

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: Honolulu District Court only

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 at the Honolulu District Court shall be remotely heard by Zoom to the

extent possible, 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. **Arraignment and plea: ‘Ewa, Kāne‘ohe, Wahiawā, and Wai‘anae District Courts**

1. *Remote arraignments and pleas for non-custody cases.* Beginning on January 3, 2022, and continuing through February 28, 2022, arraignments and pleas in non-custody criminal and criminal traffic matters at the ‘Ewa, Kāne‘ohe, Wahiawā, and Wai‘anae District Courts shall be remotely heard by Zoom to the extent possible, 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.

3. Beginning on March 1, 2022, arraignments and pleas in non-custody criminal and criminal traffic matters at the ‘Ewa, Kāne‘ohe, Wahiawā, and Wai‘anae District Courts may be conducted in person or remotely, without prior court approval. Parties are encouraged to appear remotely via Zoom if possible. Failure to appear may result in a bench warrant.

D. Pretrial conferences and motions: All District Courts

1. *Attorney-client communications.* Attorneys shall consult with their respective clients prior to scheduled pretrial conferences as part of their professional obligation to ensure effective representation.

2. *Remote pretrial conferences and motions.* Except as provided in section I.A. and section I.D.3., 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 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.

3. *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.

E. Trials: All District Courts

Trials, motions to suppress, and other evidentiary motions in criminal and criminal traffic cases shall proceed as scheduled.

II. TRAFFIC AND OTHER INFRACTION PROCEEDINGS

A. Traffic and other infraction hearings: Honolulu District Court only

1. *Remote hearings.* Traffic and other infraction hearings under Haw. Rev. Stat. § 291D-8 in the Honolulu District Court shall be remotely heard by Zoom to the extent possible, 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. 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 a default judgment.

B. Traffic and other infraction hearings: ‘Ewa, Kāne‘ohe, Wahiawā, and Wai‘anae District Courts

1. *Remote arraignments and pleas for non-custody cases.* Beginning on January 3, 2022, and continuing through February 28, 2022, traffic and other infraction hearings under Haw. Rev. Stat. § 291D-8 at the ‘Ewa, Kāne‘ohe, Wahiawā, and Wai‘anae District Courts shall be remotely heard by Zoom to the extent possible, unless otherwise ordered by the presiding judge. Failure to appear or timely request an in-person hearing as described below may result in a default judgment.

2. *In-person arraignments and pleas for non-custody cases.* A defendant 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.

3. Beginning on March 1, 2022, traffic and other infraction hearings under Haw. Rev. Stat. § 291D-8 at the ‘Ewa, Kāne‘ohe, Wahiawā, and Wai‘anae District Courts may be conducted in person or remotely, without prior court approval. Parties are encouraged to appear remotely via Zoom if possible. Failure to appear may result in a default judgment.

C. Trials: All District Courts

Traffic and other infraction trials under Haw. Rev. Stat. § 291D-13 (trial de novo) shall proceed as scheduled.

III. SPECIALITY COURTS

A. DWI Court

DWI Court shall proceed as scheduled. DWI Court participants may appear 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

Community Outreach Court shall proceed as scheduled. Community Outreach Court participants may appear in person or remotely by Zoom, at the discretion of the Deputy Chief Judge of the District Court, First Circuit, or the presiding judge. To the extent possible, Community Outreach Court should be held at community-based locations, with the presiding judge and court staff onsite at such locations. Social distancing and mask protocols shall be followed at community-based locations. Furthermore, attorneys, parties, and court observers shall comply with any additional directions of the presiding judge, bailiff, and court staff.

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 and ejectment cases

1. Returnable hearings.

a. *Cases scheduled during January 3-7, 2022.* Court notices for civil cases are sent about two weeks in advance. Court notices regarding hearings scheduled during

the week of January 3-7, 2022, were sent during the week of December 20, 2021. Court staff shall attempt to contact parties with hearings during the week of January 3-7, 2022, to instruct them to appear remotely to the extent possible. If court staff is unable to contact a party, the party may appear remotely or in-person, as set forth in the notice. All parties, attorneys, and court observers shall comply with all directions from the presiding judge, who may manage the calendar to control the number of persons present in the courtroom at any given time. All parties, attorneys, and court observers must also comply with social distancing and mask protocols.

b. *Remote hearings and appearances.* Beginning on January 10, 2022, and continuing through February 28, 2022, cases on the returnable calendar shall be remotely heard by Zoom to the extent possible, unless otherwise ordered by the presiding judge. Failure to appear or timely request an in-person hearing as described below may result in default or dismissal.

c. *In-person hearings and appearances.* A 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.

d. Beginning on March 1, 2022, cases on the returnable calendar may be conducted in person or remotely, without prior court approval. Parties are encouraged to appear remotely via Zoom if possible. Failure to appear may result in default or dismissal.

