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SP. No. 1CSP-20-0000082

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI‘I

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| In the Matter of the<br><br>CIRCUIT COURT OF THE FIRST CIRCUIT'S RESPONSE TO THE COVID-19 OUTBREAK | SP. No. 1CSP-20-0000082<br>(Special Proceeding)<br><br>FIFTH AMENDED EMERGENCY ORDER #2 REGARDING CIRCUIT COURT OF THE FIRST CIRCUIT, CRIMINAL MATTERS |

FIFTH AMENDED EMERGENCY ORDER #2 REGARDING CIRCUIT COURT OF THE FIRST CIRCUIT, CRIMINAL MATTERS

This matter comes before the Court in light of the public health emergency in the State of Hawai‘i.

In light of the Judiciary's efforts to conduct remote proceedings, steps have been taken to increase technological capabilities and infrastructure for the courts to operate and maintain their respective dockets, while navigating the constraints of the rapidly evolving emergency situation. The necessary devices and teleconferencing programs are available now to allow for remote proceedings to be held. Thus, with this upgraded technological capability, the courts will

continue to conduct remote proceedings when possible. It has become apparent, however, that for some proceedings, face to face interaction is preferable and/or necessary.

Therefore, and pursuant to the Orders of Chief Justice Mark E. Recktenwald filed March 16, 2020, April 17, 2020, April 24, 2020, April 27, 2020, May 22, 2020, May 28, 2020, June 15, 2020, and June 23, 2020, under SCMF No. 20-0000152 regarding the coronavirus (COVID-19) and with authority as Chief Judge of the above-entitled Court, IT IS HEREBY ORDERED:

1. Given the use of Judiciary facilities for the 2020 Hawaii State Bar Examination, all jury trials shall continue to be postponed until after September 11, 2020.

2. Jury trials may recommence beginning September 14, 2020, barring further public health or other extraordinary developments that would make doing so imprudent. All jury trials shall comply with social distancing mandates as ordered by Governor Ige and shall be conducted in a manner that ensures the safety of court users. Any jury trial that cannot be conducted in such a manner, (including jury trials where Centers for Disease Control and Prevention guidelines on social distancing prohibit the presence of the required number of court users and jurors in current facilities) shall be further postponed until such a time that the safety of court users can be adequately safeguarded.

3. All non-jury trials may recommence effective forthwith, provided that such non-jury trials may be conducted safely.

4. Grand jury panels may recommence effective forthwith, provided that such grand jury panels may be conducted safely.

5. All criminal divisions shall conduct all other matters, motions and hearings (including evidentiary hearings), in compliance with all other court rules and orders, either remotely (i.e. telephone and/or available WebEx or other video technology) or in person, as the criminal division may require. If the division requires in-person proceedings, the hearings shall be held on a staggered basis and counsel and parties shall practice social distancing. In addition, no person shall enter the First Circuit Judiciary facilities if they have: (1) a fever, cough, shortness of breath, or other symptoms of respiratory illness; (2) traveled outside of Hawai‘i in

the past 14 days; or (3) had close prolonged contact with a person who has or is suspected to have COVID-19. Moreover, any person entering first circuit Judiciary facilities shall wear a face covering as described and recommended by the Centers for Disease Control and Prevention.

6. This Order may be modified as circumstances warrant, but absent further action this Order shall remain in effect.

It is so Ordered.

DATED: Honolulu, Hawai'i, _____.

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