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FILED
KING COUNTY WASHINGTON

JUL 29 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. 21-0-12050-3

**EMERGENCY ORDER 33 RE:
CIVIL, FAMILY LAW, AND
DEPENDENCY MATTERS**

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

This Order is based upon, in part, the Washington State Supreme Court's Order of February 19, 2020¹, Washington State Labor and Industries Guidance and Requirements, June 30, 2021¹, Washington State Department of Health Order of the Secretary of Health Amending Order 20-03, June 29, 2021², and Governor Jay Inslee's remaining proclamations regarding the COVID-19 pandemic governing the effectiveness of certain laws.

The Court is governed by the laws of the State of Washington and the Chief Justice's Emergency Orders. The Court has been deemed an "essential" function by the Governor. The Court now enters a revised order regarding procedures governing all civil matters, including family law and dependency, during the public health emergency. **This Order supersedes all prior Emergency Orders for Civil, Family, and Dependency unless specifically addressed within this order.**

¹ <https://www.lni.wa.gov/forms-publications/F414-164-000.pdf>

² https://www.doh.wa.gov/Portals/1/Documents/1600/coronavirus/Secretary_of_Health_Order_20-03_Statewide_Face_Coverings.pdf

1 This Order is intended to continue several important new methods of doing business that
2 will be enforced by judicial officers and to update previous orders to reflect current conditions.
3 The Court is in a unique position in that many witnesses, parties, and jurors are ordered to appear
4 at the courthouse. Additionally, the Court has hundreds of employees who report to work at the
5 courthouses daily. Both the vaccinated and unvaccinated must be allowed access to the courts. The
6 Court is cognizant of its responsibility to keep all people who enter the courthouse safe. To that
7 end, the Court will continue to implement its safety protocols to deter the spread of COVID-19.
8 The Court has promulgated public health guidelines for those who visit in-person, which include
9 the requirement to wear a mask.

10 The Court has adopted widespread use of video and telephonic technologies and found the
11 use of this technology to be very successful. The Court has conducted over 650 remote bench
12 trials and over 60 remote civil jury trials during the pandemic (in addition to 100 in-person criminal
13 jury trials and 40 in-person civil jury trials.) The trials have proceeded smoothly. By adopting
14 video technology, the Court has been able to provide justice when in-person trials were not safe.

15 **All parties and persons are encouraged to monitor the Court's website at**
16 **<https://www.kingcounty.gov/courts/superior-court.aspx> for updates.**

17 **The Court ORDERS the following:**

18 **A. CIVIL AND FAMILY LAW**

- 19 1. All civil and family law hearings will presumptively continue to be conducted virtually
20 unless the judicial officer directs or allows an in person appearance for the specific
21 hearing. With prior court approval, parties may appear in-person and must comply with
22 the Court's safety protocols.
- 23 2. Bench Trials: It is presumed that all civil bench trials shall occur via video-
24 conferencing. With prior court approval, trials may occur in person, in which case all
25 must comply with the Court's public health protocols. The assigned judge will hold
26 pretrial conferences or otherwise engage in case management for each case to

1 determine trial readiness and specifics of proceeding with trial. **Protocols for**
2 **conducting a trial by video-conferencing are on the Court's website.**

- 3 3. Jury Trials: Due to current space constraints³ and abiding by public health protocols,
4 civil jury trials presumptively will be held virtually. The parties, counsel, witnesses,
5 and jurors will appear and participate entirely by Zoom including during
6 deliberations. The assigned judge will be physically present in the courtroom and
7 provide a means for public access to observe the proceedings. Voir dire continues to
8 be conducted remotely. With prior court approval, trials may occur in person, in
9 which case all must comply with the Court's public health protocols. The assigned
10 judge will hold a pretrial conference in order to discuss the procedures for the trial.

Protocols of how to conduct a jury trial by video are on the Court's website.

- 11 4. Oral argument on motions for revisions shall be at the discretion of the judge.
- 12 5. The Court continues to find good cause to expand the time limits in LCR 7(b) to require
13 nine judicial days' notice for civil motions, excluding dispositive motions. This
14 includes motions noted in the Ex Parte Department pursuant to LCR 40.1 and motions
15 noted to UFC Judges. The moving party shall serve and file all motion documents no
16 later than nine judicial days before the date the party wishes the motion to be
17 considered; opposing documents will be filed and served no later than 4:30 p.m. four
18 judicial days before the motion is to be considered; and any optional strict reply will be
19 filed and served no later than 4:30 p.m. two judicial days before the hearing. These
20 provisions will be permanently adopted in the upcoming rule amendments.
- 21 6. The Court encourages parties to keep litigation pressing forward and continues the
22 presumption that depositions shall occur via remote means unless good cause is shown.
Counsel may be present with their client if appropriate safety protocols are followed.

