

FILED
KING COUNTY, WASHINGTON

MAR 27 2020

SEA
SUPERIOR COURT CLERK

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

IN THE MATTER OF THE RESPONSE BY
KING COUNTY SUPERIOR COURT TO THE
PUBLIC HEALTH EMERGENCY IN
WASHINGTON STATE

No. 20-0-12050-5

**EMERGENCY ORDER #15
RE: CIVIL AND FAMILY LAW
MATTERS**

This matter comes before the Court on the public health emergency in Washington State.

IT IS HEREBY ORDERED that, based on the findings in King County Emergency Orders Nos. 1-6, the March 23, 2020 Stay Home-Stay Healthy proclamation of Governor Jay Inslee, the March 13, 2020 Proclamation of President Donald Trump regarding the COVID-19 pandemic, Justice Debra Stephens' Order No 25700-B-606 and Amended Order No. 25700-B-607, and based on the Court's need to maintain public health and safety balanced against the Court's core constitutional obligations to the public:

The King County Superior Court now enters a revised order regarding procedures governing civil matters during the public health emergency. **This Order supersedes the Emergency Order #11 dated March 19, 2020, the Amended Emergency Order #11 dated March 20, 2020, the Emergency Order #6 dated March 16, 2020, and the Unified Family Court General Order dated March 17, 2020. This order applies to all civil cases except for cases concerning Dependency and the Involuntary Treatment Act ("ITA"). Motions in civil cases and family law cases are addressed in separate sections (Sections B and F).**

1 By this order, the Court will assist parties in progressing with their civil litigation to avoid
2 lack of access and a backlog of justice to the extent possible within the confines of Governor
3 Inslee's March 23, 2019 Stay Home - Stay Healthy proclamation. Compliance with the
4 proclamation is the highest priority for all residents of Washington. Parties and lawyers should
5 act to ensure compliance for the safety of themselves, their clients, their staff, court employees,
6 and their community. The Court will conduct non-emergency civil litigation only so long as such
7 actions are consistent with the Governor's proclamation. The Court will expect attorneys and
8 parties to factor such considerations into their litigation plans and actions. If the Court determines
9 that it is unable to continue to conduct non-emergency civil litigation consistent with the
10 Governor's proclamation, or there are any new developments, the Court will swiftly issue new
11 orders and modify operations. All parties and persons are encouraged to monitor the King County
Superior Court website at <https://www.kingcounty.gov/courts/superior-court.aspx> for updates.

12 **IT IS HEREBY ORDERED:**

13 **A. Civil Trials**

- 14 1. All civil trials (except for Dependency and ITA cases) currently scheduled in King
15 County Superior Court between March 16, 2020 and June 8, 2020 are stricken and will
16 be re-set to a date on or after June 8, 2020.
- 17 2. The individual calendar (IC)/assigned trial judge shall set a new trial date for all civil
18 trials where the trial date was stricken. Prior to April 10, 2020, the parties may either
19 submit an agreed order for a new trial date, or, if the parties cannot agree, either party
20 may file a motion to set a new trial date. No later than April 10, 2020, parties should
21 notify the trial court of their availability, regardless of whether the parties file an agreed
22 order or motion.
- 23 3. When the Court is able to resume jury trials, the Court will prioritize assignments.
Criminal trials, Dependency trials, and certain family law matters will take priority over
civil cases in the short term.

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B. Civil Motions Before Assigned Judges (Except Motions in Family Law Proceedings)

1. The March 20, 2020 Washington Supreme Court's Amended Order clarified the Superior Court's authority to handle certain civil matters during the public health emergency. It provides: "All non-emergency civil matters shall be continued until after April 24, 2020 except those motions, actions on agreed orders, conferences, or other proceedings that can appropriately be conducted by telephone, video or other means that does not require in person attendance."
2. All civil motions shall be heard without oral argument unless specifically requested by the assigned judge. The parties may request oral argument, but the decision will be left to the assigned judge.
3. If the Court requests oral argument, it will be conducted by telephone, video, or other electronic means.
4. The Court finds good cause to alter the time limits in LCR 7(b). These are now nine court day motions. The moving party shall serve and file all motion documents no later than *nine court days* before the date the party wishes the motion to be considered; opposing documents will be filed and served no later than 4:30 p.m. *four court days* before the motion is to be considered; and any optional strict reply will be filed and served no later than 4:30 p.m. *two court days* before the hearing.
5. The Court finds good cause to waive the requirement of oral argument in LCR 56 and LCR 7(b)(4)(B).
6. The Court is aware that parties may face difficulties in timely responding to motions for personal or case (.i.e., discovery) reasons related to COVID-19. Parties may request a continuance related to COVID-19 from the Court and such requests will be liberally granted. Under such circumstances, a party should first request that the opposing party agree to a continuance. A responding party may file a motion to continue the underlying motion using the the procedure set out in CR 56(f), which must include a

