Electronically Filed
FIRST CIRCUIT
1DSD-20-0000005
02-JUL-2020
08:40 AM

SP. No. 1DSD-20-0000005

IN THE DISTRICT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI`I

In the Matter of the DISTRICT COURT OF THE FIRST CIRCUIT'S ADDITIONAL RESPONSE TO THE COVID-19 OUTBREAK	)	FOURTH AMENDED EMERGENCY ORDER REGARDING THE DISTRICT COURT OF THE FIRST CIRCUIT'S ADDITIONAL RESPONSE TO THE COVID-19 OUTBREAK

FOURTH AMENDED EMERGENCY ORDER REGARDING THE DISTRICT COURT OF THE FIRST CIRCUIT'S ADDITIONAL RESPONSE TO THE COVID-19 OUTBREAK

This matter comes before the Court in light of the public health emergency in the State of Hawai`i. 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, in SCMF No. 20-0000152, *In re the Judiciary's Response to the COVID-19 Outbreak*; Chief Judge R. Mark Browning's Fourth Amended Emergency Order #5 Regarding District Court of the First Circuit filed in SP No. 1CSP-20-0000082, *In re the Circuit Court of the First Circuit's Response to the COVID-19 Outbreak,* on June 26, 2020; and with authority as Deputy Chief Judge of the District Court of the First Circuit, State of Hawai`i, the Court hereby orders the following:

All District Court Courthouses Are Open

1. Kauikeaouli Hale (*i.e.*, the Honolulu District Court), the Kāne`ohe District Court, the `Ewa District Court, the Wahiawā District Court, and the Wai`anae District Court are open to the public. However, all parties, attorneys, and other persons that may appear in person shall wear an appropriate face covering as described and recommended by the Centers for Disease Control and Prevention, unless exempt, and shall maintain appropriate social distancing of at least six feet while visiting judiciary facilities (both inside and outside the courtroom). Further, Court participants shall not enter the First Circuit Judiciary facilities if they have: (i) a fever, cough, shortness of breath, or other symptoms of respiratory illness; (ii) traveled outside of Hawai‘i in the past 14 days; (iii) traveled inter-island prior to June 16, 2020, for the duration of their self-quarantine period, as mandated by Governor David Y. Ige's Ninth Supplementary Proclamation; or (iv) had close prolonged contact with a person who has or is suspected to have COVID-19.

2. The Information Booth at the Honolulu District Court shall continue to provide services to the public. The Information Booth is located on the plaza, outside the entrance to the courthouse. Due to its location, the public may obtain services there without standing in the lines designated for security screening, the escalators, and/or the elevators.

3. Self-represented litigants (*i.e.*, people without attorneys) seeking legal advice in landlord-tenant and other civil matters in District Court may request telephonic assistance through the Honolulu Access to Justice Room.

Hours: Monday, Wednesday, and Friday between 9:00 a.m. to 1:00 p.m.

Telephone number: (808) 538-5629

Cost: Free

The Honolulu District Court Service Center will refer calls to the Honolulu Access to Justice Room. In-person appointments at the Honolulu Access to Justice Room are not currently available. Information about the Access to Justice Room is available at: https://www.courts.state.hi.us/general_information/access_to_justice_rooms_self_help_centers

Electronic Filing Services Are Available

4. Petitions for Temporary Restraining Orders (TROs) shall be filed electronically, to the extent possible.

5. Documents in civil cases shall be filed electronically, to the extent possible.

6. Self-represented litigants (*i.e.*, parties without attorneys) in civil, criminal, and traffic cases may submit documents electronically through the Court Document Drop-Off. Information about the Court Document Drop-Off service is available at:

https://www.courts.state.hi.us/legal_references/efiling

In the event a party is unable to file a document electronically, the document may be submitted at the Information Booth.

7. Attorneys and self-represented litigants may also submit motions in traffic infraction cases electronically through the Court Document Drop-Off.

Court Proceedings Continue to Expand in Phases

8. Throughout the COVID-19 outbreak, the Honolulu District Court remained open for essential in-court proceedings. These proceedings included:

a. Criminal felony cases;

b. Criminal misdemeanor and petty misdemeanor cases involving defendants in the custody of the Oahu Community Correctional

Center (OCCC), the Hawai`i State Hospital (HSH), and/or the Honolulu Police Department (HPD);

c. Criminal traffic misdemeanor and petty misdemeanor cases involving defendants in the custody of OCCC, HSH, and/or HPD;

d. Cases on the mental health calendar involving hearings under Hawai`i Revised Statutes (Haw. Rev. Stat.) Chapter 704 on (1) Orders for Temporary Hospitalization; (2) Motions to Revoke Conditional Release; and (3) other essential hearings;

e. Cases involving temporary restraining orders (TROs) and injunctions under Haw. Rev. Stat. § 604-10.5; and

f. Cases involving TROs and injunctions based on illegal lockouts and utility shutoffs.

