FILED

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR SNOHOMISH COUNTY

2020 APR 17 PM 4:45

HEIDI PERCY
COUNTY CLERK
SNOHOMISH CO. WASH

2020-7008-31A

IN RE THE MATTER OF THE RESPONSE BY SNOHOMISH COUNTY SUPERIOR COURT TO THE PUBLIC HEALTH EMERGENCY IN SNOHOMISH COUNTY AND THE STATE OF WASHINGTON	)	NO. EMERGENCY ORDER #6 RE: COURT OPERATIONS

WHEREAS on January 31, 2020, the Secretary of Health and Human Services declared a public health emergency under Section 319 of the Public Health Service Act (42 U.S.C. 247d) in response to COVID-19, and

WHEREAS on February 29, 2020, Governor Jay Inslee declared a state of emergency due to the public health emergency posed by the coronavirus 2019 (COVID-19), and

WHEREAS on March 1, 2020, President Donald J. Trump proclaimed that the COVID-19 outbreak in the United States constitutes a national emergency, and

WHEREAS on March 23, 2020, in response to the Covid 19 emergency, Governor Jay Inslee issued a proclamation prohibiting all people in Washington from leaving their homes, except to conduct or participate in essential activities. In complying with the prohibition, lawyers, litigants, and witnesses will be unable to attend court for nonessential hearings unless by means of a system for telephonic or video appearance, and

WHEREAS on March 24, 2020, Snohomish County Executive Dave Somers signed Emergency Executive Order No. 20-04, stating, "all people in Snohomish County shall immediately cease leaving their home or place of residence except (1) to conduct or participate in essential activity and/or for employment in essential business services," and

WHEREAS on April 2, 2020, Governor Jay Inslee extended the terms of his March 23, 2020 proclamation to May 4, 2020, and

WHEREAS on April 10, 2020, Governor Jay Inslee issued Proclamation 20-45 changing the requirements for time and service concerning protection orders under 7.90, 7.92, and 7.94 RCW, 10.14 RCW, 26.09 and 26.50 RCW, and 74.34 RCW, and

WHEREAS on April 16, 2020, Governor Jay Inslee issued Proclamation 20-19.1 suspending until June 4, 2020 prohibiting unlawful detainer actions on residential properties unless necessary to respond to a significant and immediate risk to the health or safety of others created by the resident, and

WHEREAS obtaining signatures from defendants for orders continuing existing matters places significant burdens on attorneys, particularly public defenders, and all attorneys who must enter correctional facilities to obtain signatures in person, and

NOW THEREFORE, it is hereby ORDERED, pursuant to the authority of Washington State Supreme Court Order No. 25700-B-607 and the authority of the Presiding Judge of the Snohomish County Superior Court, that the following shall be in effect April 20, 2020:

Civil Trial Call

1. All civil jury trials are SUSPENDED until at least June 1, 2020. Any civil case that is currently set for jury trial before then shall be timely confirmed consistent with the confirmation rule in order to receive a new jury trial date. The new date will be after August 31, 2020. Any civil case that is not timely confirmed consistent with the confirmation rule will be stricken. Any party may then file a new note for trial setting.
2. All timely confirmed civil bench trials, other than those on petitions for vulnerable adult protection orders, sexual assault protective orders, and extreme risk protective orders will be continued to a new trial date after May 4, 2020. The Court finds exceptional circumstances to continue all dependency fact finding hearings beyond the statutory 75-day period and, at this time, all dependency fact finding hearings shall be continued to the next available date after June 1, 2020.

Criminal Matters

3. All pending criminal trials, whether jury or bench, are CONTINUED until after May 4, 2020. The Court further finds that the ends of justice and the imperative of safety served by continuing these cases outweighs the defendant's right to a speedy trial. All pending criminal trials require a continuance in the administration of justice. Based upon the Court's finding that the serious danger posed by COVID-19 is good cause to continue and also constitutes an unavoidable circumstance under CrR 3.3(e)(8), the time between March 13, 2020 and July 3 or any new trial date before then, whichever comes first, shall be EXCLUDED for purposes of calculating time for trial under CrR 3.3(e)(3) and (8) and pursuant to the Supreme Court's Revised and Extended Order

Regarding Court Operations, 25700-B-615, dated April 13, 2020 (the April 13 Supreme Court Order). For all criminal trials previously continued without a waiver pursuant to any previous Snohomish County Superior Court emergency order, May 5, 2020 shall be the new commencement date for purposes of calculating time for trial under CrR 3.3(e)(3) and (f)(2) and pursuant to the April 13 Supreme Court Order. For all criminal trials continued with a waiver, the new time for trial will be in accordance with the order of continuance.