1 declaration or certification. In the alternative, parties and attorneys may use the
2 Court's form *Request for Relief and Certification Regarding Extenuating*
3 *Circumstances from Covid-19 Outbreak* to request relief from responses to filings,
4 deadlines, process, or other requirements in civil litigation proceedings. The form can
5 be found in King County Superior Court Clerk's Office Website; Forms Library;
6 Superior Court Forms; Civil Forms, or at the following website:
7 <https://www.kingcounty.gov/courts/clerk/forms.aspx>. A motion to shorten time is not
8 necessary for the Court to consider the request.

- 9 7. All attorneys will comply with mandatory electronic filing pursuant to LGR
10 30(b)(4)(A).
- 11 8. All attorneys will comply with mandatory electronic service pursuant to LGR
12 30(b)(4)(B).
- 13 9. The court strongly encourages all attorneys to submit e-working copies pursuant to
14 LGR 30(b)(4)(A)(iii). Attorneys may use GR 30(d)(2)(A) regarding electronic
15 signatures.
- 16 10. Supplemental Proceeding are suspended until after April 24, 2020.
- 17 11. Oath of Attorneys will be handled by telephone. See
18 <https://www.kingcounty.gov/courts/superior-court/directory/judges/cahan.aspx> for
19 instructions.
- 20 12. Motions for default, Motions for Default Judgment, and requests for entry of Judgment
21 and Order to Pay on Writs of Garnishment will be denied without prejudice while
22 public health advisories are in effect, except where an order in a family law case
23 specifically directs that a writ of garnishment be permitted. The Court is aware that
members of our community are experiencing significant instability. This may include
homelessness, changes in housing in order to comply with isolation and quarantine
requirements, and lack of access to public resources such as libraries.

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13. On March 18, 2020, Governor Inslee issued a moratorium on residential unlawful detainer actions based on failure to pay rent and prohibited law enforcement from serving or otherwise acting on eviction orders until April 17, 2020. The Mayor of Seattle has placed a moratorium on both residential and small business commercial evictions until May 3, 2020 (as modified by the Seattle City Council). The King County Sheriff issued a letter that due to limited resources their office would be suspending all eviction services. Therefore, all hearings, motions, and trials on residential eviction cases are stayed until April 17, 2020. For the City of Seattle all hearings on small business and nonprofit evictions are stayed until May 3, 2020.
 14. King County Superior Court is operating in a limited capacity. The court will rule on non-emergency matters submitted as soon as practicable under these extraordinary circumstances.
 15. E-Working Copies remain available as a way to submit working papers and is the preferred method for litigants who have sufficient resources to use it. All filings and working papers may also be submitted in person or by mail consistent with King County Local Court Rules.
 16. This section does not apply to motions in family law proceedings, including motions set before Unified Family Court (“UFC”) judges and before civil judges assigned to family law cases without children. Motions in family law proceedings are addressed in **Section F** below. For emergency motions permitted by Section F and required by Local Family Law Rule 5 to be set before assigned judges, the procedural provisions in this section (paras. 2-4 and 6-9) apply.

21 **C. Ex Parte**

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1. All orders permitted under LCR 40.1, with the exception of orders related to Unlawful Detainer, Civil Defaults, and Judgments on Writs of Garnishment may be presented Ex Parte via the Clerk (EPVC) consistent with historical practice. This includes agreed

1 orders in family law cases with the exception of agreed Parenting Plans. (See Ex Parte
2 website for instructions for telephonic presentation of Parenting Plans; see Family Law
3 website for instructions on how self-represented parties can finalize agreed divorces.)

