

IN THE DISTRICT COURT OF THE STATE OF WASHINGTON
IN AND FOR WHATCOM COUNTY

IN THE MATTER OF THE RESPONSE BY THE COURT
TO THE PUBLIC HEALTH EMERGENCY COVID-19
RE:

Temporary Administrative Order
No. 2020 - 10

Implementing State Supreme Court Order No.
25700-B-615; Amending Emergency Changes to
Certain Criminal, Civil and Infraction Proceedings;
and Superseding Temporary Administrative Order
2020-08

WHEREAS, the World Health Organization has determined the spread of the new coronavirus (COVID-19) has now reached worldwide pandemic levels; and

WHEREAS, people within Washington State and Whatcom County have been diagnosed with COVID-19; and

WHEREAS the Governor of the State of Washington has declared a State of Emergency due to the COVID-19 outbreak, and the Whatcom County Executive has declared a Public Health Emergency for the County due to the COVID-19 outbreak; and

WHEREAS, the Whatcom County Health Department, per Dr. Greg Stern, has issued new recommendations to slow the spread of COVID-19 within Whatcom County which include, among other actions, the cancellation or postponement of non-essential public gatherings and that certain higher risk target populations should stay at home away from large groups of people as much as possible; and

WHEREAS, the calling together of prospective jurors and the jury selection process necessarily requires exposure to large groups of people which is a medically contraindicated activity under the current states of emergency; and

WHEREAS, the Washington State Supreme Court has adopted Order No. 25700-B-615 which directs courts across the state to certain emergency actions and grants this court emergency

authority to adopt, modify, and suspend court rules and orders, and to take further actions as deemed warranted to address the current COVID-19 public health emergency;

WHEREAS, there are no civil or criminal jury or bench currently underway in any department of the Whatcom County District Court (all have either been concluded or have not yet commenced);

WHEREAS staff from Western Washington University and Whatcom County Health Department have collaborated on models for the simulation of COVID-19 disease spread solely within Whatcom County and those results differ from models conducted elsewhere in the state, *see*, Whatcom Unified Command Planning Section – Intelligence Unit 4.13.2020 Whatcom County COVID-19 Model V2;

WHEREAS based on that county specific modelling which notes that peak infection rates in the county may continue well beyond May 4, 2020, causing the Whatcom County Health Department to recommend the cancellation of summer events throughout the county;

NOW, THEREFORE, IT IS HEREBY ORDERED:

As required, the Whatcom County District Court acknowledges and hereby adopts the provisions, findings and orders of the Washington State Supreme Court Order No. 25700-B-615. In operational terms the District Court will modify its procedures and activities as described below.

A. CRIMINAL CASES/MATTERS

1. *Criminal Trials.* All criminal jury and bench trials are continued until after June 5, 2020. The Court will reissue new trial and necessary pretrial hearing dates via summons mailed to the attorneys of record or defendant, if *pro se*, at the address last known to the Court.
2. *In-Custody Defendants.*
 - a. *First Appearances and Arraignments.* The 1:30 p.m. In-custody first appearances and arraignments will be held via video feed from the jail courtroom to a designated courthouse department's courtroom. Defense attorneys may appear in the assigned courthouse courtroom if they choose. Social distancing as recommended by Supreme Court Order #25700-B-615 will be required. Should counsel prefer, they may appear telephonically via conference telephone call, so long as counsel prearranges such appearance with the Clerk of the Court prior to the hearing. Required signatures will be handled in a manner consistent with Supreme Court Order # 25700-B-615. Knowledge of the contents of all documents discussed on the record is deemed sufficient notice to the parties of its contents. Jail staff will assure that No Contact orders will be signed by the defendant prior to the defendant's release.

- b. *Omnibus/Trial Status.* Omnibus and trial status hearings for in-custody defendants will be held in the same fashion and times as First Appearances/Arraignments described above.
 - c. *Guilty Pleas and Sentencing.* Guilty pleas for in-custody defendants will be held in the same fashion as First Appearances/Arraignments described above.
 - i. *Guilty Plea Statements.* Given jail access, social distancing and other public health concerns, the Court will accept written guilty plea statements which are unsigned by the defendant so long as the Court can adequately demonstrate on the record the defendant's knowledge and acquiescence that the written guilty plea form text is acceptable to the defense without the necessity of the form being signed by the defendant, and the State is in agreement.
 - d. *Motions for Suppression and/or Dismissal.* In-custody hearings for 3.5 and 3.6 motions can be heard on the assigned trial judge's Thursday afternoon 1:30 p.m. criminal calendar. Hearings will be conducted in accordance with Supreme Court Order #25700-B-615.
3. *Out of Custody Criminal Matters.* Aside from modification or rescission of No Contact Orders as noted below, all currently scheduled hearings for defendants who are out-of-custody will be rescheduled to a date(s) after May 4, 2020. The Court will reissue new trial and necessary pretrial hearing dates via summons mailed to the attorneys of record or defendant, if *pro se*, at the address last known to the Court. For more detailed information concerning the rescheduling of certain such matters, see, Appendix A hereto.
4. *Motions to Modify or Rescind No Contact Order.* Motions to modify or rescind a No Contact Order may be scheduled for hearing so long as the motion filed presents adequate facts to support a finding that an emergency hearing is warranted and can be held in accordance with the requirements specified below. Motions requesting a hearing may be submitted by any party to the action with the Clerk of the Court electronically via email with scanned pleadings attached, by depositing original pleadings in the filing drop box provided outside the Clerk's Office, or by US mail first class postage prepaid. Adequate party contact information must accompany the motion in order to receive a response from the Court. Parties are strongly encouraged to enter agreed orders whenever possible (telephonic approval acceptable) to minimize the number of people appearing in person in the courtroom.
- a. All emergency hearings concerning no contact orders, including civil protection and restraining order matters, heard before May 4, 2020, must be heard by telephone, video or other means available to the Court and parties which does not require in-person attendance, unless impossible. Where such court matters, in the discretion of the presiding judicial officer, and upon a finding of good cause, must be heard in person with the attendance of any or all parties, social

