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SP. No. 1CSP-20-0000082

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

In the Matter of the

CIRCUIT COURT OF THE FIRST
CIRCUIT'S RESPONSE TO THE COVID-19
OUTBREAK

) SP. No. 1CSP-20-0000082
) (Special Proceeding)
)
) FOURTEENTH AMENDED
) EMERGENCY ORDER #5
) REGARDING DISTRICT COURT OF
) THE FIRST CIRCUIT
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FOURTEENTH AMENDED EMERGENCY ORDER #5
REGARDING DISTRICT COURT OF THE FIRST CIRCUIT

This matter comes before the Court in light of the public health emergency in the State of Hawai'i.

In light of the recent surge in COVID-19 infection and hospitalization rates throughout the State of Hawai'i with record numbers of positive cases being reported, the First Circuit Courts will continue to conduct remote proceedings while also implementing additional precautions to reduce the number of people congregating in Judiciary facilities.

To further protect the health and safety of First Circuit District Court employees and all court participants, and pursuant to the Orders of Chief Justice Mark E. Recktenwald filed

as of August 16, 2021 in SCMF No. 20-0000152, In re the Judiciary's Response to the COVID-19 Outbreak, and with authority as Chief Judge of the First Circuit, the Court hereby orders as follows:

I. CRIMINAL AND CRIMINAL TRAFFIC CASES

A. Specified criminal and criminal traffic proceedings to proceed as scheduled

The following cases shall proceed as scheduled:

1. Initial appearances and preliminary hearings in felony cases;
2. Arraignment and plea for defendants in the custody of the Honolulu Police Department and/or the Hawai'i Department of Public Safety;
3. Motions for release, motions pertaining to bail, motions to revoke conditional release, and motions to revoke probation; and
4. Hearings on the mental health calendar under Hawai'i Revised Statutes (Haw. Rev. Stat.) Chapter 704 on (1) motions for temporary hospitalization; (2) motions to revoke conditional release; and (3) hearings deemed essential by the presiding judge; and
5. Trials for defendants in the custody of the Hawai'i Department of Public Safety and/or the Hawai'i State Hospital.

To the extent possible, video conferencing shall be used for cases involving defendants in the custody of the Honolulu Police Department, the Hawai'i Department of Public Safety, and/or the Hawai'i State Hospital.

B. Arraignment and plea

1. *Remote arraignments and pleas for non-custody cases.* Except as provided in section I.A. and section I.B.2., arraignments and pleas in non-custody criminal and

criminal traffic matters shall be remotely heard by Zoom. Failure to appear or timely request an in-person hearing as described below may result in a bench warrant.

2. *In-person arraignments and pleas for non-custody cases.* A defendant may file a motion for an in-person arraignment and plea. If the motion is granted, arraignment and plea will be conducted on the date, time, and courtroom specified in the order.

C. Pretrial conferences

1. *Remote pretrial conferences.* Except as provided in section I.A. and section I.C.2., all other criminal and criminal traffic matters (*e.g.*, pretrial conferences, sentencing, status hearings, compliance hearings, and other non-evidentiary matters) at the Honolulu District Court shall be conducted remotely by Zoom. Failure to appear or timely request an in-person hearing as described below may result in a bench warrant.

2. *In-person pretrial conferences.* A defendant may file a motion for an in-person pretrial conference or other hearing. If the motion is granted, the pretrial conference or other hearing will be conducted on the date, time, and courtroom specified in the order.

D. Trials

Except as provided in section I.A., trials in criminal and criminal traffic cases currently scheduled between August 30, 2021, and October 4, 2021, shall be postponed to dates after October 4, 2021.

II. TRAFFIC INFRACTION PROCEEDINGS

A. Traffic infraction hearings

All traffic infraction hearings under Haw. Rev. Stat. § 291D-8 shall be conducted remotely by Zoom. If a defendant is unable to appear via Zoom, the defendant may file a motion

for an in-person hearing. Failure to appear or timely request an in-person hearing may result in a default judgment.