- 4 2. All hearings in the Ex Parte Department shall be telephonic. See Ex Parte website at
5 <https://www.kingcounty.gov/courts/superior-court/ex-parte-probate.aspx> for detailed
6 instructions. There is no need to be physically present in court. Parties do not need to
7 confirm their hearings are by telephone.
- 8 3. The moving party shall provide notice of the necessity to appear by phone to all parties.
9 A sample notice is posted on the Ex Parte website. Failure to provide notice may result
10 in a continuance.
- 11 4. Judicial officer's working copies must be submitted timely or the motion will not be
12 heard.
- 13 5. A variety of processes and procedures have been implemented to move to all electronic
14 submissions and telephonic hearings. See Ex Parte website for further instruction and
15 updates. To the extent the instructions differ from prior Emergency Orders
16 (specifically Emergency Order Number 4), the most current procedures on the website
17 should be followed.
- 18 6. Guardians Ad Litem ("GALs") are authorized to arrange for video conference
19 interviews with Alleged Incapacitated Person ("AIPs") without prior court
20 authorization provided this is clearly described in detail in the GAL's report.

21 **D. Civil Arbitrations**

- 22 1. All Superior Court Civil Arbitration hearings pursuant to RCW 7.06, the Superior
23 Court Civil Arbitration Rules, and King County Local Rules for Civil Arbitration will
24 be by telephone. No in-person arbitrations are allowed.
- 25 2. Arbitrators are authorized to set hearings past the LCAR 5.1 deadlines.

- 1 3. Any arbitrator unable to serve shall immediately notify the Civil Arbitration
2 Department.

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4 **E. Civil Protection Orders, Restraining Orders and Anti-Harassment Orders**

- 5 1. The Court has authority to extend the time for a full hearing on newly-filed or expiring
6 civil protection orders, restraining orders, and anti-harassment orders for up to 28 days.
7 This order includes protection orders and restraining orders in the following categories:
8 domestic violence protection orders (DVPOs), sexual assault protection orders
9 (SAPOs), extreme risk protection orders (ERPOs), anti-harassment protection orders,
10 stalking protection orders, vulnerable adult protection orders (VAPOs), and family law
11 restraining orders. The Court may also extend ex parte orders and renewal orders
12 referenced in this section beyond the initial period for up to 28 days until a hearing may
13 be held. Judicial officers will continue to review ex parte petitions to determine
14 whether a temporary order is warranted and, if so, shall set a full hearing on the petition.
15 2. Judicial officers have discretion to extend full hearings on temporary orders beyond 28
16 days based on agreement of the parties or additional specific findings of good cause.
17 3. Parties may request an emergency written review of these extended orders and the other
18 party may object in writing. This review will be in the form of an Emergency Motion
19 for Reconsideration or Emergency Motion to Quash that will be submitted to the
20 issuing judicial officer and decided without oral argument.
21 4. The Court may order that service of these orders be made by mail or other means
22 calculated to provide actual service. If parties have previously agreed to e-mail service
23 or opted into e-service in the case or other currently open related case, service of ex
232 parte orders or reissuance/continuance orders by e-mail or e-service shall be sufficient.
 If service of these orders by law enforcement officers or process servers becomes
 unavailable or not reasonably available, the Court may order service by mail.

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F. Motions and Hearings in Family Law Proceedings

1. It is necessary to suspend or modify certain rules regarding Family Law proceedings. This includes LFLRs 5, 6, 8, 13, and 17.
2. Effective March 17, 2020, only emergency matters (referenced as “mission critical matters” in previous orders) as defined below may be set on the Family Law Motions Calendar or before the assigned judge, Chief UFC Judge or designated writ judge in family law proceedings. Non-emergency motions (except motions related to rescheduling trial as specified section A, paragraph 2) are not permitted in family law proceedings because there is a high volume of emergency matters that have priority and because there are many self-represented parties who face significant barriers to accessing the court and responding to motions during this period, and who should not be compelled to violate the Governor’s proclamation to respond to a non-emergency motion.
3. Emergency matters are defined as follows:
 - Domestic Violence Protection Order hearings
 - Motions for temporary restraining orders where personal safety is at issue
 - Motions necessary to protect a child from physical or serious emotional harm or to prevent child abduction
 - Motions and child support trials by affidavit where a person’s basic financial survival is at issue (i.e., ability to maintain housing, basic necessities, and critical health care) or post-secondary (college) support is at issue and there are deadlines that cannot be moved
 - Return on Warrant hearings
 - Petitions for Writs of Habeas Corpus and returns where there is a risk of abduction or an imminent risk of harm to the child
 - Weapons Surrender Compliance Calendar
 - Emergency motions on parenting issues where the health or safety of a child or adult is at risk due to COVID-19
 - Emancipation proceedings where the petitioner would be at risk of physical or serious emotional harm if the petition is not considered
 - Motions to Decide Parentage in surrogacy cases where a child has been born or birth is anticipated to occur in the next 30 days