4. Through May 4, 2020, all out-of-custody defendant matters to be heard on the Criminal Hearings Calendars in Department 304 shall be stricken. Out-of-custody defendants need not appear for any criminal trial calendar prior to May 1, 2020. The cases will be called, the non-appearance will be noted. The Court will authorize no bench warrants for failures to appear at any trial calendar until May 5, 2020. For purposes of this order, "defendant" means adult criminal defendant.

5. Until further order of the Court, the only criminal matters heard in C304 apart from trial call on Friday at 1:00 p.m. and all video calendars will be in-custody arraignments, in-custody CSV matters, in-custody motions to review bail upon proper notice or by agreement of the parties, in-custody pleas, in-custody sentencings, motions to vacate convictions and motions for certificates of discharge. Motions to vacate and motions for certificates of discharge shall be heard on the pleadings only, unless the judge requires telephonic argument. The video calendar will be limited to twenty (20) defendants. The Court sitting in C304 will hear no RALJ matters. Ex-parte agreed orders re-setting dates or requesting assignment may be presented to the Criminal Hearings Judge scheduled to hear that calendar. The Court may hear in-

custody criminal matters by audio-video means without the defendant transported to the courthouse.

6. Until further order of the Court, sentencings for out-of-custody defendants will be continued to a date after May 4, 2020, to be arranged with the Judge's law clerk assigned to that special set sentencing. All sentencings scheduled for out-of-custody defendants on the Criminal Hearings sentencing calendar shall be continued to a criminal hearings calendar after May 4, 2020. All in-custody special set sentencings will be heard in Dept. 304 on the 3:00 calendar unless the originally assigned judge chooses to hear it at a different time.
7. To the extent possible, the attorney representing a criminal defendant related to a hearing that might result in the defendant being released from the Snohomish County Jail should advise the Presiding Judge a minimum of one (1) day prior to the type of hearing so the Presiding Judge can attempt to assign the matter out to a particular department, if there is no availability to hear it in C304. If the matter cannot be heard in C304, the time of the hearing will be dependent on the schedules of the Judge, the attorneys, and transport.
8. With regard to continuances, the following rules shall apply until further order of the Court:
    a. An order continuing a criminal case need not be signed by the defendant to be approved, provided it sets a trial before July 3, 2020 for an in-custody defendant or before August 2, 2020 for an out-of-custody defendant.
    b. Defense counsel shall provide notice of new court dates to their clients.

c. The Prosecuting Attorney's Office shall summons all pro se defendants for new court dates.

d. Attorneys shall be permitted to sign any orders through digital signature, in accordance with SCLGR RULE 30.A - Digital Signatures.

Commissioner Matters

9. The following rules shall be in effect until further order of the Court.

a. Family Law Domestic Motions calendar

The family law domestic motions calendar will be limited to a maximum of 16 confirmed cases. Parties whose cases will not be heard due to exceeding the limit may agree to a new hearing date. Otherwise, their matters will need to be renoted. Parties should anticipate that contempt motions and motions related to primary care of children will have priority.

Hearings will be on submitted materials and without oral argument unless the judicial officer will have directed the parties to present telephonic oral argument. Parties may check the Odyssey portal after 5:00 p.m. two days before the hearing to learn whether they are expected to present telephonic oral argument. Any telephonic argument will be via CourtCall. Parties required to participate by CourtCall must call into CourtCall and be available just as if they were present in Court. To schedule an appearance with CourtCall, a party must follow the procedures set out in 10(a), below. Failure to do so may be grounds to strike the hearing or proceed without the participation of any missing party.