23³ It takes two courtrooms to hold a single in-person jury trial because it remains unsafe to place 14-16 jurors into the jury rooms. Given the need to prioritize criminal trials, which are constitutionally required to be in-person, limited space remains to conduct civil, family law and dependency trials in addition to various calendar courts (family law motions, ex parte, arraignments etc.).

1 7. The Court continues to strongly encourage all attorneys to submit e-working copies
2 pursuant to LGR 30(b)(4)(A)(iii). Attorneys may use GR 30(d)(2)(A) and self-
3 represented parties may use GR 30(d)(2)(B) regarding electronic signatures.

4 8. Supplemental Proceedings will continue to be conducted virtually. See
5 <https://www.kingcounty.gov/courts/superior-court/directory/judges/cahan.aspx> for
6 instructions.

7 9. Oath of Attorneys will continue to be handled virtually. See
8 <https://www.kingcounty.gov/courts/superior-court/directory/judges/cahan.aspx> for
9 instructions.

10 **B. EX PARTE**

11 1. The Ex Parte Department has developed a variety of processes to enable remote access,
12 and telephonic and video hearings. Counsel and self-represented litigants are expected
13 to review the Ex Parte website⁴ to be informed of the procedures necessary to litigate
14 in Ex Parte. To the extent the instructions differ from prior Emergency Orders, the most
15 current procedures on the website shall apply.

16 2. **Unlawful Detainers/Evictions.** Various federal, state, and local Executive Orders still
17 are in place regarding unlawful detainer actions. As outlined in the Court's Standing
18 Order for Eviction Resolution Pilot Program, July 16, 2021, this Court is participating
19 in an Eviction Resolution Program. Parties are strongly recommended to voluntarily
20 participate in that program while the moratoria are in place. Once the moratoria are
21 lifted, participation is mandatory.

22 **C. CIVIL ARBITRATIONS**

23 All Superior Court Civil Arbitration hearings pursuant to RCW 7.06, the Superior Court
24 Civil Arbitration Rules, and King County Local Rules for Civil Arbitration will continue

232 ⁴ <https://kingcounty.gov/courts/superior-court/ex-parte-probate.aspx>

1 via remote means unless the arbitrator and parties agree to in-person arbitrations abiding
2 by appropriate safety protocols.

3 **D. CIVIL PROTECTION ORDERS, RESTRAINING ORDERS, AND ANTI-**
4 **HARASSMENT ORDERS**

5 There are new procedures in place to allow for remote filings of these petitions and hearings.
6 **See the Ex Parte Department and the Civil Department webpage⁵ for more information.**

7 **E. FAMILY LAW**

- 8 1. The provisions of sections A-D above are applicable to Family Law matters except as
9 to working papers and particular motions, which are addressed below.
- 10 2. The Family Law Department has developed a variety of processes to enable remote
11 access and telephonic and video hearings, and electronic review of submissions. This
12 includes changes regarding the setting and confirming of motions, and delivery of
13 working papers. All hearings in the family law motions department, including return
14 hearings on domestic violence protection orders, are presumed to be held remotely per
15 paragraph A.1, above. Counsel and self-represented litigants are expected to review the
16 family law website, <https://www.kingcounty.gov/courts/superior-court/family.aspx> to
17 be informed of how to conduct cases in the Family Law Department. To the extent the
18 instructions on the website differ from prior Emergency Orders or this order, the most
19 current procedures on the website should be followed.

20 **Family Law Motions Calendar**

- 21 3. Hearings are confirmed by the timely submission of a Working Papers Submission List
22 by the moving party. All parties will be required to provide a list of their submissions
23 for each motion. Details regarding this requirement and a form to use for this purpose
24 are on the website and are referenced in the required Notice of Hearing form. Parties
25 are encouraged to review the website for the most current requirements regarding

⁵ <https://kingcounty.gov/courts/superior-court/ex-parte-probate.aspx>

1 working papers, which are expected to change in the near future. **See the Family Law**
2 **webpage** found at <https://www.kingcounty.gov/courts/superior-court/family.aspx>.

