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COUNTY CLERK

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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)	TWELFTH
HEALTH EMERGENCY)	ADMINISTRATIVE ORDER
)	August 11, 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

WHEREAS the Supreme Court of Washington has authorized Superior Courts to resume conducting jury trials as soon as possible consistent with pertinent public health requirements and recommendations related to the COVID 19 pandemic; and

WHEREAS the necessity of addressing the significant public safety impact of the COVID 19 pandemic is an unavoidable or unforeseen circumstance affecting the time for trial which is beyond the control of the court or of the parties; and

WHEREAS this Court wishes to resume conducting jury trials as soon as it is possible to do so consistent with public health considerations; and

WHEREAS the Court has consulted and continues to work with public health professionals, attorneys, administrators and others to determine the conditions that must be met in order to assure public safety; access to the courts; compliance with the Constitution and necessary procedural requirements for trials to be conducted and a verdict rendered by a jury of twelve;

THIS COURT has determined that the following criteria must be met for any jury trial.

1. Facility Requirements:

- a. The facility in which the trial is conducted must be of size sufficient to accommodate jury selection procedures with distance of at least 6 feet between all people present in the room. Jury selection procedures will require space sufficient to permit 52 to 80 people to be present and properly distanced from each other. Jury trials will require space sufficient for 25 to 30 people, properly distanced.
- b. In addition to the courtroom in which the trial is to be conducted, the facility must have an adjoining or nearby room, sufficient to accommodate at least 15 properly distanced people, for jurors to go to when they leave the courtroom. The room must include or have easy access to bathroom facilities. The room and bathroom facilities must be on the same floor as the courtroom, and provisions must be in place to ensure the regular sanitization of the facilities.
- c. In addition to the courtroom and jury room, the facility must have a small conference room or similar private area for confidential communications between the defendant and legal counsel. The space must be near the courtroom but sufficiently walled in or isolated to assure confidentiality.
- d. The facility must have electronic hookups and wireless internet access sufficient to accommodate live streaming or broadcast of the proceedings to the public; the working computers of the judge, the court staff, and the attorneys; the use of numerous microphones and speakers to permit all in the room to hear the proceedings; and any other technology specific to the trial.
- e. The facility must have adequate ventilation and air circulation.
- f. The facility must have adequate parking and access to public transportation to permit jurors, parties, court staff and the public to reach it.

2. Public Health Requirements

- a. All people present at any court proceeding must wear masks or other adequate contagion protection; must stay at least 6 feet away from others at all times; and must wash hands or use hand sanitizer frequently.

- b. The Court will provide adequate handwashing facilities and masks for anyone who lacks them.
- c. Jury selection panelists will be screened upon entry to the facility, with questioning regarding COVID symptoms and the taking of their temperatures. Jurors will be screened in a similar manner each day of the trial.
- d. The courtroom and jury room will be cleaned twice a day.
- e. The Court will notify jury selection panelists in advance of their service that they should contact the Court and not report for service if they are experiencing symptoms of COVID19, and that they may defer their jury service if they are in a group defined as high risk by public health authorities.

3. Constitutional Requirements: All rights secured by the federal and state Constitutions will remain in full force for all parties throughout the trial. These rights include but are not limited to:

- a. The public's right to attend or witness court proceedings. Public attendance at jury trials will be permitted if possible consistent with social distancing requirements. All proceedings will be broadcast or streamed by internet connection to a room or facility open to the public throughout the proceedings.
- b. Jury of Twelve. A jury of twelve will determine all cases except those in which the law provides for a smaller number of jurors, or in which the parties stipulate to a smaller number.
- c. Attorney-Client Communications. In criminal jury trials, the Court will provide a means for the defendant to communicate confidentially with legal counsel. The Court will endeavor to provide a means for confidential communications to litigants in all other jury trials.

THE COURT is consulting with workplace health and safety authorities on an ongoing basis, and may revise the foregoing requirements as necessary in the future.

THE COURT will announce the resumption of jury trial proceedings after it has secured a facility for those proceedings that meets the criteria described in this Order. The Court has not been able, thus far, to determine a means of conducting twelve juror jury trials (which usually include 2-4 alternate jurors as well) by using its courtrooms and other County facilities, and is seeking further professional assistance to assess that potential.

THE COURT has determined that its courtrooms, if utilized along with other County facilities, will likely permit the Court to conduct jury trials with six to eight jurors. Litigants who wish to consider this alternative should contact the Court's administrator for further information.

THE COURT will announce the resumption of jury trial proceedings at least six weeks in advance, to permit notice to jury selection panelists and the parties to the cases to be heard.

THIS ORDER updates and supersedes the Court's prior Administrative Orders concerning jury trials. The Court's prior Administrative Orders remain in effect to the extent they are not inconsistent with this Order.

DATED this 11th day of August 2020.

A handwritten signature in blue ink, appearing to read "Debora Garrett", is written over a horizontal line.

DEBORRA GARRETT, Presiding Judge