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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. Since then, the Judiciary has responded to COVID-19 by postponing matters if necessary, moving proceedings to a remote format as feasible, and adjusting in-person operations to protect court users. The health and safety of Judiciary staff, court users, and the public continues to be paramount, and changing conditions in Hawai‘i have required flexibility and vigilance.

On April 17, 2020, I formed the Committee on Operational Solutions in recognition of the need for a coordinated and measured response to the pandemic across all the circuits. 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. Since then, jury trials have been further postponed to November 16, 2020 as a result of changing public health conditions in the state.

Significant measures continue to be implemented to allow jury trials to safely resume in compliance with social distancing mandates and other directives. However, the rate of COVID-19 positive cases and hospitalizations varies between the counties, and different restrictions are in effect in each county. Resuming jury trials at different times in the different circuits is now appropriate given the capacities of the health care systems on each island, the current conditions in each circuit, and guidance from public health officials.

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:

1. All jury trials in the First Circuit shall be postponed to dates after December 11, 2020, unless otherwise ordered by the chief judge of the First Circuit. The First Circuit may resume conducting jury trials beginning on December 14, 2020.

2. All jury trials in the Second, Third, and Fifth Circuits may resume beginning on November 16, 2020.

3. Circuit courts may resume jury trials on the dates set forth above 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.

4. This order does not affect any order regarding non-jury trials. 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.

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

Dated: Honolulu, Hawai'i, September 28, 2020.

/s/ Mark E. Recktenwald

Chief Justice