2. *Pretrial and status conferences.*

a. *Cases scheduled during January 3-7, 2022.* Court notices for civil cases are sent about two weeks in advance. Court notices regarding hearings scheduled during the week of January 3-7, 2022, were sent during the week of December 20, 2021. Court staff

shall attempt to contact parties with hearings during the week of January 3-7, 2022, to instruct them to appear remotely to the extent possible. If court staff is unable to contact a party, the party may appear remotely or in-person, as set forth in the notice. All parties, attorneys, and court observers shall comply with all directions from the presiding judge, who may manage the calendar to control the number of persons present in the courtroom at any given time. All parties, attorneys, and court observers must also comply with social distancing and mask protocols.

b. *Remote pretrial and status conferences.* Beginning on January 10, 2022, and continuing through February 28, 2022, pretrial and status conferences in summary possession and ejectment cases shall be remotely heard by Zoom to the extent possible, unless otherwise ordered by the presiding judge. Failure to appear or timely request an in-person hearing as described below may result in default or dismissal.

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

d. Beginning on March 1, 2022, pretrial and status conferences may be conducted in person or remotely, without prior court approval. Parties are encouraged to appear remotely via Zoom if possible. Failure to appear may result in default or dismissal.

3. *Trials.* Summary possession and ejectment trials shall proceed as scheduled. Failure to appear may result in default or dismissal.

C. **Regular claims cases (other than summary possession and ejectment cases)**

1. *Answers, pretrial conferences, status conferences, and motions.*

a. *Cases scheduled during January 3-7, 2022.* Court notices for civil cases are sent about two weeks in advance. Court notices regarding hearings scheduled during the week of January 3-7, 2022, were sent during the week of December 20, 2021. Court staff shall attempt to contact parties with hearings during the week of January 3-7, 2022, to instruct them to appear remotely to the extent possible. If court staff is unable to contact a party, the party may appear remotely or in-person, as set forth in the notice. All parties, attorneys, and court observers shall comply with all directions from the presiding judge, who may manage the calendar to control the number of persons present in the courtroom at any given time. All parties, attorneys, and court observers must also comply with social distancing and mask protocols.

b. *Remote hearings and appearances.* Beginning on January 10, 2022, and continuing through February 28, 2022, cases on the civil answer, pretrial conference, status conference, and motions calendars (other than summary possession and ejectment cases referenced in section IV.B.), shall be remotely heard by Zoom to the extent possible, unless otherwise ordered by the presiding judge. Failure to appear or timely request an in-person hearing as described below may result in default or dismissal.

c. *In-person hearings and appearances.* A 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.

d. Beginning on March 1, 2022, cases on the answer, pretrial conference, status conference, and motions calendars may be conducted in person or remotely,

without prior court approval. Parties are encouraged to appear remotely via Zoom if possible. Failure to appear may result in default or dismissal.

2. *Settlement conferences.* Settlement conferences may be held remotely or in-person, at the discretion of the presiding judge.

3. *Trials.* Civil trials in all regular claims cases shall proceed as scheduled. Failure to appear may result in default or dismissal.

D. Small claims cases

1. *Initial status hearings.*

a. *Cases scheduled during January 3-7, 2022.* Court notices for civil cases are sent about two weeks in advance. Court notices regarding hearings scheduled during the week of January 3-7, 2022, were sent during the week of December 20, 2021. Court staff shall attempt to contact parties with hearings during the week of January 3-7, 2022, to instruct them to appear remotely to the extent possible. If court staff is unable to contact a party, the party may appear remotely or in-person, as set forth in the notice. All parties, attorneys, and court observers shall comply with all directions from the presiding judge, who may manage the calendar to control the number of persons present in the courtroom at any given time. All parties, attorneys, and court observers must also comply with social distancing and mask protocols.

b. *Remote hearings and appearances.* Beginning on January 10, 2022, and continuing through February 28, 2022, initial status hearings in small claims cases shall be remotely heard by Zoom to the extent possible, unless otherwise ordered by the presiding judge. Failure to appear or timely request an in-person hearing as described below may result in default or dismissal.

c. *In-person hearings and appearances.* A 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.

d. Beginning on March 1, 2022, status hearings may be conducted in person or remotely, without prior court approval. Parties are encouraged to appear remotely via Zoom if possible. Failure to appear may result in default or dismissal.

2. *Trials.* Small claims trials shall proceed as scheduled. 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 noon. Beginning on January 10, 2022, the hours of operation for in-person public services at the Traffic Violations Bureau will be expanded to Monday through Friday, 8:00 a.m. to 1:00 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, Kāne‘ohe, Wahiawā, and Wai‘anae District Courts.* The current hours of operation for in-person public services are Monday through Friday, 8:00 a.m. to noon. Beginning on January 10, 2022, the hours of operation for in-person public services will be expanded to:

‘Ewa District Court: 8:00 a.m. to 1:00 p.m.

Kāne‘ohe District Court: 8:00 a.m. to 1:00 p.m.

Wahiawā District Court: 8:00 a.m. to 1:00 p.m.

Wai‘anae District Court: 8:00 a.m. to 1:00 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/wp-content/uploads/2020/04/Guide-to-Accessing-Document-Drop-Off-from-JEFS-202004.pdf>

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 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

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, December 29, 2021.

/s/ R. Mark Browning



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