B. Trials

Traffic infraction trials under Haw. Rev. Stat. § 291D-13 (trial de novo) currently scheduled between August 30, 2021, and October 4, 2021, shall be postponed to dates after October 4, 2021.

III. SPECIALITY COURTS

A. DWI Court

DWI Court shall be conducted remotely by Zoom, unless otherwise ordered by the Deputy Chief Judge of the District Court, First Circuit, or the presiding judge.

B. Community Outreach Court

Community Outreach Court shall be conducted remotely by Zoom, unless otherwise ordered by the Deputy Chief Judge of the District Court, First Circuit, or the presiding judge.

IV. CIVIL CASES

A. Temporary restraining orders and injunctions

Cases involving (a) temporary restraining orders (TROs) and injunctions under Haw. Rev. Stat. § 604-10.5, and (b) cases involving TROs and injunctions based on illegal lockouts and utility shutoffs shall proceed as scheduled.

B. Summary possession trials

Summary possession trials may proceed, unless otherwise ordered by the Deputy Chief Judge of the District Court, First Circuit, or the presiding judge.

C. Other civil trials

Except as provided in section IV.A. and IV.B., all other civil trials currently scheduled between August 30, 2021, and October 4, 2021, shall be postponed to dates after October 4, 2021.

D. Civil answers, motions, and returnables

Cases on the civil answer, motions, and returnable calendars, including cases set for status hearings, shall be conducted remotely by Zoom. If a party is unable to appear via Zoom, the party may file a motion for an in-person hearing. If the motion is granted, the hearing shall be conducted on the date and time specified in the order. Failure to appear or timely request an in-person hearing may result in default or dismissal.

E. Civil pretrial conferences

Cases on the civil pretrial conference calendar shall be conducted remotely by Zoom. If a party is unable to appear via Zoom, the party may file a motion for an in-person hearing. If the motion is granted, the hearing will be conducted on the date, time, and courtroom specified in the order. Failure to appear or timely request an in-person hearing may result in default or dismissal.

V. COURT SERVICES

A. Hours of operation for in-person court services

1. *In-person services at the Legal Documents Branch, Honolulu District Court.* The current hours of operation at the Legal Documents Branch on the third floor of the Honolulu District Court are Monday through Friday, 7:45 a.m. to 4:00 p.m. The Deputy Chief Judge of the District Court, First Circuit, may make further modifications to the dates and times during which such services will be available.

2. *In-person services at the Traffic Violations Bureau, Honolulu District Court.* The current hours of operation for in-person public services at the Traffic Violations Bureau are Monday through Friday, 8:00 a.m. to 12:00 p.m. The Deputy Chief Judge of the District Court, First Circuit, may make further modifications to the dates and times during which such services will be available.

3. *In-person services at the ‘Ewa District Court, the Kāne‘ohe District Court, the Wahiawā District Court, and the Wai‘anae District Court.* The current hours of operation for in-person public services are:

‘Ewa District Court:	8:00 a.m. to 12:00 p.m.
Kāne‘ohe District Court:	8:00 a.m. to 12:00 p.m.
Wahiawā District Court:	8:00 a.m. to 12:00 p.m.
Wai‘anae District Court:	8:00 a.m. to 12:00 p.m.

The Deputy Chief Judge of the District Court, First Circuit, may make further modifications to the dates and times during which such services will be available.

B. Document Drop-Off Service

Self-represented litigants (i.e., parties without attorneys) in civil, criminal, criminal traffic, temporary restraining order (TRO), and traffic infraction cases may submit documents electronically through the Court Document Drop-Off. Information about the Court Document Drop-Off service is available at:

https://www.courts.state.hi.us/legal_references/efiling

In the event a party is unable to electronically submit a document through the Court Document Drop-Off service, the document may be filed in person.

