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WHATCOM COUNTY  
WASHINGTON

BY \_\_\_\_\_

IN THE SUPERIOR COURT OF WASHINGTON  
FOR THE COUNTY OF WHATCOM

CASE NO. 20-2-00001-37

IN THE MATTER OF RESPONSE TO PUBLIC )  
HEALTH RISK DUE TO COVID-19 PUBLIC ) EIGHTH  
HEALTH EMERGENCY ) ADMINISTRATIVE ORDER  
) May 29, 2020

WHEREAS the state of emergency declared by the Governor of this State and resulting from the current COVID-19 pandemic and described in this Court's previous Administrative Orders, continues, and

WHEREAS the Washington Supreme Court has adopted Orders granting this Court emergency authority to adopt, modify and suspend court rules and take further actions as warranted to address the current state of emergency, and has updated those Orders with its Second Revised and Extended Order Regarding Court Operations, No. 25700-B-618, dated April 29, 2020, and its Third Revised and Extended Order Regarding Court Operations, No. 25700-B-625, on May 28, 2020; and

WHEREAS this Court has implemented technology and procedures to permit hearings of certain matters by telephone, Go To Meeting, Zoom or other measures permitting participants to appear before the Court without physical presence in the courtroom (herein "remote technology" or "remotely"), and will endeavor to hear those matters in which remote procedures will be achievable and will provide the judge with the information necessary to make informed decisions on the cases involved; and

WHEREAS it is necessary for this Court to conduct arraignments and other pretrial procedures in cases arising after the onset of the public emergency described in the Court's prior Orders, to the extent possible while maintaining prescribed restrictions to minimize the number of persons present in courtrooms during court proceedings; and;

WHEREAS the number of out-of-custody arraignments currently calendared exceed the Superior Court's expectations that adequate social distancing can be maintained in the Whatcom

County Courthouse and individual courtrooms, with the Court having similar concerns depending on the emerging size of out-of-custody criminal motions and plea calendars; and

WHEREAS it is impossible to socially distance in the courthouse elevators, which must be used only by single individuals or by family groups, such that a limitation of the number of people entering the courthouse and using the elevators to attend court is necessary to maintain social distancing; and

WHEREAS several members of the local bar have expressed confusion about the Court's requirements for arraignments, document signatures, and other procedures,

THE COURT ISSUES THIS ORDER to confirm that its prior Administrative Orders remain in effect to the extent they are not withdrawn or modified by later Orders:

#### ADULT CRIMINAL CASES

1. The provision of the Court's Administrative Order of March 16, 2020, regarding signatures on documents in criminal cases, remains in effect until further notice. That provision states:

Signatures on documents. In lieu of obtaining personal signatures from defendants on documents filed in criminal cases, including pretrial release orders, trial setting orders, or other documents on which a signature is traditionally required (but not including protection orders), attorneys may sign their initials on the signature line intended for the defendant, indicating that they have notified the defendant of the contents of the order.

2. The following provisions of this Court's Administrative Order of May 1, 2020, remain in effect until further notice:
  1. Trials. All criminal trials remain suspended until at least July 6, 2020. Nonjury trials may be conducted by remote means or in-person with strict observance of social distancing and other public health measures. The time between April 29, 2020 and September 1, 2020 shall be excluded when calculating time for trial.
  2. Deferral of Arraignments – Out of Custody Defendants. Arraignments on charges filed after March 18, 2020 against defendants who are out of custody are deferred until 45 days after the filing of charges. The new arraignment date shall be considered the "initial commencement date" for purposes of establishing the time for trial.
3. The following provisions of this Court's Administrative Order of May 5, 2020, remain in effect until further notice except as amended below pertaining to certain types of cases:

Deferral or Waiver of [Appearance at] Arraignments – Out of Custody Defendants.

a. Arraignments on charges filed after March 18, 2020 and on or before May 5, 2020, against defendants who are out of custody, are deferred until June 19, 2020. Arraignments on charges filed after May 5, 2020 are deferred until 45 days after the filing of charges. The new arraignment date shall be considered the “initial commencement date” for purposes of establishing the time for trial.