The moving party shall provide a signed proposed order to the court prior to the hearing. Failure to do so may result in the matter being stricken.

b. Guardianship

All matters other than petitions for new guardianships on the Guardianship/Probate calendars shall be done without oral argument absent request by the court. This calendar shall be limited to a total of fourteen (14) confirmed cases, subject to the rules set forth above. Failure to provide a signed proposed order may be grounds for the Court to strike the hearing

Petitions for new guardianships will be heard telephonically on CourtCall. Parties shall call in to CourtCall and be available on CourtCall just as if they were present in court. To schedule an appearance with CourtCall, a party must follow the procedures set out in 10(a), below. Failure to do so may be grounds to strike the hearing or proceed without the participation of any missing party.

The moving party shall provide a signed proposed order to the court prior to the hearing. Failure to do so may result in the matter being stricken.

c. Ex Parte

Petitions for vulnerable adult protection orders, sexual assault protection orders, extreme risk protection orders, domestic violence protection orders, and anti-harassment protection orders must be electronically submitted to the Court per instructions posted at https://snohomishcountywa.gov/PO , except where the petitioner lacks the means to do so. No other requests for relief will be accepted

electronically. The Clerk's Office shall defer any statutorily required filing fee for new petitions for protection orders filed electronically and shall collect no filing fees until after the return hearing. The petitioner may receive the resulting order by e-mail and may request a certified copy be mailed.

Persons seeking ex-parte emergency relief in essential matters who lack the means to do so electronically may submit their pleadings by sliding them under the door to room C125 on the first floor of the courthouse. Essential matters include petitions for vulnerable adult protection orders, sexual assault protection orders, extreme risk protection orders, domestic violence protection orders, and anti-harassment orders. A judicial officer will consider the pleadings in chambers and decide whether or not to grant an order and set a return hearing. The signed order will be returned to the Court facilitator's office for distribution to the petitioner. If the petition is granted, the facilitator will also provide the temporary order to law enforcement for service, except in the case of anti-harassment orders.

Persons moving for emergency contempt and for immediate relief relating to children may place their motions in a basket in Court Administration, room 5-5620 on the fifth floor of the courthouse. The motion shall comply with CR 65 notice requirements. If the motion is for the immediate change of custody, the moving party shall provide his or her telephone number and the telephone number of the opposing party if it is known. The Court may hear telephonic argument prior to ruling. A judicial officer will consider the motion and determine whether or not to grant interim relief and set a hearing. The person seeking the order may

leave an e-mail address where a scanned version of the Court's order granting or denying relief may be sent. The moving party may also supply a self-addressed stamped envelope for return of the signed order for service on the non-moving party.

Parties with agreed orders in essential matters that require approval sooner than the ex-parte mail service will allow may place their agreed orders in a designated basket in room C123 on the first floor of the courthouse.

Petitioners and moving parties are strongly encouraged to return home to await electronic notice of the outcome of their requests. Petitioners and moving parties without means to receive orders electronically may remain in the courthouse pending the judicial officer's decision.

d. Civil Motions

The Commissioner Civil Motions Calendar will proceed as prior to emergency orders except that:

i. The judicial officer will review matters on the written materials submitted. If the judicial officer requires telephonic oral argument, the parties may learn this by checking the Odyssey portal after 5:00 p.m. on the last day of the confirmation period. Any telephonic oral argument will be via CourtCall. To participate via CourtCall, one must follow the procedures set out in 10(a), below. Failure to do so may result in the matter being stricken or heard without a party's participation. Moving parties shall submit a proposed order with their working copies. Failure to do so may be grounds to strike the matter.

ii. Pursuant to Governor's Proclamation 20-19, the Court will not hear unlawful detainer actions for default payment of rent for residential property, and nor shall it hear actions on writs of restitution involving a dwelling where the allegation is a failure to timely pay rent. All actions for commercial unlawful detainer will remain on the Commissioner Calendar. Pursuant to amendment to Governor's Proclamation 20-19, the Court will not hear any actions for residential ejectment or unlawful detainer until June 4, 2020, except in those cases where the resident poses a significant and immediate risk to the health or safety of others. Those actions for residential ejectment or unlawful detainer actions not forbidden by the Governor's proclamation or amendments thereto will be heard in Department 10 at 9:00, telephonically and without CourtCall, and not in person except that any party who cannot participate telephonically may participate in person. To participate telephonically, parties must follow the procedures set out in the addendum provided at the motion for show cause.

iii. The Court will hear no more than three (3) petitions for restoration of firearm rights on a single day, except the Court will consider any number of agreed orders to restore firearm rights. Agreed orders may be submitted electronically or through the mail for the Court's consideration without a motion or calendar note.

