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HEIDI PERCY  
COUNTY CLERK  
SNOHOMISH CO. WASH

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

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. 2020-7015-31-A

EMERGENCY ORDER #11  
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 18, 2020, the Washington State Supreme Court issued Court Order 25700-B-606. On March 19, 2020, the Supreme Court issued a corrected order 25700-B-607 and on March 20, 2020 an Amended Order 25700-B-607; 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 13, 2020, the Washington State Supreme Court amended and extended order 25700-B-607 through May 4, 2020 by entering order 25700-B-615; and

WHEREAS on April 29, 2020, the Washington State Supreme Court entered a new order extending and amending previous orders: Second Revised and Extended Order Regarding Court Operations No. 25700-B-618; and

WHEREAS on May 10, 2020, Proclamation 20-45 was not extended and terminated by operation of law; and

WHEREAS on May 18, 2020, Governor Jay Inslee issued proclamation 20-45.2 based on a May 15, 2020 agreement of the Washington State Senate and House of Representatives to amend, reinstate, and extend the statutory waivers and suspensions contained in Proclamation 20-45; and

WHEREAS on April 16, 2020, Governor Jay Inslee issued Proclamation 20-19.1 suspending until June 4, 2020 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 on May 4, 2020, Governor Jay Inslee issued Proclamation 20-25.3, extending until June 1 the prohibitions relevant to this order; and

WHEREAS on May 14, 2020, under the provisions of RCW 43.06.220(4), the statutory waivers and suspensions of Proclamation 20-49.1 were extended by the leadership of the Washington State Senate and House of Representatives until the termination of the COVID-19 State of Emergency or May 21, 2020, whichever occurs first; and

WHEREAS, on May 21, 2020, under the provisions of RCW 43.06.220(4), the statutory waivers and suspensions of Proclamation 20-49.1 were extended by the leadership of the Washington State Senate and House of Representatives until the termination of the COVID-19 State of Emergency or May 27, 2020, whichever occurs first; and

WHEREAS, on May 26, 2020, Governor Jay Inslee amended and extended his previous Proclamations 20-05, 20-49, 20-49.1, and 20-49.2; and

WHEREAS on May 28, 2020, the Washington State Supreme Court entered the Third Revised and Extended Order Regarding Court Operations No. 25700-B-625. On May 29, 2020, the Washington State Supreme Court entered the Amended Third Revised and Extended Order Regarding Court Operations No. 25700-B-626 that corrected some issues in Order 625; and

WHEREAS from May 29, 2020 through October 13, 2020, the Washington State Supreme Court entered numerous orders regarding court operations including 25700-B-631, 640, 641, 642, and 646; and

WHEREAS on November 15, 2020, Governor Inslee issued Proclamation 20-25-8 effective 11:59 p.m. on November 16, 2020 and expiring on December 14, 2020 at 11:59 p.m. The Proclamation severely restricted public and private gatherings as a result of a spike in COVID cases statewide. The Proclamation is consistent with the United States Center for Disease Control and Prevention and the Washington State Department of Health (DOH) recommendation implementing community mitigation strategies to increase containment of the virus, including cancellation of large gatherings and social distancing in smaller gatherings; and

WHEREAS as of November 16, 2020, the rolling two week average of reported cases per 100,000 population in Snohomish County has been trending steadily upward from 124.9 to 280.8, is two times higher than the peak in March 2020 of 128.1 when jury trial operations were originally suspended, and the current peak is over ten times higher than the targeted rate of 25 cases per 100,000 population; and

WHEREAS the Snohomish Health District Health Officer Dr. Chris Spitters called the current rise in cases “explosive” and as hospitalizations due to the virus are rising quickly and deaths as a result of the virus are steadily increasing; and

WHEREAS Dr. Chris Spitters opined that if we do not turn around the existing circumstances immediately in Snohomish County, the hospital system in Snohomish County “is going to be in big trouble, and that means we’re all in big trouble;” and

WHEREAS historically the number of jury trials in Snohomish County Superior Court slows down around mid to the end of December based on the holidays; and

WHEREAS due to the holidays and New Year, it is more difficult to have jurors available for jury service and due to vacation schedules, attorneys generally do not confirm trials for assignment during this timeframe; and

