal and juvenile offender hearings whenever appropriate. All in-person appearances must be conducted with strict observance of public health measures. For all hearings that involve a critical stage of the proceedings, courts shall provide a means for defendants and respondents to have the opportunity for private and continual discussion with their attorney.

With Respect to Jury Trials:

8. Any process for summoning potential jurors must include the ability to defer jury service by those who are at higher risk from COVID-19 based on their age or existing health conditions, or those of a household member. However, no identified group may be per se excused from jury service on this basis. Consistent with the most protective applicable public health guidance in their jurisdiction, courts must advise potential jurors of circumstances under which they should not appear in person for jury service—for example, current illness or recent coronavirus exposure—and must advise them of the protective measures the court will follow, such as face masking and social distancing protocols.
9. Whether jury trial proceedings take place in courthouse facilities or off-site facilities, courts must conduct all such proceedings consistent with the most protective applicable public health guidance in their jurisdiction, and must communicate appropriate information about their protective measures through signage, website and social media posts, telephone messages, or other publicly accessible appropriate means.
10. The use of remote technology in jury selection, including use of video for voir dire in criminal and civil trials, is encouraged to reduce the risk of coronavirus exposure. Any video or telephonic proceedings must be conducted consistent with the constitutional rights of the parties and preserve constitutional public access. Authorization for videoconference proceedings under CrR 3.4(d)(1) and CrR 3.4(d)(1) is expanded to include jury selection, though the requirement that all

~~participants be able to simultaneously see, hear, and speak to one another does not~~

require that all potential jurors be able to simultaneously see one another.

11. Notwithstanding any rule or procedure to the contrary, jury selection may occur in multiple phases of groups sized as appropriate based on consideration of location, facility, and applicable public health guidance. This may include individual questioning of potential jurors in groups. Courts are encouraged to record or create a script of information provided about the proceedings and the case, to ensure consistency among each potential juror group.

General Provisions for Court Operations:

12. Access to justice must be protected during emergency court operations. Where individuals are required to access the court through remote means, courts must provide no-cost options for doing so or provide a means for seeking a waiver of costs. This provision does not require suspending existing systems for remote filings or hearings that are based on a user-fee model. For purposes of any law specifying the location of court proceedings, whenever remote proceedings are authorized, they are deemed to take place in the courthouse where the matter is pending or venue exists regardless of where the judge, parties, witnesses, or others participating remotely are located.
13. Courts must provide clear notice to the public of restricted court hours and operations, as well as information on how individuals seeking emergency relief may access the courts. Courts are encouraged to provide such notice in the most

~~commonly used languages in Washington, and to make every effort to timely~~
provide translation or interpretation into other languages upon request. The Washington State Supreme Court Interpreter Commission may assist courts in this process.

14. The availability of interpreter services should not be restricted by emergency operations. For remote proceedings, interpreting should be done consistent with guidance provided by the Washington State Supreme Court Interpreter Commission.
15. Washington courts are committed to protecting rights to public court proceedings. Any limitations placed on public access to court proceedings due to the public health emergency must be consistent with the legal analysis required under *State v. Bone-Club*, 128 Wn.2d 254 (1995) and *Seattle Times Co. v. Ishikawa*, 97 Wn.2d 30 (1982). Courts should continue to record remote hearings and to make the recording or a transcript part of the record, and should develop protocols for allowing public observation of video or telephonic hearings. Guidance for courts in protecting public court proceedings during emergency operations can be found here.
16. Notwithstanding any provision of GR 30 to the contrary, an electronic signature shall be deemed a reliable means for authentication of documents and shall have the same force and effect as an original signature to a paper copy of the document so signed. For purposes of this Order, “electronic signature” means a digital signature as described in Supreme Court Order No. 25700-B-596 (July 16, 2019)

~~and RCW 9A.72.085(5) (repealed); an electronic image of the handwritten~~
signature of an individual; or other electronic sound, symbol, or process, attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the record, including but not limited to “/s/ [name of signatory].”

- a. To the extent not already authorized, whenever a judicial officer or clerk is required to sign an order, judgment, notification, or other document an electronic signature shall be sufficient. The presiding judge, in consultation with the county clerk where applicable, should direct by administrative order the provisions for use of alternative signature methods for judicial officers in that jurisdiction. Guidance in developing such orders may be found [here](#).
- b. Courts are authorized and are hereby encouraged when practicable to waive by emergency rule or order provisions of GR 30(d) that require: (1) the issuance of a user ID and password to electronically file documents with the court or clerk; (2) that a party who has filed electronically or has provided the clerk with their email address must give consent to accept electronic transmissions from the court.
- c. The Court finds good cause to permit RCW 26.04.070’s requirement that marriages occur “in the presence of” an officiant to include the solemnization of marriages by remote video technologies in accordance with public safety and social distancing requirements. An officiant solemnizing a wedding by remote proceedings shall take necessary steps to confirm the identity of the parties,

~~ensure they possess a valid marriage license, and confirm requirements to~~

promptly complete and file certificates as required by law.

