District Court of the State of Washington
for Snohomish County

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PRESIDING JUDGE
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Administrative Order 21 – 07

Snohomish County District Court
Emergency Order

The Court adopts the preambles from previous Administrative Orders (20-01 through 21-06).

In May-July of 2021 it appeared that the pandemic was easing. Vaccinations were widely available and mask mandates were terminated upon attestation and proof of vaccination. Commencing in mid-July the positive outlook rapidly took a turn for the worse. A new and highly contagious variant, the Delta variant, began to rapidly spread. In three weeks, there were four positive COVID-19 cases reported by District Court employees. The infection rates raised dramatically from a low of 70 per 100,000 in early July to 366 per 100,000 by mid-August. Total case counts are now approaching the worst counts since the onset of the pandemic. The rapid rise mirrored the curve of infection in October, 2020 when jury trials were last suspended.

During the week of August 9, 2021, the Governor issued new mandates requiring vaccinations for all state employees and health care workers by October. The Snohomish County Executive and the Snohomish Health District issued mandates that all public spaces and county spaces will require everyone to wear masks regardless of vaccination status commencing August 12, 2021. On August 12, 2021, District Court also reinstated a mask requirement for everyone, including vaccinated persons, in all District Court facilities

Accordingly, pursuant to the authority given this Court through Washington State Supreme Court Orders 25700-B-602 through B-646 (and any superseding Orders), and the authority granted to the Presiding Judge of the Snohomish County District Court pursuant to GR 29, this Emergency Order is effective August 18, 2021, and shall remain in effect unless renewed, modified or rescinded by the Snohomish County District Court Presiding Judge. All Divisions of the Snohomish County District Court will remain open, pending further Order of the Court.

<u>Order</u>

1. **Protection Order and Compliance Hearings**

(a) All civil protection order hearings for Unlawful Harassment, Domestic Violence, Stalking, Sexual Assault and Extreme Risk Protection Orders will be calendared per normal division policies.

(b) All compliance hearings pursuant to RCW 10.21.055 and weapons surrender orders pursuant to Chapter 9.41. RCW will be calendared on the normal motions calendar for each division.

(c) All ex parte petitions may be determined based solely on the petition unless otherwise directed by a Judicial Officer.

(d) All hearings will be conducted via an approved video platform or in person. Attachment B lists in person and video hearings. Video hearings will require both visual and audio connection unless waived at or before the hearing by a judicial officer. If participation is through a video platform, the petitioner and respondent are responsible to log-in at the time provided to them and to await admission to the hearing. Failure to log-in or disconnecting prior to the hearing or before the hearing has concluded, may be considered a non-appearance.

2. **Criminal Hearings**

(a) The Time for Trial provisions of CrRLJ 3.3 are suspended from the date of this order until the next court date after October 4, 2021, and further Order of the Court. This constitutes an excluded period under CrRLJ 3.3(e). CrRLJ 2.2(g) is suspended until further Order of the Court.

(b) Arraignments: All arraignments will be held via approved video platform or in person if video is not possible. Video hearings will require both visual and audio connection unless waived at or before the hearing by a judicial officer. Arraignment provisions of CrRLJ 4.1 are suspended until further Order of the Court. The new arraignment date shall be considered the "initial commencement date" for purposes of establishing the time for trial under CrR 3.3(c)(1), CrRLJ 3.3(c)(1).

(c) Motions: All criminal motions may be noted in the customary manner. The dates and times for criminal motions can be found here:
https://www.snohomishcountywa.gov/DocumentCenter/View/78124/Criminal-2021-Calendar?bidId=

Attachment B lists in person and video hearings. Calendars in all Divisions will be subject to maximum calendar limitations per session and/or designed to ensure appropriate social distancing if the hearings are in person. The following motions may be heard on shortened time pursuant to previous Supreme Court and Administrative Orders:

Motions to quash warrants.
Motions regarding bail.
Motions for TRO from custody.
Motions to review pre-trial release conditions.
Any other Motion with the consent of a Judicial Officer.

