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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)
	)	
CIRCUIT COURT OF THE FIRST CIRCUIT'S RESPONSE TO COVID-19 OUTBREAK	)	NINTH AMENDED EMERGENCY ORDER #3 REGARDING CIRCUIT COURT OF THE FIRST CIRCUIT, CIVIL MATTERS

NINTH AMENDED EMERGENCY ORDER #3 REGARDING
CIRCUIT COURT OF THE FIRST CIRCUIT, CIVIL MATTERS

This matter comes before the Court in light of the public health emergency in the State of Hawaii.

To further protect the health and safety of First Circuit Court employees and all court participants, and pursuant to the Orders of Chief Justice Mark E. Recktenwald filed as of December 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. No person shall enter First Circuit Judiciary facilities if they: (1) 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 Centers for Disease Control and Prevention ("CDC"); (2) have had close prolonged contact with a person who has or is suspected to have COVID-19 (except for emergency first responders who do not have or are not suspected to have COVID-19 and are subpoenaed for court hearings/trial); or (3) have traveled outside of Hawai‘i in the past ten (10) days and have not satisfied the negative test exception to the mandatory self-quarantine period, subject to any subsequent out-of-state travel restrictions imposed through Statewide or County emergency orders, rules, or proclamations. Upon appropriate motion, the presiding judge may grant exceptions to these restrictions in extraordinary circumstances.

2. Any person entering First Circuit Judiciary facilities shall wear a face covering as described and recommended by the CDC and shall maintain appropriate social or physical distancing of at least six (6) feet (both inside and outside the courtroom).

3. Beginning February 1, 2021, civil jury trials requiring jury panels of no more than 36 prospective jurors may recommence in person, barring further public health or other developments that would make doing so imprudent. All jury trials shall comply with social or physical distancing mandates as ordered by federal, state, and county officials, and shall be conducted in a manner that ensures the safety of Judiciary personnel, jurors, and court users. Any jury trial that cannot be conducted in such a manner (including jury trials where guidelines of social distancing prohibit the presence of more than 36 prospective jurors), shall be further postponed until such time that all court users' safety can be adequately safeguarded.

4. All other matters, including bench trials,[1] hearings, and conferences, must be remotely conducted by video conference or by telephone as permitted by the assigned civil division, unless otherwise specifically identified herein. The following matters may be conducted in person, barring further public health or other developments that would make doing so imprudent:

a. Hearings regarding returns on publication of summons;

b. Hearings for examination of judgment debtor(s) or person having knowledge of judgment debtor(s);

c. Return hearings on garnishee summons where no written disclosure is filed in advance of the hearing;

d. Return hearings on applications for mechanic's and materialman's lien(s); and

e. Proceedings where the presiding judge determines the matter is an emergency for which in-person attendance is necessary for disposition of the matter and the presiding judge has obtained prior approval from the Chief Judge or the Deputy Chief Judge of the Civil Division to conduct the proceeding in person.

[1] The civil division is unable to conduct bench trials in person because of substantial reductions to the first circuit court's operating budget. Funding for plexiglass barriers was prioritized for the resumption of criminal jury trials and funding for additional plexiglass only recently became available for a single civil courtroom reserved for civil jury trials. The remaining civil courtrooms will not be equipped with plexiglass barriers, and therefore, for the safety of court users, bench trials must be conducted remotely until either more funding becomes available to properly equip the civil courtrooms **or** a determination is made that trials can be safely conducted without plexiglass barriers.

If more than one in-person or emergency proceeding is scheduled on the same day, the matters must be held on a staggered basis to the extent possible. Court users must maintain appropriate social or physical distancing of at least six (6) feet (both inside and outside the courtroom) and shall wear face coverings as described and recommended by the CDC.

5. The audio from any bench trial or hearing conducted remotely shall be electronically recorded through the court's electronic recording system.

6. In the discretion of the presiding judge, hearing motions may be converted to non-hearing motions pursuant to Rule 8 of the Rules of the Circuit Courts, State of Hawai'i ("RCCH") if the judge determines the matter is suitable for disposition without a hearing.

7. Courtesy copies of any filed motion, response to a motion, or other document pertaining to a motion under RCCH 7.2(g)(6) will not be required to be delivered to the assigned judge's chambers, unless specifically ordered by the presiding judge.

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

It is so Ordered.

DATED: Honolulu, Hawai'i, January 14, 2021.

/s/ R. Mark Browning

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