

FILED
KING COUNTY WASHINGTON

JAN 22 2021

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~~ 21-0-12050-3

EMERGENCY ORDER # 28
RE: SUSPENDING IN-PERSON JURY
TRIALS FOR CIVIL CASES TO MARCH
29, 2021.

This matter comes before the Court on the public health emergency in Washington State. The Court incorporates Emergency Orders 1 through 22 and Emergency Order # 24. The Court now enters a revised order regarding procedures governing civil jury trials during the public health emergency. **This Order is in effect until close of business March 29, 2021**

I. FINDINGS

1. By Emergency Order #25, this Court previously suspended all in person criminal and civil jury trials until after January 29, 2021. Since the issuance of that order, the Court has reviewed public health data and actively consulted with faculty members of the University of Washington School of Public Health.

2. As of January 20, 2021, the Washington State Department of Health Dashboard for COVID indicates a high seven-day average that while declining, is still higher than at any time during the summer of the pandemic. COVID-19 Data Dashboard :: Washington State Department

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FOR CIVIL CASES TO MARCH 29, 2021. - 1 of 3

1 of Health. The seven-day positivity rate remains over 7%. COVID-19 Data Dashboard ::
2 Washington State Department of Health.

3 3. Based on a review of Washington State Department of Health data and in
4 consultation with faculty members of the University of Washington School of Public Health, the
5 Court independently concludes it is not reasonably feasible or safe for jurors, litigants, and other
6 participants to appear in-person for jury trials. At this time, these gatherings pose an unreasonable
7 risk to the health of all the participants to a jury trial.

8 4. The trend line for infections and testing positivity rates, while high, are trending
9 downwards. If these trends continue, the Court will gradually resume in-person jury trials, with
10 criminal trials receiving priority. See Emergency Order # 27. As criminal in-person trials resume,
11 the court will continually monitor the progress and the feasibility of allowing additional jury trials.

12 5. With respect to civil jury trials, a virtual trial, where the parties and jurors attend
13 remotely, is a reasonable alternative. Over the last six months, the superior court has regularly
14 conducted motion hearings and bench trials virtually using the Zoom platform. With respect to
15 jury trials, the court has regularly used the Zoom platform during jury selection and for the
16 presentation of remote witnesses' testimony. This technology has worked relatively smoothly and
17 evens offers some advantages to in-person trials. During jury selection via Zoom, all of the juror's
18 faces are readily visible and their reactions can be easily seen. During virtual jury trials, the
19 lawyers and witnesses are not required to wear masks, allowing them to be more clearly heard and
20 their expressions seen.

22 7. The King County Superior Court has recently conducted several virtual civil jury
22 trials with all parties, witnesses, and jurors attending remotely via Zoom. The trials have
23 proceeded smoothly. Jurors appear attentive and engaged. The allowance of virtual civil jury trials

1 will further the parties' right to a civil jury trial by allowing cases to proceed to trial in a timely
2 manner.


3 **II. ORDER**

4 1. All in-person civil jury trials shall be suspended until close of business March 26,
5 2021. Mid-March, the court will review the health data and the court's backlog and resources to
6 determine if a further extension is warranted.

7 2. This Court finds that there is good cause and compelling circumstances to allow all
8 pending civil jury trials to proceed virtually via video using Zoom or an equivalent platform. In
9 virtual civil jury trials, the parties, counsel, witnesses, and jurors will not be physically present in
10 the courtroom and will appear and participate entirely by Zoom including during deliberations.
11 The assigned judge will be physically present in the courtroom and provide a means for public
12 access to observe the proceedings. In all cases where a virtual civil jury trial may be appropriate,
13 the assigned judge will hold a pretrial conference in order to discuss the procedures for the trial
14 and hear the positions of the parties to proceeding in that manner. The assigned judge will decide
15 whether to conduct a virtual jury trial based upon the particulars of the case, the positions of the
16 parties, and any legal issues raised.

17 **IT IS SO ORDERED.**

18 Dated: January 22, 2021

19 
20 JUDGE PATRICK OISHI
21 Assistant Presiding Judge
22 Acting Presiding Judge
23 King County Superior Court