- 3 4. Adjustments to the response and reply times for motions, and adjustments to the
4 procedure for confirming motions, will be on the website, and on the updated Notice
5 of Hearing.
- 6 5. For cases where both sides agree to waive oral argument, motions may be noted without
7 oral argument on the Family Law Motions Calendar when slots are available.
- 8 6. All motions required to be set on the Family Law Motions Calendar pursuant to LFLR
9 5 may be noted if slots are available. Deadlines for the Family Law Motions Calendar
10 are found at <https://kingcounty.gov/courts/superior-court/family/confirmations.aspx>.
11 Motions to set a matter to a calendar for which no available slots remain (“Motions to
12 overset”) are strongly disfavored; where there is a compelling circumstance, such
13 motions may be submitted to the Orders for Review queue through the Clerk’s e-filing
14 application. Directions for the Orders for Review queue are found at
15 <https://bit.ly/36ySON6>.
- 16 7. Motions for default *that require notice because a party has appeared but has not*
17 *responded* may be noted before the Chief Unified Family Court (Chief UFC) Judge on
18 Fridays at 1:30 p.m. Hearings should be noted using the Notice of Court Date Chief
19 UFC Judge, which includes instructions for appearing.

18 **Motions to Assigned Judges or Chief UFC**

- 19 8. Motions for adequate cause in nonparental custody cases shall be noted for hearing
20 before the assigned judge. (The nonparental custody statute, RCW 26.10, is only in
21 effect as long as the Governor’s emergency order remains in effect.)
- 22 9. Motions to be noted before the assigned UFC judge or the Chief UFC Judge pursuant
23 to LFLR 5 are governed by the expanded LCR 7 timelines listed in section A.5 above.

1 Except for dispositive motions, judges have discretion to determine that oral argument
2 is not necessary.

- 3 10. All motions must be noted on the Family Law Motions Calendar, to the assigned judge,
4 or to Chief UFC Judge according to LFLR 5 except for as noted in Paragraphs E.7 and
5 E.8 above.

6 **Trials and Trial Management**

7 11. Trials, with rare exception, shall be conducted by video-conferencing. The provisions
8 of section A.2 of the CIVIL section apply.

9 12. UFC judges shall have authority to prioritize and continue family law trials as set out
10 in the separate Unified Family Court General Order Re: Authority to Prioritize and
11 Continue Trials.

12 13. Trials by Affidavit (TBA) are being conducted virtually except in rare circumstances
13 permitted by the judicial officer. Working papers **are** required for Trials by Affidavit
14 and must be supplied in plastic three-ring binders. Details regarding changes to TBA
15 working papers submission requirements, including requirements regarding
16 submission of proposed orders, are on the website.

17 **Other Matters**

18 14. The Status Conference Calendar is no longer occurring. The Court is now conducting
19 a Case Review in chambers. If the Court determines that a case is substantially out of
20 compliance with the case schedule, parties will be ordered to appear by telephone or
21 video-conferencing on a Show Cause calendar to show cause why their case should not
22 be dismissed. Further changes may be made to the Status/Non-Compliance calendar
23 and will be announced on the website.

24 15. A variety of processes and procedures have been implemented to provide family law
25 services consistent with public health requirements, including virtual mandatory FLO
26 and parenting seminars, Courthouse Facilitator Services for self-represented parties,
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1 mediation in cases where both parties are self-represented, and Family Court Services
2 parenting evaluations. These are being adjusted as appropriate in light of the
3 Governor's phased-in approach to reopening. Parties should review the Family law
4 website, <https://www.kingcounty.gov/courts/superior-court/family.aspx> for further
5 instruction and updates. To the extent the instructions on the website differ from prior
6 Emergency Orders, the most current procedures on the website should be followed.

7 **F. DEPENDENCY**

8 The Court will continue to hear some matters on the pleadings and others remotely. All
9 calendars and hearings currently utilizing conference call lines will gradually transition to the
10 Zoom video conference application. Conference call lines will continue to be available during this
11 transition, but will be slowly phased out. Dial-in access to Zoom via telephone (without video)
12 will be available during and after the transition. With court approval and subject to the Court's
13 safety protocols, in-person attendance at calendars and hearings will be permitted. A copy of the
14 current dependency Step Up Plan is available at <https://www.kingcounty.gov/courts/superior-court/dependency.aspx> and incorporated herein.

15 **IT IS SO ORDERED.**

16 Dated: July 29, 2021

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JUDGE JIM ROGERS
Presiding Judge, King County Superior Court