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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) ELEVENTH AMENDED EMERGENCY ORDER #5 REGARDING DISTRICT COURT OF THE FIRST CIRCUIT; EXHIBIT 1

ELEVENTH AMENDED EMERGENCY ORDER #5
REGARDING DISTRICT COURT OF THE FIRST CIRCUIT

This matter comes before the Court in light of the public health emergency in the State of Hawai‘i.

To further protect the health and safety of First Circuit District Court employees and all court participants, and pursuant to the Orders of Chief Justice Mark E. Recktenwald filed as of December 22, 2020 in SCMF No. 20-0000152, In re the Judiciary's Response to the COVID-19 Outbreak, and with authority as Chief Judge of the First Circuit, the Court hereby orders as follows:

I. Honolulu District Court

A. *In-person criminal and criminal traffic proceedings at the Honolulu District Court*

1. The following cases shall proceed as scheduled:

    a. Initial appearances and preliminary hearings in felony cases;

    b. Arraignment and plea for defendants in HPD custody;

    c. Motions for release filed by defendants in HPD custody or OCCC custody;

    d. Motions to revoke conditional release, motions to revoke probation, and motions pertaining to bail;

    e. Hearings on the mental health calendar under Hawai‘i Revised Statutes (Haw. Rev. Stat.) Chapter 704 on (1) motions for temporary hospitalization; (2) motions to revoke conditional release; and (3) hearings deemed essential by the presiding Judge; and

    f. Quarantine violator cases.

To the extent possible, video conferencing shall be used for cases involving defendants in the custody of the Honolulu Police Department, the Oahu Community Correctional Center, and/or the Hawai‘i State Hospital, as well as quarantine violator cases.

B. *Criminal proceedings at the Honolulu District Court*

2. *Arraignment and plea.*

a. *Remote arraignments and pleas for non-custody cases.* Other than cases referenced in paragraph 1, arraignments and pleas in non-custody criminal matters at the Honolulu District Court shall be remotely heard at Kāneʻohe District Court by Zoom.

Zoom App or URL: www.zoom.us

Meeting ID: 589 540 4300

If a defendant is unable to appear via Zoom, the defendant's case shall be continued to a date on or after March 1, 2021.

b. *In-person arraignments and pleas for non-custody cases.* A defendant may file a motion for in-person arraignment and plea. If the motion is granted, the arraignment and plea will be conducted on the date, time, and courtroom specified in the order.

3. *Pretrial conferences.*

a. *Remote pretrial conferences*. Except as provided in paragraph 4, all other criminal matters (*e.g.*, pretrial conferences, sentencing, status hearings, compliance hearings, and other non-evidentiary matters on the 7B calendar) at the Honolulu District Court shall be conducted remotely by Zoom. If a defendant is unable to appear via Zoom, the defendant's case shall be continued to a date on or after March 1, 2021.

b. *In-person pretrial conferences.* A defendant may file a motion for an in-person pretrial conference. If the motion is granted, the pretrial conference will be conducted on the date, time, and courtroom specified in the order.

4. *Criminal trials postponed.* All ***criminal bench trials*** (*i.e.*, trials on the 7B and 7C calendars) at the Honolulu District Court shall be postponed to a date on or after February 1, 2021. Criminal cases with trial dates or trial weeks on or before January 31, 2021 will be converted to remote pretrial conferences and shall be conducted by Zoom. If a defendant is unable to appear via Zoom, the pretrial conference shall be continued to a date on or after February 1, 2021.

C. *Criminal traffic proceedings at the Honolulu District Court*

5. *Arraignment and plea.*

a. *Remote arraignments and pleas for non-custody cases.* Arraignments and pleas in criminal traffic matters at the Honolulu District Court shall be remotely heard at Aliʻiōlani Hale (Hawaiʻi State Supreme Court) by Zoom.

Zoom App or URL: www.zoom.us

Meeting ID: 769 012 9369

If a defendant is unable to appear via Zoom, the defendant's case shall be continued to a date on or after March 1, 2021.

b. *In-person arraignments and pleas for non-custody cases.* A defendant may file a motion for in-person arraignment and plea. If the motion is granted, the arraignment and plea will be conducted on the date, time, and courtroom specified in the order.

6. *Pretrial conferences.*

a. *Remote pretrial conferences.* Except as provided in paragraph 7, ***criminal traffic*** matters scheduled on the 7A, 10C, and 10D calendars (e.g., pretrial conferences, sentencing, status hearings, compliance hearings, and other non-evidentiary matters) at the

Honolulu District Court shall be conducted remotely by Zoom. If a defendant is unable to appear via Zoom, the defendant's case shall be continued to a date on or after March 1, 2021.

b. *In-person pretrial conferences and other hearings.* A defendant may file a motion for an in-person pretrial conference or other hearing. If the motion is granted, the pretrial conference or other hearing will be conducted on the date, time, and courtroom specified in the order.