(i) All hearings will be conducted via an approved video platform or in person if video is not possible. Video hearings will require both visual and audio connection unless waived at or before the hearing by a judicial officer.

(ii) CrRLJ 8.1(c) still applies to all hearings with the exceptions outlined in the Supreme Court Orders for in custody matters. The court will accept agreed orders in lieu of a hearing subject to availability on the calendar.

(iii) The Court waives the $50 walk-in warrant quash fee for all warrants below $5,000.

(iv) The Court will waive signatures on all documents for video hearings subject to an appropriate waiver entered on the record. Waivers of signatures implicating constitutional protections, including but not limited to guilty pleas and sentencing, shall be made knowingly, intelligently, and voluntarily. The Court specifically authorizes video plea and sentencing as indicated in Attachment B as disposition hearings.

(v) Motions calendars will return to regularly scheduled times in each division.

(d) Trial Confirmation: Commencing February 1, 2021 good cause exists that the trial confirmation hearing is a necessary hearing pursuant to CrRLJ 3.4 and emergency amendments to SCLCrRLJ 3.4. The Defendant's presence may be waived upon compliance with SCLCrRLJ 3.4. The emergency local rules can be found here: https://www.snohomishcountywa.gov/DocumentCenter/View/73690/Locol-Rules-Effective-1-28-2021?bidId=

(e) Jury Trials: Jury trials are suspended until at least the week of October 4, 2021. The continued high levels of COVID cases locally and statewide constitutes an "unavoidable circumstance" pursuant to CrRLJ 3.3(e)(8).

(f) Failure to appear: If participation is through a video platform, the plaintiff and the defendant are responsible to log-in at the time provided to them and to await admission to the hearing. Failure to log-in, disconnecting prior to the hearing, and disconnecting before the hearing has concluded, may be considered a non-appearance.

3. **Traffic Infraction Hearings**

All hearings will be held via an approved video platform or in person if video is not possible. Video hearings will require both visual and audio connection unless waived at or before the hearing by a judicial officer. Attachment B lists in person and video hearings. If participation is through a video platform, the plaintiff and respondent are responsible to log-in at the time provided to them and to await admission to the hearing. Failure to log-in, disconnecting prior to the hearing, and disconnecting before the hearing has concluded, may be considered a non-appearance. The Court will continue to accept, and in fact encourages, agreed orders.

4. **Civil Proceedings**

Jury trials are suspended until at least the week of October 4, 2021. All civil motions may be noted in the customary manner. The dates and times for civil motions can be found here: https://www.snohomishcountywa.gov/DocumentCenter/View/78123/Civil-2021-Calendar?bidId=

All hearings will be held via an approved video platform or in person if video is not possible. Video hearings will require both visual and audio connection unless waived at or before the hearing by a judicial officer. Attachment B lists in person and video hearings. If participation is through a video platform, the plaintiff/petitioner and respondent are

responsible to log-in at the time provided to them and to await admission to the hearing. Failure to log-in, disconnecting prior to the hearing, and disconnecting before the hearing has concluded may be considered a non-appearance.

5. Jail Calendars and Mental Health Court

(a) This Order does not apply to Mental Health Court. Judicial Officers hearing the Mental Health Court calendars may make such Orders as are necessary to protect the health and safety of all participants and the public.

(b) Jail calendars are subject to Supreme Court Order 25700-B-646 and any subsequent Supreme Court Orders.

(c) No jail transports to Cascade, Everett, Evergreen, or South Division will occur absent the approval of a Judicial Officer.

6. Rules

Any Snohomish County District Court Local Rules or State Court Rules that are inconsistent with the provisions of this Administrative Order are suspended during the effective time of this Order.

7. Other

(a) For purposes of this Order, 'Judicial Officer' means a Snohomish County District Court Judge or Snohomish County District Court Commissioner. The only exceptions for this are that pro tem judges may determine the appropriateness of wearing masks during court proceedings pursuant to Attachment A, for allowing telephonic hearings pursuant to 7(b), and for waiving a video portion of a video platform hearing.