b. Except for cases involving the entry of domestic violence or antiharassment no contact orders or the surrender of weapons and concealed pistol licenses, defendants who are out of custody and represented by counsel may waive personal appearance at arraignment provided that their attorney submits to the Court, preferably in advance of the arraignment hearing, a Notice of Appearance containing a request for entry of a plea of “Not Guilty” on behalf of the defendant, and the Court’s “Advice of Rights” form signed by the defendant or signed by the defendant’s attorney, which signature indicates that counsel has reviewed with the defendant the rights, charges and maximum penalties that are described therein. The provision of the Court’s Administrative Order of March 16, 2020, regarding the calendaring of arraignments based upon defendants’ last names remains in effect until further notice. The remainder of the Court’s Administrative Order of March 16, 2020, regarding the conduct of out-of-custody arraignments remains in effect except as modified hereunder:

- i. Out-of-custody arraignments calendared on Fridays will commence at 8:30 AM in Courtroom 3 and will conclude not later than 12 noon.
- ii. In-custody arraignments will commence on Fridays at 10:00 AM in Courtroom 5B. This calendar will commence regardless of whether out-of-custody arraignments have concluded in Courtroom 3. Prosecutors and defense counsel are cautioned that they may have to coordinate two teams of attorneys to cover Friday arraignments in the event that out-of-custody arraignments are not concluded by 10:00 AM. In-custody arraignments must begin at 10:00 AM in order to accommodate jail staffing.
- iii. No more than 10 out-of-custody defendants may appear in the courtroom for arraignment or status hearings per half hour. Each week, on the Tuesdays and Wednesdays before their respective arraignment calendars, the Superior Clerk’s Office will issue a draft list of defendants scheduled for arraignment with their staggered appearance time listed, as determined by the Clerk’s Office. Defense counsel are directed to contact their clients and notify them of their expected appearance time. Persons not yet represented by counsel will be contacted by the Office of Assigned Counsel for notification of their expected appearance time. Assigned Counsel will also inquire regarding an unrepresented party’s interest in applying for an attorney, as well as inform them that if they have an attorney prior to their arraignment date they may be able to waive appearance at arraignment. All defendants will be notified of Courthouse COVID 19 restrictions including the requirement to wear a mask and to maintain social distancing. Defendants who appear at arraignment


without an attorney but request one may be continued to a court date more than one week later dependent on the size of existing calendars as tallied by the Superior Court Clerk's Office.

4. The provision of the Court's Administrative Order of March 16, 2020, regarding the calendaring and conduct of criminal motions and plea calendars remains in effect until further notice except as modified hereunder:
  - a. No more than 6 out-of-custody defendants may appear in the courtroom for motions or entry of pleas and/or sentencings per half hour. Parties who note matters for criminal motions and plea calendars, notably the Prosecuting Attorney's Office and the Public Defender Office, are directed to coordinate with the Superior Clerk's Office to devise a scheme whereby a list of time slots for each calendar can be centrally kept so that a noting party can note a matter for an appropriate half-hour block. Seeking input from the private criminal defense bar is encouraged.
5. Cases set for the Wednesday status and out-of-custody plea calendars will be called in the following order
  - Status hearings in alphabetical order
  - Re-called status hearings in alphabetical order if requested
  - Guilty pleas and sentencings in alphabetical order
  - Re-called Guilty pleas and sentencings in alphabetical order if requested

#### 6. COURT'S PRIOR ADMINISTRATIVE ORDERS

The purpose of this Administrative Order is to clarify, for counsel, the procedures described above. Other provisions of the Court's prior Administrative Orders, not discussed in this Order, also remain in effect to the extent they are not inconsistent with this Order.

DATED this 29<sup>th</sup> day of May, 2020.

  
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For Presiding Judge  
Robert E. Olson, J.