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SCMF-20-0000152

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

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

FIRST AMENDED ORDER REGARDING REQUIREMENTS FOR ATTORNEYS
ENTERING JUDICIARY FACILITIES
(By: Recktenwald, C.J.)

The COVID-19 pandemic has caused a public health emergency. In response to the pandemic, the Judiciary postponed certain matters and limited in-person proceedings in an effort to ensure the health and safety of court users and Judiciary personnel, and minimize the risk of spreading COVID-19 in the courts. Court operations have since resumed in accordance with public health safety guidance, and to the extent possible with available resources.

Unlike during the early stages of the pandemic, COVID-19 vaccines are now widely available throughout the United States. On September 22, 2021, the Judiciary announced its COVID-19 vaccination and testing program for all Judiciary

employees, as well as contractors and Judiciary volunteers. As court operations continue to resume, similar vaccination and testing requirements for attorneys entering Judiciary facilities, as officers of the court, are necessary in the Judiciary's continued efforts to protect the health and safety of court users and Judiciary personnel during this unprecedented time. Therefore, on November 12, 2021, I issued the Order Regarding Requirements for Attorneys Entering Judiciary Facilities, which set forth vaccination and testing requirements for 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, before entering Judiciary facilities to attend court hearings and conferences, or conduct other official court business.

Current guidance from the Department of Health relating to isolation and quarantine for individuals exposed to or testing positive for COVID-19, the present trajectory of the pandemic and the concerning surge in the number of positive COVID-19 cases being reported in Hawai'i, and the Judiciary's continued efforts to protect the health and safety of court users, Judiciary personnel, and the public during this unprecedented time necessitated updated revisions to the June

15, 2021 Fifth Amended Order Regarding Entering Judiciary Facilities. Thus, on January 4, 2022, I issued the Sixth Amended Order Regarding Entering Judiciary Facilities, which updates the requirements for any individual entering Judiciary facilities.

The November 12, 2021 Order Regarding Requirements for Attorneys Entering Judiciary Facilities remains in effect, in addition to the entry requirements as set forth in the January 4, 2022 Sixth Amended Order Regarding Entering Judiciary Facilities, and any subsequent order regarding entry requirements to Judiciary facilities. For ease of reference, this order, which restates the November 12, 2021 order, is amended solely to reference the January 4, 2022 order.

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

IT IS HEREBY ORDERED, effective November 29, 2021, that:

1. 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.

2. For purposes of this order:

a. Full vaccination against COVID-19 occurs two weeks after the individual has received the second dose of the Pfizer or Moderna vaccine or two weeks after the individual has received a single dose of the Johnson & Johnson vaccine.

b. To verify full vaccination against COVID-19, any individual covered under this order must, upon entry at a Judiciary facility, show an original or copy of: (i) the individual's Vaccination Card; (ii) a VAMS (Vaccine Administration Management System) printout or certificate; (iii) a DOD DD Form 2766C; or (iv) a SMART Health Card with the individual's vaccine record (which can be uploaded via CommonPass or vaccine record uploaded to CLEAR Health Pass).

c. Acceptable COVID-19 tests are those authorized by the Food and Drug Administration. Any individual required to take a COVID-19 test under this order must show proof of a negative test result from a testing site approved by the State Department of Health or by the Counties, or a test provided by the Judiciary. "At home" test results will not be accepted.

3. This order does not apply to litigants, witnesses, grand and petit jurors, probationers, law firm messengers who are delivering or filing court documents, the media, other members of the public, and any other individual not covered under Paragraph 1, above.

4. Exceptions may be made in extraordinary circumstances, on a case-by-case basis, by the respective chief judge of each circuit or the respective chief or deputy chief court administrators, or the Administrative Director of the Courts.

5. All other entry requirements, as set forth in the January 4, 2022 Sixth Amended Order Regarding Entering Judiciary Facilities, remain in effect, including any subsequent order regarding entry requirements to Judiciary facilities.

6. This order may be modified as necessary.

Dated: Honolulu, Hawai'i, January 4, 2022.

/s/ Mark E. Recktenwald

Chief Justice

