

FILED
COUNTY CLERK

2020 OCT 30 P 3:55

WHATCOM COUNTY
WASHINGTON

BY _____

IN THE SUPERIOR COURT OF WASHINGTON
FOR THE COUNTY OF WHATCOM

)	Admin File No.
)	20-2-00001-37
IN THE MATTER OF RESPONSE TO PUBLIC)	
HEALTH RISK DUE TO COVID-19 PUBLIC)	FIFTEENTH
HEALTH EMERGENCY)	ADMINISTRATIVE
)	ORDER
)	October 30, 2020

WHEREAS the state of emergency declared by the Governor of this State and resulting from the current COVID-19 pandemic, and described in this Court's previous Administrative orders, continues; and

WHEREAS the Washington State Supreme Court, pursuant to its Orders of September and October (No. 25700-B-642, September 10, 2020, and No. 25700-B-647, October 14, 2020), has extended the time for hearing of jury trials in criminal cases while encouraging trial courts to conduct those trials when they are able to do so in a manner consistent with applicable state and local public health requirements related to COVID-19 ; and

WHEREAS the Washington State Supreme Court, in its Amended Third Revised and Extended Order Regarding Court Operations (No. 25700-B-626, May 29, 2020), explicitly did not limit the authority of this Court to adopt measures to protect health and safety that are more restrictive than those in its Order, as circumstances warrant, including by extending as necessary the time frames in its Order; and

WHEREAS the Washington State Supreme Court, in its Order No. 25700-B-602, dated March 4, 2020 and its Orders No. 25700-B-631, dated June 18, 2020, 25700-B-642, dated September 10, 2020, and No. 25700-B-647, dated October 14, 2020) has explicitly authorized Presiding Judges of Washington courts to adopt, modify, and suspend court rules and orders, and to take further actions concerning court operations as warranted to address the current public health emergency; and

WHEREAS this Court, in its Twelfth Administrative Order (20-2-00001-37, filed on August 11, 2020) identified criteria that must be met before any jury trial can safely occur; and

WHEREAS this Court has arranged the proper facilities and determined the proper procedures for the safe conduct of jury trials with twelve jurors and one to two alternate jurors, so that those trials may be conducted in a manner consistent with Washington restrictions and requirements for public safety during the COVID 19 pandemic;

THE COURT HEREBY ORDERS:

The Court will resume hearing trials with twelve-person juries beginning November 16, 2020. Cases will be selected for trial according to statutory priority and logistical considerations.

The procedures and requirements for trial preparation and scheduling, and for the conduct of the trial, are as follows.

A. Readiness for Trial

1. Criminal cases: Trials will be scheduled only in those cases in which an omnibus order has been entered on the day of the status hearing or as ordered by the court. The omnibus order must include a deadline for all pretrial motions that either party wishes to make, including motions in limine, motions regarding jury selection or requests for additional peremptory challenges.

Dispositive motions, and motions made under CrR 3.5 and 3.6, must be scheduled for hearing on or before the trial confirmation date (which is, generally, the Thursday before the trial). A party who confirms the trial date is considered to be advising the Court that there are no pending dispositive motions or CrR 3.5 or 3.6 issues.

2. Civil cases: Civil cases must be confirmed for trial at least 15 calendar days before the scheduled trial date. Criminal trials have statutory priority over civil trials, but civil trials will be conducted when possible, as provided in paragraph B.2., below.

B. Trial Priority

1. Each week the Court will assess the cases set for trial the following week and will determine the priority of cases confirmed for trial. On Friday morning each week, the Court will post on its website a list of confirmed trials for the next week, in order of priority. The parties to all cases confirmed for trial must be ready to proceed with trial on Monday morning, or to seek a continuance on Friday, per Paragraph 2, below.
2. Any trials not among the top three prioritized for trial will be continued to the next available trial date at the request of the defendant's attorney in criminal cases, and by request of both or all parties in civil cases. Motions to continue must be filed by 4:00 on the Friday before the trial date, with judge's copies immediately delivered to the assigned judge's judicial assistant.

Parties are not required to continue trials not prioritized in first, second or third position. Cases not continued will be called for trial in the order of priority stated on the Court's posted list.

C. Conducting Trials

1. Nondispositive pretrial motions will be heard in the courtroom of the judge presiding over the trial, on the day set for trial. In most criminal cases that will be the Monday of the trial week; in civil cases it will be the Monday or Tuesday of trial week, as ordered by the Court.
2. Jury selection will be conducted at an offsite location beginning on the Tuesday of trial week.
 - a. In most criminal cases, this will be the second day of trial, with any remaining pretrial motions to be heard on Monday.
 - b. In most civil cases, Tuesday will be the scheduled first day of trial. However, in a civil case selected for trial, jury selection will occur Tuesday, with a pretrial hearing before the assigned judge at 1:30 Monday to resolve any remaining pretrial motions. Attorneys may attend the pretrial hearing remotely. Attorneys in civil cases are encouraged to schedule the hearing of pretrial motions in advance of the week of trial.
3. After a jury has been selected, the remainder of the trial will be conducted in Courtrooms 1 and/or 3, on the third floor of the Whatcom County Courthouse.

4. All trial procedures are open to the public. Observers may attend jury selection procedures in person, unless and until the capacity of the jury selection room is exceeded. Observers of the trial in the courthouse may be seated in the courtroom if possible consistent with public health restrictions and social distancing.

THIS ORDER updates and supersedes the Court's prior Administrative Orders concerning jury trials. The Court's prior Administrative Orders remain in effect to the extent they are not inconsistent with this Order. This order and all previous administrative orders issued by this court since March 11, 2020, may be deemed part of the record in affected cases for purposes of appeal without the need to file the orders in each case.

DATED this 30th day of October 2020.



DEBORRA GARRETT, Presiding Judge