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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 | ) | SP. No. 1CSP-20-0000082 |
| | ) | (Special Proceeding) |
| | ) | |
| CIRCUIT COURT OF THE FIRST CIRCUIT'S RESPONSE TO COVID-19 OUTBREAK | ) | FIFTH AMENDED EMERGENCY ORDER #3 REGARDING CIRCUIT COURT OF THE FIRST CIRCUIT, CIVIL MATTERS |

FIFTH 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 Hawai‘i and pertains to all civil proceedings filed in the Circuit Court of the First Circuit.

In light of the recent increase in COVID-19 cases on the island of Oahu, and Mayor Kirk Caldwell's Second Stay at Home/Work from Home Order, Emergency Order No. 2020-25 (COVID-19 [Novel Coronavirus]) dated August 25, 2020, the First Circuit Courts will continue to conduct

remote proceedings when possible while also taking steps to further limit the number of people in Judiciary facilities.

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 March 16, 2020, April 17, 2020, April 24, 2020, April 27, 2020, May 22, 2020, May 28, 2020, June 15, 2020, June 23, 2020, July 28, 2020, August 5, 2020 and August 28, 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. All civil jury trials are postponed to dates after October 2, 2020.

2. There shall be **no** in-person proceeding, hearing, or conference for any matter through September 30, 2020, *unless* the presiding judge determines the matter is an emergency and in-person attendance is necessary for disposition of the matter. The presiding judge must obtain prior approval from the Chief Judge or Deputy Chief Judge of the Civil Division to conduct any proceeding in-person.

3. Except for approved, emergency matters set forth in paragraph 2, any in-person hearing, conference or proceeding calendared through September 30, 2020 shall be rescheduled or cancelled (if appropriate) by the assigned civil division. Parties will be notified by the court of any future hearing date.

4. Bench trials, hearings, conferences and all other matters must be remotely conducted by video conference or by telephone as permitted by the assigned civil division.

5. Any emergency matter approved to be conducted in person as set forth in paragraph 2 or any in-person matter scheduled for September 30, 2020 or later, must be conducted as follows:

   a. If more than one proceeding is scheduled on the same day, the proceedings must be held on a staggered basis;

   b. Court participants must practice social distancing which means at least a 6 foot physical distance separation. Court participants include court personnel,

parties, attorneys, witnesses, interpreters or any other person who must appear in-person, and may also include individuals who request to watch a specific proceeding;

c. Court participants must wear masks or cloth face coverings;

d. Court participants shall not enter the First Circuit Judiciary facilities and shall not appear in-person in any proceeding if they have: (i) a fever, cough, shortness of breath, or other symptoms of respiratory illness; (ii) traveled outside Hawai'i in the past 14 days; or (iii) had close prolonged contact with a person who has or is suspected to have COVID-19.

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

7. 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.

8. 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.

9. 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, August 28, 2020.

/s/ R. Mark Browning

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