

**Electronically Filed
FIRST CIRCUIT
1CSP-20-0000082
21-MAR-2022
04:23 PM
Dkt. 199 DOC**

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)
DISTRICT COURT OF THE FIRST)	
CIRCUIT'S RESPONSE TO THE COVID-19)	DISTRICT COURT OPERATIONAL
OUTBREAK)	ORDER #1 REGARDING
)	OPERATIONS IN THE DISTRICT
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DISTRICT COURT OPERATIONAL ORDER #1 REGARDING
OPERATIONS IN THE DISTRICT COURT OF THE FIRST CIRCUIT

This matter comes before the Court in light of the ongoing COVID-19 pandemic.

Despite the relaxation of COVID-related restrictions through the State of Hawaii, the First Circuit Court of the State of Hawaii will continue to maintain certain mandates regarding our Court operations. The current volume of positive COVID-19 cases, the limited spacing in the District Court facilities, the high transmissibility of the Omicron variant, and the likelihood of new variants were considered in this latest Order.

The following mandates will remain in place to protect the health and safety of First Circuit District Court employees and all court participants. This Order is made pursuant to

the Order 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 Court.

In general this Order outlines specifically what proceedings will occur with the in-person presence of the parties and/or their respective attorneys. In addition, this Order will state which proceedings will continue with Zoom.

The Court hereby orders as follows:

I. CRIMINAL AND CRIMINAL TRAFFIC CASES

A. Initial appearances in felony cases

Initial appearances and preliminary hearings in felony cases shall proceed as scheduled.

B. Arrestment and plea: Honolulu District Court

1. *Custody criminal and criminal traffic cases.* Arrestments and pleas in custody criminal and criminal traffic cases at the Honolulu District Court shall proceed as scheduled.

2. *Non-custody criminal cases.* Beginning on April 12, 2022, arrestments and pleas in non-custody **criminal** cases at the Honolulu District Court shall be conducted in person or by videoconferencing on Zoom, without prior court approval. Parties are encouraged to appear remotely via Zoom if possible. Failure to appear may result in a bench warrant.

3. *Non-custody criminal traffic cases.*

a. *Remote arrestments and pleas for non-custody criminal traffic cases.* Except as provided in section 3.b., arrestments and pleas in non-custody **criminal traffic** matters at the Honolulu District Court shall continue to be conducted by videoconferencing on

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.

b. *In-person arraignments and pleas for non-custody **criminal traffic** 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**

Arraignments and pleas in non-custody criminal and criminal traffic matters at the ‘Ewa, Kāne‘ohe, Wahiawā, and Wai‘anae District Courts shall continue to be conducted in person or by videoconferencing on Zoom, 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.* Non-evidentiary 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 continue to be conducted in person or by videoconferencing on Zoom, unless otherwise ordered by the presiding judge. Parties are encouraged to appear via Zoom if possible. Failure to appear may result in a bench warrant.

E. Trials: All District Courts

Trials, motions to suppress, and other evidentiary motions in criminal and criminal traffic cases shall proceed as scheduled. Parties, witnesses, and attorneys shall appear in person, unless otherwise ordered by the presiding judge.

II. TRAFFIC AND OTHER INFRACTION PROCEEDINGS

A. Traffic and other infraction hearings: Honolulu District Court

1. *Remote hearings.* Traffic and other infraction hearings under Haw. Rev. Stat. § 291D-8 in the Honolulu District Court shall continue to be conducted by videoconferencing on Zoom, unless otherwise ordered by the presiding judge.

2. *In-person hearings.* If a defendant is unable to appear by videoconference, 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

Traffic and other infraction hearings under Haw. Rev. Stat. § 291D-8 at the ‘Ewa, Kāne‘ohe, Wahiawā, and Wai‘anae District Courts shall continue to 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. Parties, witnesses, and attorneys shall appear in person, unless otherwise ordered by the presiding judge.

III. SPECIALITY COURTS AND CALENDARS

A. DWI Court

DWI Court shall proceed as scheduled. Parties may appear in person or by videoconferencing on Zoom, unless otherwise ordered by the presiding judge.

B. Community Outreach Court

Community Outreach Court shall proceed as scheduled. Community Outreach Court participants may appear in person or by videoconferencing on Zoom, unless otherwise ordered by 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.

C. Mental Health Calendar

The mental health calendar shall proceed as scheduled. Parties may appear in person or by videoconferencing, unless otherwise ordered by 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. Parties, witnesses, and attorneys shall appear in person, unless otherwise ordered by the presiding judge. Failure to appear may result in default or dismissal.

B. Summary possession and ejectment cases

1. *Returnable hearings.* Cases on the returnable calendar shall continue to be conducted in person or by videoconferencing on Zoom 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.* Pretrial and status conferences shall continue to 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. Parties, witnesses, and attorneys shall appear in person, unless otherwise ordered by the presiding judge. 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.* Cases on the answer, pretrial conference, status conference, and motions calendars shall continue to 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.* Status hearings shall continue to 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. Parties, witnesses, and attorneys shall appear in person, unless otherwise ordered by the presiding judge. 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 hours of operation for in-person public services at the Traffic Violations Bureau have been 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'ohē, Wahiawā, and Wai'anae District Courts.* The hours of operation for in-person public services have been expanded to Monday through Friday:

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

Kāne'ohē 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.

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://hstatelawlibrary.com/home/virtual-reference-desk/>

The pilot project is subject to change by the SCLL.

D. Entry Into Judiciary Facilities

Entry into First Circuit Judiciary facilities in which District Court proceedings or operations take place shall be governed by the provisions of General Order #1 Regarding All Trial Courts of the First Circuit of the State of Hawai‘i, filed under SP. No. 1CSP-20-0000082, In the Matter of the Circuit Court of the First Circuit’s Response to the COVID-19 Outbreak. As set forth in General Order #1, 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 tested positive for COVID-19 and have not been cleared to end isolation by their healthcare provider or DOH’s general isolation and quarantine policy, in absence of any specific guidance provided by the DOH; (iii) have had close contact with a person who has or is suspected to have COVID-19, except where (a) the individual is boosted and remains asymptomatic; or (b) the individual is fully vaccinated within six months of entry (or within two months of entry if the individual received the Johnson & Johnson vaccine) and

remains asymptomatic; or (c) the individual, who is neither boosted nor fully vaccinated, is beyond five days since exposure and remains asymptomatic.

Furthermore, all individuals (including employees) at Kauikeaouli Hale (Honolulu District Court), the 'Ewa District Court, the Kāne'ōhe 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.

This Order may be modified as circumstances warrant. Absent further action, the effective date of this Order shall be Monday, March 28, 2022 and the Order shall remain in effect until further order of the Court.

IT IS SO ORDERED.

DATED: Honolulu, Hawai‘i, March 21, 2022.

/s/ R. Mark Browning



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