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IN THE SUPREME COURT OF THE STATE OF HAWAIʻI

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

ORDER TEMPORARILY SUSPENDING IN PART
HAWAIʻI RULES OF PENAL PROCEDURE RULE 6(a)
(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, J.J.)

On March 4, 2020, Governor David Ige declared a state of emergency in Hawaiʻi in response to the public health threat posed by COVID-19. In response to the declared state of emergency, the Chief Justice issued an Order on March 16, 2020, which, among other things, postponed non-urgent court business in an effort to ensure the health and safety of court personnel and users, and minimize the risk of spreading COVID-19 in the courts.

The Committee on Operational Solutions has been working swiftly to formulate a plan of action to safely and timely return court operations to full capacity when feasible. Pursuant to the Chief Justice's May 22, 2020 Order Regarding

Jury Trial and Grand Juries, beginning June 1, 2020, grand jury proceedings may commence as directed by the chief judge of the respective circuit.

Under Hawai‘i Rules of Penal Procedure Rule 6(a), 16 members are required for a grand jury panel. Based on the recommended guidelines of the Centers for Disease Control and Prevention that social distancing be maintained, and with limited resources, the First Circuit does not have the capacity in Ka‘ahumanu Hale to place 16 grand jurors, as well as the individuals required to be present while the grand jury is in session as set forth under Hawai‘i Rules of Penal Procedure Rule 6(d), in the same space and allow for social distancing.

Therefore, in order to protect the health and safety of Judiciary personnel, jurors, and court users consistent with the recommendations of public health authorities, while maintaining court operations during the COVID-19 pandemic without unnecessary delay, and pursuant to Article VI, section 7 of the Hawai‘i Constitution and Hawai‘i Revised Statutes §§ 602-5(a)(6) and 612-27,

IT IS HEREBY ORDERED that, as to the First Circuit, effective the date of this order and continuing until July 31, 2020, the requirements set forth in Hawai‘i Rules of Penal Procedure Rule 6(a) regarding the number of members of a grand jury is temporarily reduced from 16 members to 12 members. This

order does not otherwise modify the requirements of Hawai‘i Rules of Penal Procedure Rule 6.

Dated: Honolulu, Hawai‘i, June 5, 2020.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson