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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 CIRCUIT COURT OF THE FIRST CIRCUIT'S RESPONSE TO THE COVID-19 OUTBREAK	SP. No. 1CSP-20-0000082 (Special Proceeding) SIXTH AMENDED EMERGENCY ORDER #4 REGARDING FAMILY COURT OF THE FIRST CIRCUIT

SIXTH AMENDED EMERGENCY ORDER #4
REGARDING FAMILY COURT OF THE FIRST CIRCUIT

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 return the court to full operations and its ability 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, 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. Amended Emergency Order #4 Regarding Family Court of the First Circuit filed March 16, 2020, the Order Clarifying the Circuit Court of the First Circuit's Amended Emergency Order #4 Regarding Family Court of the First Circuit filed March 18, 2020, the Second Amended Emergency Order #4 Regarding Family Court of the First Circuit filed April 29, 2020, the Third Amended Emergency Order #4 Regarding Family Court of the First Circuit, Adult Criminal Courts filed May 15, 2020, the Fourth Amended Emergency Order #4 Regarding Family Court of the First Circuit filed May 28, 2020, and the Fifth Amended Emergency Order #4 Regarding Family Court of the First Circuit, Adult Criminal Courts filed June 1, 2020, are hereby extended through July 31, 2020, except as modified herein.

2. Matters that were continued until after June 30, 2020 pursuant to the above-mentioned emergency orders shall be further postponed until after July 31, 2020 except as otherwise ordered herein.

3. No party or attorney shall appear in person unless permitted pursuant to this Order or prior approval is granted by the presiding judge. Approval may also be granted to those individuals that do not have access to a telephone or computer to participate remotely.

4. All parties, attorneys, and other persons that may appear in person pursuant to this Order 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 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 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 Ige's Eighth Supplementary Order; or (iv) had close prolonged contact with a person who has or is suspected to have COVID-19.

5. Parties, attorneys, witnesses, and other persons shall remain outside the courthouse as directed by court staff until the Court is ready for their hearing or testimony.

6. Adult Criminal Courts.

a. All jury trials shall continue to be postponed until after August 31, 2020.

b. Jury trials may recommence beginning September 1, 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 and jurors can be adequately safeguarded.

c. The First Circuit Family Court adult criminal courts (to include courtrooms 8B, 8C and 8D), shall continue to conduct all other matters, bench

trials, motions and hearings (including evidentiary hearings), in compliance with all other court rules and orders, either remotely (e.g., telephone and/or available WebEx or other video technology) or in person, as the court may require. If the court requires in-person proceedings, the hearings shall be held on a staggered basis and counsel and parties shall practice social distancing.

7. Domestic Division. All matters currently scheduled shall be conducted either in person or by video or telephone as provided below.

a. The following matters shall be conducted in person:

i. Trials;

ii. Extended hearings;

iii. Settlement conferences; and

iv. Other hearings as required in the Court's discretion or upon approved request.

b. The following matters shall be conducted by video whenever possible, or by telephone if necessary:

i. Hearings on Motions for Pre-Decree Relief;

ii. Hearings on Motions for Post-Decree Relief;

iii. Motions to Set;

iv. Return hearings on custody evaluations/best interest fact finder and similar reports; and

v. Other divorce matters.

8. Special Division. All matters currently scheduled shall be conducted either in person or by video or telephone as provided below.

a. The following matters shall be conducted in person:

i. Temporary Restraining Order/Gun Violence Protective Order cases (unless an exception is granted for video/telephone participation);

ii. Motions requesting the return of firearms;

iii. Trials;

iv. Settlement conferences;

v. Assisted Community Treatment initial return hearings; and

vi. Other hearings as required in the Court's discretion or upon approved request.

b. The following matters shall be conducted by video whenever possible, or by telephone if necessary:

i. Paternity cases (except trials);

ii. Adoption cases (except trials);

iii. Guardianship cases (except trials);

iv. Hearings on procedural motions in Assisted Community Treatment cases;

v. Hearings in miscellaneous cases;

vi. Return hearings on custody evaluations/best interest fact finder and similar reports; and

vii. Civil commitment hearings (currently heard via video).

9. Juvenile Division.

a. All matters currently scheduled shall be conducted in person except as otherwise stated in this Order. Matters shall be rescheduled, if necessary, to accommodate a staggered schedule to promote social distancing.

b. All cases on the FC-J and FC-S calendars will be set be set on a staggered schedule.

c. Temporary Foster Custody cases and cases motioned to transition from family supervision to foster custody will continue to be held with all parties and counsels appearing in person. For these hearings only, the social worker and Guardian Ad Litem may appear via phone or WebEx. Social distancing arrangements will be made in the courtroom.

d. FC-S Review Hearings shall continue to be held with all parties and counsel appearing in person. Representatives from the Department of Health and other ancillary agencies may appear via phone or WebEx. Social distancing arrangements will be made in the courtroom.

i. Until further notice due to COVID-19 concerns, minors should not be brought to the courthouse. Arrangements shall be made with Guardian Ad Litems to communicate with the minor via WebEx.

e. FC-S Trials shall continue to be held with all parties and counsel appearing in person. Witnesses will wait outside of the courthouse until it is their time to testify. It will be the obligation of the attorneys to notify their witnesses appropriately. Pretrials will be set prior to the trial to discuss any necessary

arrangements in advance of the trial date. Social distancing arrangements will be made in the courtroom.