Additionally, attorneys in traffic infraction cases may submit documents electronically through the Court Document Drop-Off service. In the event an attorney is unable to electronically submit a document in a traffic infraction case through the Court Document Drop-Off service, the document may be filed in person.

VI. GENERAL MATTERS

A. Remote Court Hearings

Remote court hearings are open to the public. Parties, attorneys, and members of the public are advised to dress and behave appropriately.

B. Zoom numbers

The Zoom numbers for the District Court courtrooms are posted at:

<https://www.courts.state.hi.us/wp-content/uploads/2021/08/Revised-8-9-2021-Zoom-flyer-with-Civil.pdf>

Instructions on “How to Join a Court Remote Hearing Using Zoom” are available at:

<https://www.courts.state.hi.us/wp-content/uploads/2020/06/How-to-Log-Onto-Zoom-Guide5-28-2020-final.pdf>

Additional information about remote hearings is also available on the Judiciary’s website at:

<https://www.courts.state.hi.us/remote-court-hearings-via-zoom-or-webex>

C. Access to Technology for Remote Court Hearings (Laptop Access Station at the Hawai`i Supreme Court Law Library)

The Hawai`i Supreme Court Law Library (SCLL) launched a laptop access station to expand access to technology for District Court litigants with remote hearings in District Court. The laptop access station is available by appointment only. Litigants may call or e-mail SCLL to schedule an appointment.

Telephone: (808) 539-4964

Email: lawlibrary@courts.hawaii.gov

Appointment times: Monday through Friday,

8:15 a.m. to noon, and 1:00 p.m. to 3:30 p.m.

All participants must abide by COVID-19 building safety rules.

The public can also connect to library staff via the SCLL virtual reference desk optimized for mobile devices at:

<https://histatelawlibrary.com/home/virtual-reference-desk/>

The pilot project is subject to change by the SCLL.

D. Entry Into Judiciary Facilities

As set forth in SCMF-20-0000152, In the Matter of the Judiciary’s Response to the COVID-19 Outbreak, Fifth Amended Order Regarding Entering Judiciary Facilities (filed June 15, 2021), no one shall enter Judiciary facilities in the First Circuit if they: (i) have a fever or chills, cough, shortness of breath or difficulty breathing, or other symptoms of respiratory illness or of COVID-19 as set forth by the Centers for Disease Control and Prevention (“CDC”), except where the Department of Health (“DOH”) has advised that quarantine is not necessary; (ii) have had close contact with a person who has or is suspected to have COVID-19, except where the DOH has advised that quarantine is not necessary; or (iii) have traveled outside of Hawai‘i in the past 10 days and have not either (a) satisfied the State’s Safe Travels program’s negative test exception to the mandatory self-quarantine period for Trans-Pacific travel and any applicable post-arrival test requirements, or (b) satisfied the State’s Safe Travels program’s requirements for Trans-Pacific travel regarding completion of a vaccination regimen approved by the DOH, as specified by the Director of the Hawaii Emergency Management Agency (posted

at <http://hawaiiicovid19.com/>), subject to any subsequent travel restrictions imposed through Statewide or County emergency orders, rules, or proclamations.

Furthermore, any person entering any Judiciary facility shall wear an appropriate face covering as described and recommended by the CDC (both inside and outside the courtroom), unless exempt, and shall maintain appropriate social distancing of at least six feet while visiting Judiciary facilities (both inside and outside the courtroom).

E. Additional orders

The Deputy Chief Judge of the District Court, First Circuit, may issue additional orders and adjust court operations consistent with this Order and the Orders of Chief Justice Mark E. Recktenwald filed in SCMF No. 20-0000152, *In re the Judiciary's Response to the COVID-19 Outbreak*.

IT IS SO ORDERED.

DATED: Honolulu, Hawai'i, August 23, 2021.

/s/ R. Mark Browning



Hon. R. Mark Browning, Chief Judge
First Circuit Court, State of Hawai'i