These essential court proceedings shall continue to be heard at the Honolulu District Court.

9. To the extent possible, video conferencing shall continue to be used for cases involving defendants currently in the custody of HPD, OCCC, and/or HSH.

Criminal misdemeanor, criminal petty misdemeanor, traffic misdemeanor, and traffic petty misdemeanor cases involving defendants who are not in the custody of OCCC, HSH, and/or HPD (*i.e.*, non-custody cases)

10. ***Temporary procedure for requests for remote pretrial conferences.*** Due to COVID-19, thousands of cases have been rescheduled since March 16, 2020. To provide parties in criminal and criminal traffic cases with an opportunity to address as many cases as possible before in-person hearings resume, to assist attorneys in streamlining their court appearances by having multiple cases set on the same date and time, and to address the backlog, parties may file ex parte motions to set remote pretrial conferences. Remote pretrial conferences

are available for change of plea (including global change of plea in multiple courthouses), waiver or demand of jury trial, proof of compliance hearings, and arraignment and plea.

Between June 29, 2020, and July 17, 2020, these pretrial conferences will generally be scheduled on the following dates and times, subject to availability:

Monday:	Defendants with cases in multiple courthouses
Tuesday morning:	Kāne`ohe cases
Tuesday afternoon:	`Ewa cases
Wednesday:	Honolulu cases
Thursday morning:	Wahiawā cases
Thursday afternoon:	Wai`anae cases
Friday:	Defendants with cases in multiple courthouses

Until July 10, 2020 only, attorneys may e-mail a copy of their ex parte motions to set pretrial conferences directly to the Deputy Chief Judge with a copy to opposing counsel to expedite the review and processing of these motions.

After 11:59 a.m. on July 10, 2020, attorneys shall **not** e-mail ex parte motions to set pretrial conferences directly to the Deputy Chief Judge. If such ex parte motions are e-mailed to the Deputy Chief Judge after 11:59 a.m. on July 10, 2020, they will be disregarded. Ex parte motions to set pretrial conferences filed after 11:59 a.m. on July 10, 2020 will be reviewed by the presiding judge(s) at the corresponding court(s).

11. ***Arraignment and plea.*** Arraignment and plea shall resume on the following dates at the following courthouses:

Tuesday, July 7, 2020: Honolulu District Court (Kauikeaouli Hale)

Monday, July 13, 2020: `Ewa District Court

Monday, July 13, 2020: Wai`anae District Court

Tuesday, July 14, 2020: Kāne`ohe District Court

Tuesday, July 14, 2020: Wahiawā District Court

12. ***Staggered appearance times.*** In light of COVID-19 and to facilitate social distancing, appearance times for arraignment and plea, status hearings (including status hearings regarding a demand or waiver of jury trial), proof of compliance hearings, and pretrial conferences shall be staggered throughout the day. Appearance times will be set every 30 minutes, with fewer cases scheduled during each 30-minute interval. Parties and attorneys must be on time. Parties and attorneys are advised to plan accordingly.

13. ***Remote appearances for arraignment and plea, status hearings, proof of compliance hearings, and pretrial conferences.*** District Court is developing a process to make remote appearances available for arraignment and plea, status hearings (including status hearings regarding a demand or waiver of jury trial), proof of compliance hearings, and pretrial conferences. In the interim, a party or attorney requesting a remote appearance may file an ex parte motion for remote hearing. Upon approval of the motion, the date, time, and remote hearing information will be provided by the Court. In the event the presiding judge in his or her sole discretion determines that a case is not suitable for a remote hearing, the presiding judge may require the parties and their counsel to appear in person.

In cases where remote appearances are available, District Court is currently utilizing Zoom. Instructions on "How to Join a Court Remote Hearing Using Zoom" are available at:

https://www.courts.state.hi.us/wp-content/uploads/2020/06/How-to-Log-Onto-Zoom-Guide5-28-2020_final.pdf

Additional information is also available on the Judiciary's website at:

https://www.courts.state.hi.us/remote-court-hearings-via-zoom-or-webex

14. ***Enforcement of court rules.*** In light of COVID-19, social distancing requirements, and the resulting scheduling restrictions, the Court will be strictly enforcing court rules, particularly with respect to requests for trial continuances, discovery disclosure and requests for additional discovery in criminal cases.

All parties are expected to strictly comply with the Hawai`i Rules of Penal Procedure, the Rules of the District Courts of the State of Hawai`i, and the deadlines contained therein. If a case is set for trial, both parties must be present with all of their witnesses on the designated date and time. Motions to continue trial must be filed in accordance with Rule 33(c) of the Rules of the District Court.