f. FC-J Motions, Dispositions, and Arraignment and Plea hearings shall continue to be held with all parties and counsel appearing in person. Only one parent will be permitted to attend the hearing with the minor. Representatives from the Department of Health and other ancillary agencies may appear via phone or WebEx. Social distancing arrangements will be made in the courtroom.

g. FC-J Trials shall continue to be held with all parties and counsels appearing in person. Only one parent will be permitted to attend the hearing with the minor. Representatives from the Department of Health and other ancillary agencies may appear via phone or WebEx. Witnesses will need to wait outside of the courthouse until it is their time to testify. It will be the obligation of the attorneys to notify their witnesses appropriately. Pretrials will be set prior to the trial to discuss any necessary arrangements in advance of the trial date. Social distancing arrangements will be made in the courtroom.

10. Specialty Courts

a. Family Drug Court. Hearings will continue to be held via video or telephone as directed by the presiding judge. In-person appearances may be s approved by the presiding judge.

b. Zero to Three (ZTT). Hearings will continue to be held via video or telephone as directed by the presiding judge. In-person appearances may be approved by the presiding judge.

c. Imua Kākou. Hearings shall continue to be conducted by way of paper review only unless otherwise directed by the presiding judge.

d. Truancy Court. Court hearings shall be postponed to a date after July 31, 2020, and shall continue to be suspended until public school resumes

e. Girls Court. Girls Court hearings will continue to be held using a combination of in-person along with video and telephone appearances, as directed by the presiding judge. Hearings shall be scheduled and when appropriate, shall be staggered. The juvenile, one parent, the juvenile's probation officer, the prosecutor and the public defender shall all appear in person for the hearing. Service providers shall participate in the hearings via video or telephone.

f. Juvenile Drug Court. Juvenile Drug Court hearings will continue to be held using a combination of in-person along with video and telephone appearances, as directed by the presiding judge. Hearings shall be scheduled and when appropriate, shall be staggered. The juvenile, one parent, the juvenile's probation officer, the prosecutor and the public defender shall all appear in person for the hearing. Stakeholders and service providers shall participate in the hearings via video or telephone.

11. Video & Telephone Hearings Procedures for Remote Matters

a. Video Hearings. The Court directs that parties and attorneys appear for remote hearings via video conference whenever possible through WebEx or other video application as may be directed by the Court (smartphone and/or computer with video, audio, and microphone is required). If the Court has an e-mail address for the party and/or counsel, the Court will send an "Invitation" to attend

the hearing by e-mail, which will include a link to join the meeting at the scheduled time. A party or attorney may need to download the WebEx program or application to their device, which is recommended. A party or attorney may learn more by visiting www.webex.com. At the time of the hearing, all participants must be in a quiet place, without interruption or distractions. Parties and attorneys shall not call the bailiff's desk if they are able to enter the meeting room lobby.

b. Telephone Procedure. In the event video is unavailable, parties and attorneys may participate in the hearing by telephone. The Court may call the parties and attorney through the WebEx application, which will appear on their telephone as an out of state telephone number. Attorneys are to inform their clients of the above procedures to prevent multiple telephone calls being received at the bailiff's desk.

c. If a party or attorney is unable to enter the meeting room lobby for a video hearing and has also not received a telephone call from the Court, they shall call the bailiff's desk at (808) 954-8087 for the second floor, or (808) 954-8085 for the third floor.

12. Domestic Division and Special Division Civil Case Requirements

a. Cases Where A Party Is Represented By An Attorney. In cases where both parties are represented by an attorney, the attorneys shall confer with one another prior to the date of the hearing to attempt to resolve any disputed issues. If a contested hearing is necessary, attorneys are encouraged to agree to proceed by way of offers of proof. In cases where one party is represented by an attorney, the attorney shall confer, or attempt to confer, with the opposing party prior to the date

of the hearing in an effort to resolve any disputed issues. Failure of attorneys to confer prior to the date of the hearing may result in the Court rescheduling the matter to a future date.

b. Exhibits or Documents. Any exhibits or documents that a party intends to use or present at the hearing shall be provided to the Court in compliance with any other Court order, but in any event not later than three business days prior to the scheduled hearing. Exhibits shall be provided to the opposing parties or attorneys no later than 48 hours prior to the hearing. Exhibits shall be mailed to the Court or dropped off at the Family Court drop box located at the entrance to the Family Court in Kapolei. Attorneys are encouraged to exchange exhibits with each other by e-mail or other electronic means.

13. Child Support Enforcement Agency Appeals shall continue to proceed as scheduled.

14. In-person appearances for the Kids First Program shall continue to be suspended though Friday, July 31, 2020, but parties may be required to participate in on-line education/programing as directed by the Kids First Program.

15. 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, JUN 26 2020.

R. MARK BROWNING, CHIEF JUDGE
First Circuit Court, State of Hawai'i

FIRST CIRCUIT COURT SEAL STATE OF HAWAII

SP. No. 1CSP-20-0000082; In the Matter of the Circuit Court of the First Circuit's Response to COVID-19 Outbreak; Sixth Amended Emergency Order #4 Regarding Family Court of the First Circuit