17. The Court hereby suspends any local or state court rule that requires administering any oath or affirmation in-person where such oaths or affirmations can be administered remotely by available technologies, including videoconferencing or teleconferencing, and is not otherwise prohibited by any statutory or constitutional provision.

18. This Court recognizes that there are procedural issues in juvenile, dependency, involuntary commitment, child support, and other matters that may not be encompassed in this Order. Nothing in this Order limits other interested parties in submitting similar orders tailored to the unique circumstances of those matters and any other matters not addressed by this Order. Nothing in this Order prevents courts from following specific emergency plans for such matters, including for Involuntary Treatment Act and dependency and termination matters. Where any provisions of this Order may be interpreted to conflict with any provision of another Supreme Court order addressing specific case matters, the provisions of the more specific order shall control. (*See* Order No. 25700-B-620; Order No. 25700-B-647.)

With Respect to Local Court Rules and Orders

19. The Presiding Judges of the Washington courts are authorized to adopt, modify, and suspend local court rules and orders, and to take further actions concerning

~~court operations as warranted to address ongoing challenges presented by the~~

COVID-19 pandemic.

20. Each court shall immediately transmit copies of emergency local rules adopted or modified to address the public health emergency to the Administrative Office of the Courts in lieu of the requirements of GR 7.
21. Each court that closes pursuant to this Order or GR 21 shall sign an administrative order closing the court, file the original with the clerk of the affected court, and notify the Administrative Office of the Courts as soon as practicable.
22. Each court shall, as soon as practicable, publish in full all rules or orders adopted or modified to address this public health emergency on its local website.

Effectiveness of Emergency Orders

23. This Order will remain in effect until further order of this Court. This Order and other applicable emergency orders may be deemed part of the record in affected cases for purposes of appeal without the need to file the orders in each case, and all time frames previously extended may be deemed further extended by this order. This Order Regarding Court Operations After October 31, 2022 supersedes the Supreme Court's March 4, 2020 Order Authorizing Emergency Local Rules (No. 25700-B-602), its March 18, 2020 Order (as corrected March 19, 2020) (No. 25700-B-606), its March 20, 2020 amended Order (No. 25700-B-607), its April 2, 2020 Order Temporarily Suspending Rules that Require In-Person Administration of Oaths and Affirmations (No. 25700-B-610), its April 13, 2020 Extended and Revised Order (No. 25700-B-615), its April 29, 2020

Second Revised and Extended Order Regarding Court Operations (No. 25700-B-618), its May 28, 2020 Third Revised and Extended Order Regarding Court Operations (No. 25700-B-625), its May 29, 2020 Amended Third Revised and Extended Order (No. 25700-B-626), its June 18, 2020 Order re: Modification of Jury Trial Proceedings (No. 25700-B-631), its September 10, 2020 Order Extending Excluded Period in Calculating Time for Trial and Adopting Related Emergency Measures (No. 25700-B-624), its October 13, 2020 Fourth Revised and Extended Order (No. 25700-B-646), and its February 19, 2021 Fifth Revised and Extended Order (No. 25700-B-658).

24. The Court's April 29, 2020 Extended and Revised Order re: Civil Commitment Proceedings (No. 25700-B-620), its October 14, 2020 Extended and Revised Order re: Dependency and Termination Cases (No. 25700-B-647), and its August 18, 2021 order regarding COVID-19 Vaccinations for Employees of the Supreme Court (No. 25700-B-669) remain in effect until further order of this Court.
25. The effective date of the Court's January 8, 2020 Order Temporarily Suspending Standards for Indigent Defense (No. 25700-B-656) will end October 31, 2022. All attorneys who met the felony qualifications requirements for cases specified in Standard 14.2(3) during this emergency order shall remain so qualified with its expiration.
26. The effective date of the following orders will end on October 31, 2022: March 24, 2020 Order No. 25700-B-608 (relating to APR 5), March 24, 2020 Order No. 25700-B-609 (related to WSBA Disciplinary Board emergency orders), April 23,

2020 Order re: Visitation of Certified Professional Guardians (No. 25700-B-617), September 9, 2020 Order Authorizing Eviction Resolution Program in Superior Courts (No. 25700-B-639), September 10, 2020 Order Authorizing Delayed Reporting to Department of Licensing of Failures to Appear (No. 25700-B-640), and all other COVID-19 related emergency orders not otherwise extended.

DATED at Olympia, Washington this 27th day of October, 2022.

For the Court


CHIEF JUSTICE