7. *DUI and other criminal traffic trials.*

a. Courtrooms 10C and 10D: All ***criminal traffic bench trials*** on the 10C and 10D calendars at the Honolulu District Court shall be postponed to a date on or after January 19, 2021. Cases with trial dates or trial weeks on or before January 15, 2021 will be converted to remote pretrial conferences and shall be conducted by Zoom.

b. Courtroom 7A: All ***criminal traffic bench trials*** on the 7A calendar at the Honolulu District Court shall be postponed to a date on or after February 1, 2021. Cases with trial dates or trial weeks on or before January 31, 2021 will be converted to remote pretrial conferences and shall be conducted by Zoom.

D. *Specialty Courts*

8. *Remote DWI Court hearings to proceed.* DWI Court shall be conducted remotely by Zoom, unless otherwise ordered by the presiding judge.

9. *Remote Community Outreach Court hearings to proceed*. Community Outreach Court shall be conducted remotely by Zoom, unless otherwise ordered by the presiding judge.

E. *Traffic infraction proceedings at the Honolulu District Court*

10. *Remote traffic infraction hearings to proceed.* All traffic infraction hearings under Haw. Rev. Stat. § 291D-8 shall be conducted remotely by Zoom. If a defendant is unable to appear via Zoom, the defendant may file a motion for an in-person hearing. Failure to appear or timely request an in-person hearing may result in a default judgment.

11. *Trials postponed.* All traffic infraction trials under Haw. Rev. Stat. § 291D-13 (trial de novo) shall be postponed to a date on or after February 1, 2021.

F. *Civil proceedings at the Honolulu District Court*

12. *In-person hearings in civil cases to be conducted.* The following cases shall proceed as scheduled:

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

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

c. At the discretion of the presiding judge, in-person hearings may be scheduled for summary possession and ejectment cases involving alleged physical harm, threats of physical harm, and/or safety and health violations.

13. *Remote hearings on the civil answer, motions, and returnable calendars to proceed.* Cases on the civil answer, motion, and returnable calendars shall be conducted remotely by Zoom, to the extent possible. Parties are encouraged to appear via Zoom. If a party

is unable to appear via Zoom, the party may appear in person. Failure to appear may result in default or dismissal.

14. *Remote hearings on the civil pretrial conference calendar to proceed.* Cases on the civil pretrial conference calendar shall be conducted remotely by Zoom, to the extent possible. Parties are encouraged to appear via Zoom. If a party is unable to appear via Zoom, the party may appear in person. Failure to appear may result in default or dismissal.

15. *Civil trials to resume.* Civil trials and other civil matters at the Honolulu District Court may resume on January 4, 2021, except as precluded by the eviction moratorium set forth in Governor David Y. Ige's Sixteenth Proclamation Related to the COVID-19 Emergency dated November 23, 2020.

G. *General court services at the Honolulu District Court*

16. The current hours of operation at the Legal Documents Branch on the third floor of the Honolulu District Court are Monday through Friday, 7:45 a.m. to 4:00 p.m. The Deputy Chief Judge of the District Court, First Circuit, may make further modifications to the dates and times during which such services will be available.

17. The Traffic Violations Bureau on the second floor of the Honolulu District Court shall be open to the public for general court services. The current hours of operation for public services at the Traffic Violations Bureau are Monday through Friday, 8:00 a.m. to 12:00 p.m. The Deputy Chief Judge of the District Court, First Circuit, may make further modifications to the dates and times during which such services will be available.

18. Self-represented litigants (*i.e.*, parties without attorneys) in civil, criminal, criminal traffic, and temporary restraining order (TRO) cases shall 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 electronically submit a document through the Court Document Drop-Off service, the document may be filed in person at the Information Booth, located on the plaza of the Honolulu District Court, between the hours of 7:45 a.m. to 4:00 p.m.

19. Attorneys and self-represented litigants shall submit motions in traffic infraction cases electronically through the Court Document Drop-Off service. In the event an attorney or self-represented litigant is unable to electronically submit a document through the Court Document Drop-Off service, the document may be filed in person.

II. ‘Ewa District Court, Kāne‘ohe District Court, Wahiawā District Court, and Wai‘anae District Court

A. *Criminal and criminal traffic proceedings at the ‘Ewa District Court, the Kāne‘ohe District Court, the Wahiawā District Court, and the Wai‘anae District Court*

20. *Arraignment and plea.*

a. Remote arraignments and pleas to proceed. Arraignments and pleas in criminal and criminal traffic matters at the ‘Ewa District Court, the Kāne‘ohe District Court, the Wahiawā District Court, and the Wai‘anae District Court shall be conducted remotely by Zoom. If a defendant is unable to appear via Zoom, the defendant’s case shall be continued to a date on or after March 1, 2021.

b. *In-person arraignments and pleas.* A defendant may file a motion for in-person arraignment and plea. If the motion is granted, the arraignment and plea will be conducted on the date, time, and courtroom specified in the order.

21. *Pretrial conferences.*

a. *Remote criminal and traffic pretrial conferences to proceed.* Except as provided in paragraph 20, all other criminal and criminal traffic matters (*e.g.*, pretrial conferences, sentencing, status hearings, compliance hearings, and other non-evidentiary matters) at the ʻEwa District Court, the Kāneʻohe District Court, the Wahiawā District Court, and the Waiʻanae District Court shall be conducted remotely by Zoom. If a defendant is unable to appear via Zoom, the defendant's case shall be continued to a date on or after March 1, 2021.

b. *In-person criminal and traffic pretrial conferences.* A defendant may file a motion for an in-person pretrial conference. If the motion is granted, the pretrial conference will be conducted on the date, time, and courtroom specified in the order.