distancing and other public health measures must be strictly observed. Any telephonic, video or other such hearing which is required to be public must be recorded, with the recording preserved for the Court's record. The party filing the motion must timely coordinate with the Clerk of the Court in advance of the hearing so that the hearing can be conducted in a manner consistent with the preceding requirements.

5. *Remaining criminal matters.* All other criminal calendars and hearings are continued until after May 4, 2020; *see also*, Appendix A hereto. The Court will issue new trial and/or necessary pretrial hearing dates via summons mailed to the attorneys of record or defendant, if *pro se*, at the address last known to the Court.

B. CIVIL CASES/MATTERS

1. *Civil Department Trials.* No jury or bench trials for actions set before Court's general civil jurisdiction will be heard before June 5, 2020. Any such trials currently set before that date will be stricken from the trial calendar and must be re-noted for trial setting.
2. *Remaining Civil Matters/Actions.* All other civil matters and their respective hearing calendars are continued until after May 4, 2020. The Court will issue new dates via notice/summons mailed to the parties at the addresses last known to the Court.
3. *Petitions for Orders of Protection.* Petitions for Orders of Protection (including *ex parte* temporary orders) may be filed with the Clerk of Court by depositing the same in the drop box located near the front door of the Clerk's Office. Petitions may also be mailed to the Clerk of the Court via U.S. Mail 1st class postage prepaid. Hearings will be scheduled after May 4, 2020. *Ex parte* petitions for emergency temporary orders will continue to be reviewed/issued on an *ex parte* basis.
4. *Filing of Civil Pleadings.* Civil motions and other pleadings may be filed, as size permits, in the drop box located near the front door of the Clerk's Office. Otherwise all pleadings must be filed via U.S. Mail 1st class postage prepaid.

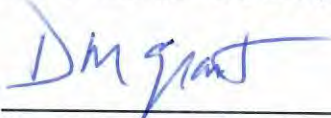
C. INFRACTION CASES/MATTERS (*see*, IRLJ 1.2(a))

1. *Speedy Resolution.* With regard to Infraction cases, *see*, IRLJ 1.2(a), due to the effect and concerns of the above referenced public health recommendations and proclamations, the time period(s) necessary for the continuances implemented by this Order will be excluded under IRLJ 2.6 pertaining to the scheduling and timing of infraction hearings, as the Court specifically finds that the ends of justice served by ordering the continuances of such matters outweigh the best interests expressed by said rules for the speedy resolution of such matters.

2. *Civil Infractions.* All civil infraction hearings will be continued until after June 22, 2020. The Court will issue new hearing dates via summons mailed to the attorneys of record and/or parties, or defendant, if *pro se*, to the address last known to the Court.
3. *Traffic Mitigation Hearings.* As a means to reduce unnecessary in person hearings, the Court shall expand upon its current means to receive and process civil traffic mitigation requests for mitigation on an *ex parte* basis in lieu of a hearing offered under IRLJ 3.4. The Court should at a minimum establish procedures to receive and process such requests via email, internet online submission through Court's website, facsimile, US mail first class postage prepaid, or by written request filed with the Clerk of the Court.

This Order supersedes Temporary Administrative Order No. 2020-08 entered on March 27, 2020.

DATED this 16th day of April, 2020.



David M. Grant, Presiding Judge

Appendix A to Temporary Administrative Order No. 2020-09

2:30pm Out-of-Custody Arraignments

4/28/20 continue to 6/16/20

4/29/20 continue to 6/17/20

4/30/20 continue to 6/18/20

5/1/20 continue to 6/19/20

5/5/20 continue to 6/23/20

5/6/20 continue to 6/24/20

5/7/20 continue to 6/25/20

5/8/20 continue to 6/26/20

9:00am Omnibus Calendars

4/27/20 continue to Omni: 6/15/20
Trial: 6/29/20

4/28/20 continue to Omni: 6/16/20
Trial: 6/30/20

5/4/20 continue to Omni: 6/22/20
Trial: 7/6/20

5/5/20 continue to Omni: 6/23/20
Trial: 7/7/20

1:30pm Thursday Motion Calendars

4/30/20 continue to 6/18/20

5/7/20 continue to 6/25/20

9:00am Friday Arraignments

5/1/20 continue to 6/19/20

5/8/20 continue to 6/26/20

Friday Probation Calendars (9am/10am/11am)

5/1/20 continue to 6/12/20

5/8/20 continue to 6/19/20

3:00 pm Friday Jail Review Calendar

5/1/20 continue to 6/19/20

5/8/20 continue to 6/26/20