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4. The Court finds that the current COVID-19 emergency constitutes a substantial change in circumstances pursuant to RCW 26.09.260(1) where there is an allegation that the health of the child is at risk if there is not a temporary modification of the parenting plan. Any party seeking a temporary modification of a parenting plan or non-parental custody order, due to a COVID-19 emergency, may note a hearing for temporary order without filing a Petition for Modification or noting a Motion for Adequate Cause and may seek an immediate order and order to show cause in the Ex Parte Department if it is an emergency and there is an imminent threat of irreparable harm. Notice shall be given to the other party or their counsel that an immediate order is being sought, and the other party's or counsel's telephone and e-mail contact information shall be provided, along with the moving party's contact information, so that both sides can be contacted telephonically.
 5. Any temporary modification order issued pursuant to paragraph 4 shall be in effect only through the expiration of any proclamation or orders of the Governor of Washington limiting travel or contact due to the COVID-19 emergency. Upon expiration of any temporary orders entered pursuant to paragraph 4, the parties shall immediately resume following the prior parenting plan or non-parental custody order unless they have filed a Petition for Modification and have noted a hearing on motions for adequate cause and temporary parenting plan or non-parental custody order consistent with RCW 26.09.260(1), or have obtained an ex parte emergency restraining order.
 6. All emergency motions will continue to be set according to the Local Family Law Rules. For emergency motions to be set before assigned judges pursuant to LFLR 5, the procedural provisions in **Section B** paragraphs 2-4 and 6-9 apply, including provisions for lengthened time periods and electronic submissions. For motions set on the Family Law Motions Calendar, **no working papers are required or**

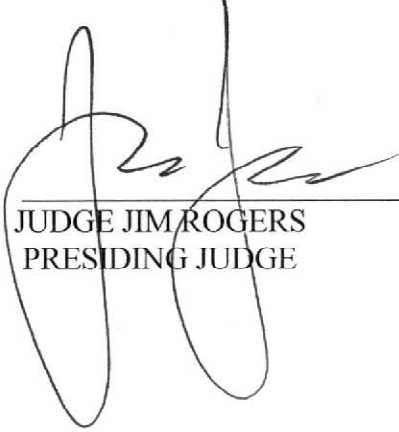
1 **accepted, and no confirmation of the hearing is required.** Motions will be
2 stricken or denied without prejudice if they are deemed not to qualify as an
3 emergency motion. Parties may use the the Court's form *Request for Relief and*
4 *Certification Regarding Extenuating Circumstances from Covid-19 Outbreak* to
5 request relief from responses to filings, deadlines, process, or other requirements that
6 is referenced in Section B.6.

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- 8 7. All hearings, including hearings in domestic violence protection orders, will be
9 telephonic unless telephonic appearance is impossible or a personal appearance
10 requested by a judicial officer.
- 11 8. Status/Non-Compliance Hearing shall be conducted by paper review. No dismissals
12 will be issued based on failure to appear on that calendar.
- 13 9. All pretrial conferences set before April 24, 2020 are stricken.
- 14 10. All non-emergency hearings set in family law proceedings pursuant to LFLR 5 and
15 LFLR 6 between March 18, 2020 and April 24, 2020, will be stricken or denied
16 without prejudice. The court will rule on all matters that were submitted for decision
17 prior to March 18, 2020 as soon as practicable under these extraordinary
18 circumstances, prioritizing any decisions that meet the emergency criteria.
- 19 11. A variety of processes and procedures have been implemented to move to all
20 electronic submissions and telephonic hearings and to provide family law services,
21 including mandatory FLO and parenting seminars, Courthouse Facilitator Services
22 for self-represented parties, mediation in cases where both parties are self-
23 represented, and Family Court Services parenting evaluations by virtual means. See
Family law website, <https://www.kingcounty.gov/courts/superior-court/family.aspx>
for further instruction and updates. To the extent the instructions on the website
differ from prior Emergency Orders, the most current procedures on the website
should be followed.

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G. Effective Dates. This Order will be in effect beginning Monday, March 30, 2020 until April 24, 2020. The Order may be extended beyond that date in light of the COVID-19 crisis.

Dated: March 27, 2020



JUDGE JIM ROGERS
PRESIDING JUDGE