Unless a written order continuing the trial is filed, parties shall appear for trial on the designated date and time. Parties should not assume that a continuance will be granted and should not "call off" their witnesses until and unless a written order is filed. Failure to comply with court rules and deadlines may result in sanctions.

15. ***Expanded use of status conference and pretrial conferences.*** In light of COVID-19 and social distancing requirements, presiding judges may set status conferences and/or pretrial conferences to encourage plea negotiations prior to trial, address issues that must be resolved prior to trial, and manage the docket. Status and/or pretrial conferences may also be used to confirm that the parties and their respective witnesses are available for trial on their assigned trial dates.

16. ***Trials and evidentiary hearings.***

a. All trials and evidentiary hearings that commenced on or before March 16, 2020 (*i.e.*, all further trials and further hearings) will resume beginning on July 1, 2020. The Court will contact the attorneys before the further trial or hearing to confirm that both parties and

their witnesses are available for trial on the assigned date, at the assigned time, and in the assigned courtroom. If one or both parties are not available for trial on the assigned date, at the assigned time, and in the assigned courtroom, a pretrial conference will be set to address any continuances.

b. Trials and evidentiary hearings in all other criminal and criminal traffic cases shall resume on the following dates at the following courthouses:

Tuesday, August 4, 2020: Honolulu District Court (Kauikeaouli Hale)

Tuesday, August 4, 2020: `Ewa District Court

Tuesday, August 4, 2020: Kāne`ohe District Court

Thursday, August 6, 2020: Wai`anae District Court

Thursday, August 6, 2020: Wahiawā District Court

17. ***Trial dates, times, and courtrooms.*** In light of COVID-19, trial dates and appearance times may need to be staggered to facilitate social distancing. In setting and/or confirming trial dates, presiding judges and court staff should consider the size of the designated trial courtroom. If a trial date is set, the parties must confirm that their witnesses are available for trial on the assigned date, at the assigned time, and in the assigned courtroom. Parties, attorneys, and witnesses must be on time for trial. Failure to timely appear may result in sanctions. Parties and attorneys are advised to plan accordingly.

18. ***Referral to the Office of the Public Defender for legal representation in criminal cases.*** Individuals with pending arraignment dates in criminal misdemeanor, criminal petty misdemeanor, traffic misdemeanor, and traffic petty misdemeanor cases who cannot afford to hire an attorney may contact the Office of the Public Defender for possible legal representation prior to their court dates. Individuals will still need to go through a qualification

process based on their financial situation to qualify for services. Intake appointments are currently available by telephone only.

Hours: Monday through Friday, 7:45 a.m. to 4:30 p.m.

Telephone: (808) 586-2100

Cost: Free

The Office of the Public Defender does not provide legal services in civil cases.

Specialty Courts

19. DWI court hearings will be held in-person and remotely, as determined by the presiding judge.

20. Community Outreach Court will resume in August 2020. Hearings will be held in-person and remotely, as determined by the presiding judge.

Traffic Infractions

21. ***Remote traffic infraction hearings.*** Traffic infraction hearings under Haw. Rev. Stat. § 291D-8 have been conducted remotely by Zoom since May 2020. Remote appearances shall continue to be made available via Zoom. Instructions on "How to Join a Court Remote Hearing Using Zoom" are available at:

https://www.courts.state.hi.us/wp-content/uploads/2020/06/How-to-Log-Onto-Zoom-Guide5-28-2020_final.pdf

Additional information is also available on the Judiciary's website at:

https://www.courts.state.hi.us/remote-court-hearings-via-zoom-or-webex

22. ***In-person traffic infraction hearings.*** Beginning on the following dates, parties may also appear in-person for traffic infraction hearings under Haw. Rev. Stat. § 291D-8 at the following courthouses:

Tuesday, July 7, 2020: Honolulu District Court (Kauikeaouli Hale)

Monday, July 13, 2020: `Ewa District Court

Monday, July 13, 2020: Wai`anae District Court

Tuesday, July 14, 2020: Kāne`ohe District Court

Tuesday, July 14, 2020: Wahiawā District Court

23. ***In-person traffic infraction trials.*** Traffic infraction trials under Haw. Rev. Stat. § 291D-13 shall resume on the following dates at the following courthouses:

Tuesday, August 4, 2020: Honolulu District Court (Kauikeaouli Hale)

Monday, August 10, 2020: `Ewa District Court

Monday, August 10, 2020: Wai`anae District Court

Tuesday, August 11, 2020: Kāne`ohe District Court

Tuesday, August 11, 2020: Wahiawā District Court

All traffic infraction trials will be conducted in-person.

