

SP. No. 1CSP-20-0000082

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

In the Matter of the )  
 ) SP. No. 1CSP-20-0000082  
 ) (Special Proceeding)  
 )  
CIRCUIT COURT OF THE FIRST )  
CIRCUIT'S RESPONSE TO THE COVID-19 ) SIXTEENTH AMENDED  
OUTBREAK ) EMERGENCY ORDER #5  
 ) REGARDING DISTRICT COURT OF  
 ) THE FIRST CIRCUIT  
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SIXTEENTH 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 ongoing COVID-19 pandemic, 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 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, unless otherwise ordered by the

presiding judge. 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 and motions**

1. *Remote pretrial conferences and motions.* 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, motions to compel, motions to quash, motions for protective order, and other non-evidentiary matters) shall be conducted remotely by Zoom, unless otherwise ordered by the presiding judge. Failure to appear or timely request an in-person hearing as described below may result in a bench warrant.

2. *In-person pretrial conferences and motions.* 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**

Beginning on November 22, 2021, trials, motions to suppress, and other evidentiary motions in criminal and criminal traffic cases may resume.

## **II. TRAFFIC AND OTHER INFRACTION PROCEEDINGS**

### **A. Traffic and other infraction hearings**

1. *Remote hearings.* Traffic and other infraction hearings under Haw. Rev. Stat. § 291D-8 shall be conducted remotely by Zoom, unless otherwise ordered by the presiding judge.

2. *In-person hearings.* 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**

Beginning on November 22, 2021, traffic and other infraction trials under Haw. Rev. Stat. § 291D-13 (trial de novo) may resume.

## **III. SPECIALITY COURTS**

### **A. DWI Court**

Beginning on November 22, 2021, DWI Court may be conducted in person or remotely by Zoom, at the discretion of the Deputy Chief Judge of the District Court, First Circuit, or the presiding judge.

### **B. Community Outreach Court**

Beginning on November 22, 2021, Community Outreach Court may be conducted in person or remotely by Zoom, at the discretion of 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. Failure to appear may result in default or dismissal.

##### **B. Summary possession trials**

Summary possession trials may proceed as scheduled, unless otherwise ordered by the Deputy Chief Judge of the District Court, First Circuit. Failure to appear may result in default or dismissal.

##### **C. Regular claims trials**

Beginning on November 22, 2021, civil trials in all regular claims cases may resume, unless otherwise ordered by the Deputy Chief Judge of the District Court, First Circuit. Failure to appear may result in default or dismissal.

##### **D. Civil answers, motions, and returnables in regular claims cases**

Beginning on November 22, 2021, regular claims cases on the civil answer, motions, and returnable calendars, including cases set for status hearings, may be conducted in person or remotely. To the extent possible, parties are encouraged to appear remotely by Zoom. If a party is unable to appear via Zoom, the party may appear in person. Failure to appear may result in default or dismissal.

##### **E. Civil pretrial conferences in regular claims cases**

Beginning on November 22, 2021, regular claims cases on the civil pretrial conference calendar may be conducted in person or remotely. To the extent possible, parties are

encouraged to appear remotely by Zoom. If a party is unable to appear via Zoom, the party may appear in person. Failure to appear may result in default or dismissal.

**F. Settlement conferences in regular claims cases**

Beginning on November 22, 2021, settlement conferences may be held remotely or in-person, at the discretion of the presiding judge.

**G. Small claims cases**

1. *Initial status hearings.* Beginning on November 22, 2021, initial status hearings in small claims cases may be conducted in person or remotely. To the extent possible, parties are encouraged to appear remotely via Zoom. If a party is unable to appear via Zoom, the party may appear in person. Failure to appear may result in default or dismissal.

2. *Trials.* Beginning on November 22, 2021, small claims trials may proceed. Failure to appear 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](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](mailto: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://hstatelawlibrary.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 ten (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 Hawai‘i 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, all individuals (including employees) at Kauikeaouli Hale (Honolulu District Court), the ‘Ewa District Court, the Kāne‘ohe District Court, the Wahiawā District Court, and the Wai‘anae District Court (collectively, “District Court Facilities”), shall

wear cloth or disposable masks with a proper fit over the nose and mouth as described and recommended by the CDC (posted at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/types-of-masks.html>) from the time they enter District Court Facilities, while moving through common areas in each of these facilities (including, but not limited to, hallways, stairwells, elevators, escalators, restrooms, waiting areas, copy rooms, break rooms, conference rooms, and file areas), and in the presence of others. Masks shall also be worn when individuals (including employees) are at their personal workspaces (including, but not limited to, courtroom benches, courtroom desks, offices, cubicles, employee work stations, and employee desks), even in situations where social distancing is observed, unless they are separated from others by walls extending from the floor to the ceiling. Masks may be temporarily removed by employees when employees are actively eating and/or drinking. Masks may also be removed by employees when they are isolated in a workspace and are separated from others by walls extending from the floor to the ceiling.

Individuals (other than employees) with breathing issues or other medical conditions where the wearing of a mask may pose a health or safety risk to that individual may request an exemption from the Chief Judge, the Chief Court Administrator, or their designees. Employees with breathing issues or other medical conditions where the wearing of a mask may pose a health or safety risk to that individual may request an exemption from their respective supervisors, who shall consult with the respective Chief Court Administrator, Deputy Chief Court Administrator, or Department Head.

In addition to wearing masks, all individuals at District Court Facilities shall maintain appropriate social distancing of at least six feet (both inside and outside the courtroom), to the extent possible.

**E. Additional Entry Requirements for Attorneys and their Staff**

Beginning on November 29, 2021, and as set forth in SCMF-20-0000152, In the Matter of the Judiciary’s Response to the COVID-19 Outbreak, Order Regarding Requirements for Attorneys Entering Judiciary Facilities (filed November 12, 2021), before entering Judiciary facilities to attend court hearings and conferences, or conduct other official court business, all attorneys permitted to practice law in all courts of the State of Hawai‘i, including attorneys admitted pro hac vice, as well as paralegals, investigators, information technology specialists and any other individuals assisting the attorney in court, shall (a) verify full vaccination against COVID-19, or (b) supply proof of a negative COVID-19 test result from a test taken no more than seven days before entering the Judiciary facility.

**F. 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, November 16, 2021.

/s/ R. Mark Browning



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