e. Finalization of Dissolution Actions

i. Cases on the pro se dissolution calendar shall be heard on the materials submitted and without oral argument. Parties shall present declarations or affidavits in lieu of testimony, in the form directed by the court and available on the court website. Litigants shall provide agreed or default orders to the court by noon at least one (1) day prior to the hearing. Failure to do so may result in the hearing being stricken.

ii. Attorney-involved default/agreed dissolutions, legal separations and invalidity actions shall be set by calendar note on Thursdays in Department A at 1:00 pm. Parties shall provide declarations or affidavits in lieu of testimony in the form directed by the court and available on the Court's website. Agreed orders must be provided to the court by noon at least one (1) day prior to the hearing. Failure to do so may result in the matter being stricken. Any matter on this calendar must be confirmed in accordance with existing local court rules.

f. Interpreter calendars.

Interpreter calendars shall be conducted telephonically via CourtCall. Parties participating by CourtCall shall follow the procedures in 10(a), below. Interpreter calendars shall be limited to a total of four hearings per calendar unless, in the discretion of the Court Commissioner, the number of hearings for a particular calendar can be expanded. Parties should anticipate that petitions for

anti-harassment orders, domestic violence orders, contempt matters, and emergency parenting plan matters will have priority. Anti-harassment orders and domestic violence orders need not be confirmed and will have priority. All other matters must be confirmed.

If the total number of cases on a calendar exceeds four matters, then the judicial officer will continue contempt and emergency parenting plan matters to the next available date unless he or she decides to expand the number of cases on the calendar. If more than four anti-harassment and/or domestic violence matters are set, the Commissioner will set the additional matters to the next available date, not to exceed fourteen (14) days out, unless he or she decides to expand number of cases on the calendar. A copy of the ex-parte order continuing the hearing and extending the restraints will be mailed to the parties or their attorneys at the address provided to the court if all parties have been properly notified of the hearing dates set. If not, service may be made through law enforcement. Mailing of the order shall be deemed effective service.

g. Weapons surrender hearings shall proceed as usual.

h. All special set hearings and extended hearings shall be suspended pending further order of the court.

i. Matters on the State paternity calendar will resume on May 4, 2020 on CourtCall.

j. All Guardian Ad Litem compliance hearings will be heard on the written materials submitted, without oral argument.

k. Parties should refer to the Snohomish County Superior Court website for updates or modifications to court procedures.

Telephonic or Video Hearings (CourtCall)

10. The Court will conduct no hearings at the main courthouse in which lawyers, litigants, or witnesses shall be heard while attending in-person, except in essential cases in which a lawyer, litigant, or witness is unable to attend telephonically. Essential cases include criminal or offender matters and petitions for domestic violence protection orders, anti-harassment orders, temporary immediate restraining orders, extreme risk protection orders, vulnerable adult protection orders, and sexual assault protections orders and show cause actions under 59.12, 59.18, and 59.20 RCW where the petitioner is unable to attend telephonically. For all other hearings for which persons would otherwise appear in person, persons will instead appear telephonically. Telephonic appearances for non-essential hearings before a judicial officer shall be by CourtCall unless the judicial officer specifies otherwise. No person participating by CourtCall will be required to pay for the service.

a. To schedule an appearance via CourtCall, for oneself or anybody else, a person must call 1-888/882-6878 by 2:00 p.m. the day prior to the hearing and must provide the case name, the cause number, the date and time of the hearing, and the location of the hearing if the person knows it. Any person who has not scheduled an appearance via CourtCall by 2:00 p.m. the day prior

to a hearing taking place after March 31, 2020 shall be deemed to have failed to appear unless the judicial officer has granted leave to extend the deadline.

b. Anyone who has an appearance scheduled on CourtCall must call in on the date of the hearing by the time the court calls the case or else the person shall be deemed to have failed to appear. All hearings which would otherwise be conducted in an open court room shall be conducted in an open courtroom.

c. Persons appearing in-person on non-essential matters, in violation of the Governor's proclamation, can expect not to be heard. Essential matters include petitions for domestic violence protection orders, anti-harassment orders, temporary immediate restraining orders, extreme risk protection orders, vulnerable adult protection orders, sexual assault protection orders, and residential, post foreclosure, and manufactured and mobile home unlawful detainer actions.