22. *Trials.*

a. *ʻEwa District Court*. Criminal and criminal traffic bench trials at the ʻEwa District Court resumed on November 30, 2020.

b. *Kāneʻohe District Court*. Criminal and criminal traffic bench trials at the Kāneʻohe District Court resumed on December 7, 2020.

c. *Wahiawā District Court*. Criminal and criminal traffic bench trials at the Wahiawā District Court resumed on December 14, 2020.

d. *Waiʻanae District Court*. Criminal and criminal traffic bench trials at the Waiʻanae District Court may resume on January 4, 2021.

B. *Traffic infraction proceedings at the ʻEwa District Court, the Kāneʻohe District Court, the Wahiawā District Court, and the Waiʻanae District Court*

23. *Remote traffic infraction hearings to proceed.* All traffic infraction hearings under Haw. Rev. Stat. § 291D-8 shall be conducted remotely by Zoom. If a defendant

is unable to appear via Zoom, the defendant may file a motion for an in-person hearing. Failure to appear or timely request an in-person hearing may result in a default judgment.

24. *Trials postponed*. Traffic infraction trials under Haw. Rev. Stat. § 291D-13 (trial de novo) may resume on January 4, 2021.

C. ***Civil proceedings at the ʻEwa District Court, the Kāneʻohe District Court, the Wahiawā District Court, and the Waiʻanae District Court***

25. *Remote hearings to be held in most civil cases.* Other than regular claims trials, civil cases at the ʻEwa District Court, the Kāneʻohe District Court, the Wahiawā District Court, and the Waiʻanae District Court shall be conducted remotely by Zoom. If a party is unable to appear via Zoom, the party may file a motion of an in-person hearing. Failure to appear or timely request an in-person hearing may result in default or dismissal.

26. *Regular claims trials postponed*. Regular claims trials at the ʻEwa District Court, the Kāneʻohe District Court, the Wahiawā District Court, and the Waiʻanae District Court may resume on January 4, 2021, except as precluded by the eviction moratorium set forth in Governor David Y. Ige's Sixteenth Proclamation Related to the COVID-19 Emergency dated November 23, 2020.

D. ***General court services at the ʻEwa District Court, the Kāneʻohe District Court, the Wahiawā District Court, and the Waiʻanae District Court***

27. The ʻEwa District Court, the Kāneʻohe District Court, the Wahiawā District Court, and the Waiʻanae District Court shall remain open to the public for general court services. The current hours of operation for public services are:

ʻEwa District Court:	8:00 a.m. to 12:00 p.m.
Kāneʻohe District Court:	8:00 a.m. to 12:00 p.m.

Wahiawā District Court: 8:00 a.m. to 12:00 p.m.

Waiʻanae District Court: 8:00 a.m. to 12:00 p.m.

The Deputy Chief Judge of the District Court, First Circuit, may make further modifications to the dates and times during which such services will be available.

28. Self-represented litigants (*i.e.*, parties without attorneys) in criminal and criminal traffic cases shall 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 electronically submit a document through the Court Document Drop-Off service, the document may be filed in person at the respective courthouse during the hours referenced in paragraph 27.

29. Attorneys and self-represented litigants shall submit motions in traffic infraction cases electronically through the Court Document Drop-Off service. In the event an attorney or self-represented litigant is unable to electronically submit a document through the Court Document Drop-Off service, the document may be filed in person at the respective courthouse during the hours referenced in paragraph 27.

III. General matters

30. 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

The current Zoom meeting numbers for the District Court courtrooms are attached as Exhibit 1. These meeting numbers are subject to change.

Remote court hearings are open to the public. Parties, attorneys, and members of the public are advised to dress and behave appropriately.

31. No person shall enter any Judiciary facility in the First Circuit if that person has: (i) a fever, a cough, shortness of breath or difficulty breathing, or other symptoms of respiratory illness; (ii) traveled outside Hawai'i in the past 14 days and have not satisfied the negative test exception to the mandatory 14-day quarantine and any subsequent testing requirements set forth by the City and County of Honolulu; or (iii) had close contact with a person who has or is suspected to have COVID-19.

Furthermore, any person entering any Judiciary facility shall wear an appropriate face covering as described and recommended by the Centers for Disease Control and Prevention (both inside and outside the courtroom), unless exempt, and shall maintain appropriate social distancing of at least six feet while visiting Judiciary facilities (both inside and outside the courtroom).

32. The Deputy Chief Judge of the District Court, First Circuit, may issue additional orders and adjust court operations consistent with this Order and the Orders of Chief Justice Mark E. Recktenwald filed in SCMF No. 20-0000152, *In re the Judiciary's Response to the COVID-19 Outbreak.*

IT IS SO ORDERED.

DATED: Honolulu, Hawai'i, December 28, 2020.

/s/ R. Mark Browning

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