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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) NINTH AMENDED EMERGENCY ORDER #2 REGARDING CIRCUIT COURT OF THE FIRST CIRCUIT, CRIMINAL MATTERS

NINTH AMENDED EMERGENCY ORDER #2 REGARDING CIRCUIT COURT OF THE FIRST CIRCUIT, CRIMINAL MATTERS

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

In light of the recent increase in COVID-19 cases on the island of Oahu, 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, and Mayor Kirk Caldwell's Order Implementing Tier 1 of COVID-19 Recovery Framework, Emergency Order No. 2020-27 (COVID-19 [Novel Coronavirus]) dated September 23, 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, August 28, 2020, and September 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. No person shall enter First Circuit Judiciary facilities if they have: (1) a fever, cough, shortness of breath, difficulty breathing, or other symptoms of respiratory illness; (2) traveled outside of Hawai‘i in the past 14 days; or (3) had close prolonged contact with a person who has or is suspected to have COVID-19. Further, any person entering First Circuit Judiciary facilities shall wear a face covering as described and recommended by the Centers for Disease Control and Prevention and shall maintain appropriate social distancing of at least six feet (both inside and outside the courtroom).

2. All jury trials and grand jury panels shall be postponed to dates after December 11, 2020. Jury trials and grand jury panels may recommence beginning December 14, 2020, barring further public health or other developments that would make doing so imprudent. All jury trials and grand jury panels shall comply with social-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 or grand jury panel that cannot be conducted in such a manner, (including jury trials where guidelines of social distancing prohibit the presence of

the required number of court users and jurors in current Judiciary facilities) shall be further postponed until such time that everyone's safety can be adequately safeguarded.

3. All criminal divisions may conduct all other matters, motions, hearings and conferences remotely pursuant to their regularly scheduled calendars, if in compliance with court rules and orders.

4. In-person, face-to-face hearings may proceed only in the following instances:

a. Initial appearances in felony cases, preliminary hearings for in-custody defendants, arraignments and extraditions;

b. Motions and hearings regarding bail pursuant to Hawaii Revised Statutes Chapter 804 ("Bail Hearings");

c. Matters deemed essential and urgent requiring court action ("Essential Hearings");

d. Matters concerning Hawaii Revised Statutes Chapter 704, including return hearings on (1) Order for Temporary Hospitalization and/or (2) Motion to Revoke Conditional Release;

e. Matters concerning Involuntary Medical Treatment of Patients/Inmates pursuant to Hawaii Revised Statutes Sections 353-13.6 -13.9, 334-161 and State v. Kotis, 91 Haw. 319, 984 P.2d 78 (1999);

f. Non-evidentiary hearings, only if held on a staggered basis, with counsel and parties practicing social distancing;

g. Limited evidentiary hearings and non-jury trials, with the approval of the Deputy Chief / Criminal Administrative Judge, and only if held on a staggered basis, with counsel and parties practicing social distancing.

5. For all matters involving defendants in custody, at the court's discretion, defendants may appear remotely and counsel may be ordered to appear in court.

6. 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, September 30, 2020.

/s/ R. Mark Browning

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