d. In adult criminal cases and petitions for domestic violence protection orders, anti-harassment orders, temporary immediate restraining orders, extreme risk protection orders, vulnerable adult protection orders, and sexual assault protection orders, and residential, post foreclosure, and manufactured and mobile home unlawful detainer actions, the Court will hear from parties, lawyers, and witnesses who appear in person if they cannot appear telephonically. Return hearings on petitions for protection orders or anti-harassment orders as well as actions for residential unlawful detainer, which shall be heard in the Presiding Department, will be presumed telephonic but without CourtCall. Parties to those actions may call in or be called using

ordinary cellular or landline telephone equipment. Defendants in unlawful detainer actions need not confirm their appearances at a show cause hearing prior to the day of the hearing. The Court may take such measures as it deems necessary to protect people in the courtroom from infection, including but not limited to enforcing social distancing and ordering the wearing of masks when available.

e. For adult criminal trial call, all out-of-custody defendants and the attorneys in the case may appear telephonically.

Interpreter Services

11. Persons having a right to be heard who need interpreter services for hearings in the main courthouse may request such services by calling 425/388-3421 or by e-mailing ssc-interpreter.support@snoco.org or de.brandstrom@snoco.org. Persons having a right to be heard who need interpreter services for hearings at the Denney Juvenile Justice Center may request such services by calling 425/388-7960 or by e-mailing toni.elmendorf@snoco.org. Interpreter services may be telephonic for all case types without limitation, including evidentiary hearings, notwithstanding GR 11.3.

Other Matters

12. All civil motions on the Judges' Civil Motions Calendar, Tuesday through Friday, shall be considered on written materials submitted without oral argument, unless the Judge assigned to that civil motions calendar specifically requests telephonic argument.

13. Residential unlawful detainer actions not prohibited by a Governor's Proclamation or amendment thereto will be heard telephonically but without CourtCall in Department 10 at 9:00 A.M. To proceed in a show cause hearing for unlawful detainer, the plaintiff must have served the defendant, in the manner required by law, the addendum provided by the court at the motion for show cause. The plaintiff or plaintiff's counsel must provide the Court with his or her telephone number and the telephone number of the defendant, if known. Parties who cannot appear telephonically may appear in person in Department 10. CourtCall will not be used for telephonic hearings in any residential, post-foreclosure, and manufactured and mobile home unlawful detainer action.

14. Return hearings on petitions for extreme risk protection order, vulnerable adult protection orders, and sexual assault protection orders will be heard telephonically but without CourtCall in Department 10 at 9:00 AM. The petitioner must see that the Court has his or her telephone number, the telephone number of the respondent if known, and, in the case of a petition for a Vulnerable Adult Protection Order, the telephone number of the vulnerable adult. Parties who cannot appear telephonically may appear in person in Department 10. The Court will observe all changes to the law regarding time and service that are mandated by Governor's Proclamation 20-45 which issued April 10, 2020.

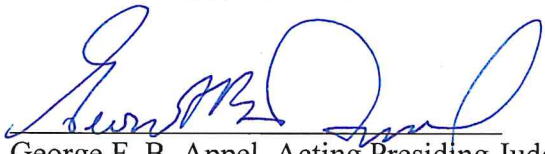
15. A supplemental emergency order addresses matters at Denney Juvenile Justice Center not addressed in this order.

16. Any matters not addressed in this emergency order shall proceed in the manner consistent with all State and Local Court rules.

17. For all calendars, moving parties shall provide the judicial officer with a proposed order. The Court may strike any matter for which there is no proposed order.
18. Working copies for a judge may be electronically submitted to the judge's law clerk by e-mail.

This Order will take effect April 20th and will remain in effect until further order of the Court. This order shall supersede both Emergency Order #1, Emergency Order #2, and Emergency Order #5, together with any amendments to any of them, to the extent those orders and amendments are inconsistent with this order. This order shall further supersede Superior Court Administrative Order 11-12 and Washington State Supreme Court's Amended Order No. 25700-B-607, to the extent those orders are inconsistent with this order, and this order shall constitute a temporary modification of Snohomish County Local Court Rules to the extent those rules are inconsistent with this order.

DATED this 17th day of April, 2020



George F. B. Appel, Acting Presiding Judge