Civil cases

24. ***All civil calendars resume.*** The timetable for the re-opening of all other civil calendars is set forth in the Third Amended Emergency Order Regarding the District Court of the First Circuit's Additional Response to the COVID-19 Outbreak (filed June 8, 2020) and will be fully implemented by July 10, 2020.

a. As set forth in that order, the civil calendars at the Kāne`ohe District Court, the `Ewa District Court, the Wahiawā District Court, and the Wai`anae District Court shall resume during the week of July 6-10, 2020. To the extent possible, remote hearings shall be utilized.

b. In addition, the small claims calendar at the Honolulu District Court shall resume on July 6, 2020. To the extent possible, remote hearings shall be utilized.

25. ***Summary possession and ejectment cases.*** There shall be no civil pretrial conferences, court-mandated settlement conferences, returnables, motions, hearings, trials or other court proceedings in cases "to terminate any tenancy for a residential dwelling unit, for failure to pay all or any portion of the rent, maintenance fees, utility charges, taxes or other fees required for the residential dwelling unit" as set forth in Governor David Y. Ige's Ninth Supplementary Proclamation Related to COVID-19 Emergency (dated June 10, 2020 and effective through July 31, 2020).

In the event a case currently set on the returnable calendar seeks "to terminate any tenancy for a residential dwelling unit, for failure to pay all or any portion of the rent, maintenance fees, utility charges, taxes, or other fees" as set forth in Governor David Y. Ige's Ninth Supplementary Proclamation Related to the COVID-19 Emergency (dated June 10, 2020), the presiding judge shall (i) reschedule the returnable hearing to a date after July 31, 2020, if the Complaint was filed on or before April 16, 2020, (*i.e.*, prior to the effective date of Governor David Y. Ige's Fifth Supplementary Proclamation Related to the COVID-19 Emergency dated April 16, 2020), or (ii) dismiss the case if the Complaint was filed on or after April 17, 2020.

26. ***Alternatives to in-court appearances in civil cases.***

a. ***Mediation.*** Parties with District Court cases are encouraged to mediate their disputes prior to coming to court. Free mediation services are currently available in all District Courts through the Mediation Center of the Pacific, Inc.

Hours: Monday through Friday, 8:30 a.m. to 4:30 p.m.

Telephone: (808) 521-6767

Cost: Free

Online, telephone, video-conference and in-person mediation is available.

b. ***Written answers in lieu of in-court appearances.*** When possible, parties are encouraged to submit written answers in lieu of in-court appearances. Under the District Court Rules of Civil Procedure, Plaintiffs are not required to appear at answer. Defendants may file written answers rather than appearing in court. Written answers must be served on all parties and filed within the time periods set forth in the District Court Rules of Civil Procedure.

c. ***Written answers or general denials in lieu of in-court appearances in possession and ejectment cases.*** When possible, parties are encouraged to submit written answers in lieu of in-court appearances. Under the District Court Rules of Civil Procedure, Plaintiffs in summary possession and ejectment cases are not required to appear at returnable hearings. Defendants in summary possession and ejectment cases may file written answers or general denials in lieu of in-person appearances at returnable hearings. Written answers or general denials must be served on all parties and filed within the time periods set forth in the District Court Rules of Civil Procedure.

d. ***Submission of written stipulations to continue in lieu of in-court appearances.*** To limit the number of unnecessary appearances and to limit the number of people in court facilities at one time, parties should file stipulations to continue or motions to continue in accordance with the District Court Rules of Civil Procedure if requesting a continuance rather than appearing at a pretrial conference or other proceeding for the sole purpose of requesting a continuance.

e. ***Submission of written stipulations to dismiss in lieu of in-court appearances.*** To limit the number of unnecessary appearances and to limit the number of people in court facilities at one time, parties should file stipulations for dismissal, notices of dismissal,

or motions to dismiss in accordance with the District Court Rules of Civil Procedure rather than appearing at pretrial conferences for the sole purpose of dismissing a claim or counterclaim.

General matters

27. Before coming to court, parties and attorneys are encouraged to check their court dates. Access to court records is available on eCourt Kokua: https://www.courts.state.hi.us/legal_references/records/jims_system_availability

28. Parties and attorneys should allow additional time for screening and entry into court facilities.

29. While court proceedings remain open to the public, judges and court staff shall require persons present in the courtroom to maintain social distancing. At times, this means that people may be required to wait outside the courtroom until their cases are called. Priority shall be given to the parties and attorneys whose cases are being heard.

IT IS SO ORDERED.

DATED: Honolulu, Hawai`i, July 2, 2020.

Melanie May
Deputy Chief Judge, District Court of the First Circuit Court, State of Hawai`i