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SP. No. 1CSP-20-000082

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI‘I

In the Matter of the	)	SP. No. 1CSP-20-000082
	)	(Special Proceeding)
CIRCUIT COURT OF THE FIRST	)	GENERAL ORDER #2 REGARDING
CIRCUIT’S RESPONSE TO THE COVID-19	)	ALL TRIAL COURTS OF THE FIRST
OUTBREAK	)	CIRCUIT OF THE STATE OF
	)	HAWAI‘I
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GENERAL ORDER #2 REGARDING ALL  
TRIAL COURTS OF THE FIRST CIRCUIT OF THE STATE OF HAWAI‘I

The General Order #1 Regarding All Trial Courts of the First Circuit of the State of Hawai‘i, filed on March 21, 2022 (“General Order #1”), is hereby rescinded. The restrictions on Judiciary operations and entry into Judiciary facilities are updated as reflected below to be consistent with the current COVID-19 guidelines issued by the Centers for Disease Control and Prevention (“CDC”) and in consideration of the risk level presented by the large volumes of court participants moving through Judiciary facilities during normal Court operations.

In furtherance of this Court's commitment to protect the health and safety of all court users and Judiciary employees, 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 my authority as Chief Judge of the First Circuit, IT IS HEREBY ORDERED:

1. The following shall apply to all courthouses and their facilities within the First Circuit of the State of Hawai'i ("Judiciary facilities").

**2. Physical Distancing:**

a) Physical distancing is no longer required.

b) Nevertheless, all court users and Judiciary employees are encouraged to observe the spaces in which they find themselves in Judiciary facilities, and to assess and understand their exposure risks (posted at <https://www.cdc.gov/coronavirus/2019-ncov/your-health/risks-exposure.html>). Where and when appropriate, all court users and Judiciary employees are encouraged to increase physical distance between themselves and others to decrease the risk of COVID-19 transmission.

**3. Face Masks:**

a) All court users and employees 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/masks.html>), regardless of vaccination status, from the time they enter Judiciary 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.

- b) All Judiciary employees shall continue to wear masks even when distancing requirements are observed. This shall be observed at all times, including when employees are in their personal workspaces (including, but not limited to, courtroom benches, courtroom desks, offices, cubicles, employee work stations, and employee desks). 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.
4. **Trials:** All trials shall be conducted in person. Judges shall have the discretion to direct or allow the parties and witnesses to remove their masks during their testimony or examinations, consistent with Paragraph 7 of this Order.
5. **Jury Selection:** Jury selection shall return to pre-COVID-19 operations and protocols unless the court, in its sole discretion and in compliance with applicable court orders and rules, orders otherwise.
6. **Entry into First Circuit Judiciary Facilities:** No person shall enter Judiciary facilities if they: (1) have tested positive for COVID-19 in the previous five (5) days; (2) have a fever, cough, shortness of breath or difficulty breathing, or other symptoms of respiratory illness or of COVID-19 as set forth by the CDC (posted at <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>); or (3) are subject to an isolation or quarantine request or order by any public health official or licensed medical physician.

**7. Exemptions:**

- a) Court users who cannot wear a mask or cannot safely wear a mask because of a disability, medical condition, or mental health condition, may request an exemption from the Chief Judge, the Chief Court Administrator, or their designees. Children younger than two (2) years of age are automatically exempt from the mask requirement.
  - b) Employees who cannot wear a mask or cannot safely wear a mask because of a disability, medical condition, or mental health condition, may request an exemption from their respective supervisors, who shall consult with the respective Chief Court Administrator, Deputy Chief Court Administrator, or Department Head.
8. This Order does not restrict or otherwise abrogate the express and inherent authority of the court and its judges to provide for the orderly conduct of proceedings, control in the furtherance of justice the conduct of persons connected with judicial proceedings, or to control processes and orders so as to make them conform to law and justice. Specifically, if a judicial officer determines it is necessary to the furtherance of justice to wear or remove their face covering when on the bench or to direct or allow an individual in their courtroom to wear or remove their face covering, they may do so.
9. This Order may be modified as circumstances warrant. Absent further action, the effective date of this Order shall be Monday, January 9, 2023 and this Order shall remain in effect until further order of the Court.

IT IS SO ORDERED.

DATED: Honolulu, Hawai'i, December 19, 2022 .

/s/ R. Mark Browning



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

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SP. No. 1CSP-20-0000082; In the Matter of the Circuit Court of the First Circuit's Response to the COVID-19 Outbreak; General Order #2 Regarding All Trial Courts of the First Circuit of the State of Hawai'i.