WHEREAS on November 17, 2020, Snohomish County Executive Dave Somers issued a directive extending remote work for Executive Departments to July 2021; and

Pursuant to the authority given to this Court through Washington State Supreme Court Orders 25700-B-602 through B-646 (and any superseding or modified orders) and the authority granted to the Presiding Judge of Snohomish County Superior Court pursuant to GR 29, this Emergency Order is effective November 19, 2020 through January 8, 2021 with respect to the suspension of criminal jury trials and shall remain in effect until that time unless extended, modified, or rescinded by the Presiding Judge of Snohomish County Superior Court. To the extent that this order reflects procedures and protocols at the time of the resumption of criminal jury trials, this order shall extend beyond January 8, 2021 and shall remain in effect until otherwise extended, modified, or rescinded.

NOW THEREFORE, it is hereby ordered

## Criminal Jury Trials

1. Jury Trials are suspended until at least trial call set for Friday, January 8, 2021. The time between November 17, 2020 and January 8, 2021 shall be an excluded period pursuant to CrR3.3(e)(8) as the rapid rise in COVID cases in Snohomish County is deemed an “unavoidable circumstance.”
2. When jury trials resume, once an in-custody defendant has been identified as a case being assigned out for trial, the in-custody defendant shall be administered a Rapid COVID test by the Jail on each day the defendant is to appear for trial. The test shall be administered in a timely fashion and any positive result shall be provided to the law clerk for the assigned trial Judge.
3. As much as possible and practical, all attorneys shall be required to social distance from their clients, managing witnesses, co-counsel, and any others seated at counsel table. All participants are encouraged to use a KN95 mask and one will be provided by the Court upon request.

## Bail Review Hearings

4. Any in-custody defendant may file a motion for bail review on shortened time on the daily criminal hearings calendar if the hearing will take less than 10 minutes. If it will take longer than 10 minutes, it may be noted on shortened time on the daily extended motions calendar for review of bail. The parties can find Hearing Availability at <https://www.snohomishcountywa.gov/1338/Calendars-and-Schedules>. Prior to requesting a date and time for the bail review motion to be set before either the criminal hearings judge or the extended criminal motions judge, the party noting the motion shall check the website above to assure availability. On any nonviolent offense, a motion for bail review

may be noted on the calendars with 24 hours' notice of the hearing. On a violent offense, a motion for bail review may be noted with 48 hours' notice. All working copies for the motion shall be sent electronically to the law clerk of the Judge scheduled to hear the motion on the set date and time. A calendar note should be filed and electronically provided with the working copies identifying the appropriate calendar, the date and time for the hearing, and the anticipated time the hearing will take.

#### Warrant Authorization Calendar

5. So long as the Supreme Court order requires that facts supporting the issuance of a warrant be current and recited on the record in open court, there shall be a Warrant Authorization Calendar to be heard in the courtroom of the Judge assigned to that calendar unless that courtroom is unavailable. That calendar will take place every Friday at 1pm, except in the event that Friday is a Court Holiday, it shall take place at 1pm on the last Court day of that week. Unless previously addressed during the week, the calendar shall include all matters from that week, including the trial call calendar that morning where the State is requesting a bench warrant or the Court, on its own motion, is considering the authorization and issuance of a bench warrant. A separate document more specifically identifying the Calendar will be provided at a later time, which will also include the start date for this calendar. These matters do not need to be noted on the Friday 3pm Motions Call Calendar. It is the intent of the Court that these matters be handled remotely to limit the number of participants at the calendar.

#### Out-of-Custody Arraignments


6. Effective Monday, December 7, 2020, out-of-custody arraignments shall be handled remotely through Zoom pursuant to the Zoom Protocols and Procedures for Criminal

Hearings and Extended Criminal Motions located at:

<https://www.snohomishcountywa.gov/5740/Criminal-Zoom-Hearings>.

Any and all provisions of all previous Snohomish County Emergency Orders shall remain in full force and effect.

DATED this 24<sup>th</sup> day of November, 2020

  
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Judge Bruce I. Weiss  
Presiding Judge