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IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

In the Matter of the Judiciary’s Response
to the COVID-19 Outbreak

ORDER REGARDING JURY TRIALS
(By: Recktenwald, C.J.)

On March 4, 2020, Governor David Ige declared a state of emergency in Hawai‘i in response to the public health threat posed by COVID-19. In response to the declared state of emergency, I issued an Order on March 16, 2020, which, among other things, postponed non-urgent court business in an effort to ensure the health and safety of court personnel and users, and minimize the risk of spreading COVID-19 in the courts.

Since then, the Judiciary has moved swiftly to take steps to safely and timely return court operations to full capacity when feasible. On April 17, 2020, I formed the Committee on Operational Solutions in recognition of the need for a coordinated and measured response across all the circuits to the pandemic. A jury trial subcommittee was established to

carefully consider how jury trials may be conducted in ways that are consistent with local public health recommendations and in light of available resources.

Pursuant to my June 23, 2020 "Order Regarding Jury Trials," jury trials were allowed to resume beginning on September 1, 2020, in compliance with social-distancing mandates and barring further public health or other extraordinary developments that would make doing so imprudent. At that time, the percentage of positive COVID-19 cases and hospitalizations statewide were relatively low, and it was determined that modified jury trials that were able to comply with social-distancing mandates and be conducted in a manner that would ensure the safety of Judiciary personnel, jurors, and court users, could resume on September 1, 2020.

Significant measures have been implemented to allow jury trials to safely resume in compliance with social distancing mandates and other directives. However, since the June 23, 2020 order, there has been a concerning spike in positive COVID-19 cases and hospitalizations statewide. Although the severity of the outbreak varies between the different circuits, given the increase in inter-island travel, the capacities of the health care systems on each island, the fluidity of the changes in public health conditions, and

guidance from public health officials, an extension of the jury trial commencement date is necessary and prudent at this time.

Therefore, pursuant to Article VI, sections 6 and 7 of the Hawai'i Constitution and Hawai'i Revised Statutes §§ 601-1.5 and 601-2,

IT IS HEREBY ORDERED that the June 23, 2020 "Order Regarding Jury Trials" is extended as follows:

1. All jury trials shall be postponed to dates after October 2, 2020, unless otherwise ordered by the chief judge of the respective circuit. This order does not affect any order regarding non-jury trials.

2. Circuit courts may resume conducting jury trials beginning on October 5, 2020, barring further public health or other extraordinary developments that would make doing so imprudent. All jury trials shall comply with social-distancing mandates as ordered by federal, state, and county officials, and shall be conducted in a manner that ensures the safety of Judiciary personnel, jurors, and court users. Any jury trial that cannot be conducted in such a manner shall be further postponed until such time that everyone's safety can be adequately safeguarded.

3. All previous orders remain in effect, subject to my further modification. The emergency orders issued by the

chief judge of each circuit shall also remain in effect, unless modified by the chief judge of said circuit.

4. This order may be further modified or extended as necessary.

Dated: Honolulu, Hawai'i, August 5, 2020.

/s/ Mark E. Recktenwald

Chief Justice