(b) Any civil or criminal matter may be heard upon the approval of a Judicial Officer and, upon a finding of good cause, a Judicial Officer may allow telephonic hearings on a case-by-case basis.

(c) This Administrative Order is subject to Supreme Court Order 25700-B-646 (and any subsequent Orders) and any provisions in conflict with Supreme Court Orders are superseded.

(d) The Court will accept the following online classes that were taken during the time Emergency Orders were in effect: DUI victim panels; ADIS classes; theft awareness classes; anger management classes; Alive at 25, Attitudinal Dynamics of Driving, and the MADD DV victim panel and any other DV panel that has been approved by the Probation Supervisor. All classes must be taken from a Washington based provider and comply with Washington statutes or WACs. Individuals may seek approval of alternative classes on an individual basis from the Probation Supervisor or her designee.

(e) Attachment A-3 addresses masks, face coverings and social distancing. Due to the possibility of rapid policy changes, Attachment A-3 may be subject to change without notice.

(f) Attachment B lists Zoom hearings and those hearings being held in person in the courtroom. Due to the possibility of rapid policy changes, Attachment B may be subject to change without notice.

Dated this 18th day of August 2021

Judge Douglas J. Fair
Presiding Judge
Snohomish County District Court

Attachment A-3

Face Covering Policy.

Findings

This face covering policy incorporates the findings set forth in District Court Administrative Order 21-06, any emergency orders following that order, as well as the following findings. Pursuant to GR 36(a) a "safe courthouse environment is fundamental to the administration of justice. Employees, case participants and members of the public should expect safe and secure courthouses." This face covering policy recognizes the independent authority of the Courts to provide a safe environment for all participants as well as the need for a policy that safeguards the fairness of the fact-finding process.

The courthouse and courtrooms are open to the public. Employees, case participants, and members of the public are present in the same common areas and courtrooms in confined spaces. People who have the novel coronavirus and are currently infectious may appear totally asymptomatic. Social distancing is encouraged through markings on the floor where waiting lines occur, by closing off some seating areas, and signage placed throughout the courthouses.

However, it not possible to maintain social distancing at all times. An employee, case participant or member of the public exposed to COVID-19 at the courthouse would negatively impact the ability of the Court to perform essential public safety and administration of justice functions.

The Center for Disease Control (CDC) and the Washington State Department of Health recommend that, during the current COVID-19 pandemic, individuals wear a covering over the mouth and nose to protect themselves and others. See coronavirus.wa.gov. No other reasonable alternatives are available to mitigate the risk of exposure to COVID-19 within the courthouse other than social distancing and the required use of mouth and nose coverings. While vaccines are widely available there has not been sufficient use of vaccinations to prevent the continued spread of COVID-19, particularly recent variants such as the Delta variant.

Authority of the Court

GR 36(a) vests in the Courts the authority to establish reasonable protocols to protect the safety of employees, case participants and the public. Additionally, Washington State and Federal cases support the authority of the courts to adopt

reasonable procedures and rules regarding safety. See *State v. Hartzog,* 96 Wn.2d 383 (1981); *Jacobson v. Massachusetts,* 197 U.S. 11 (1905).

Snohomish County District Court - Face Mask Policy

Effective August 12, 2021 and during the duration of emergency orders addressing the COVID-19 pandemic, all persons entering the courthouse at the Cascade, Evergreen and South Divisions of Snohomish County District Court are required to wear a face covering that covers their mouth and nostrils. For the Everett Division, this policy applies to the courtrooms and the District Court lobby and work areas.

The required face covering must be worn at all times unless an exception established by this policy applies or as determined by a judicial officer. Persons without required face coverings will be denied entry to the courthouse at the Cascade, Evergreen and South Divisions. In the Everett Division persons without facemasks will be denied entry to the courtrooms, lobby and work areas. The court is not required to provide a face covering except as noted below.

Exceptions:

(1) The District Court will provide face coverings for jurors, witnesses, those persons in need of ADA accommodations, and District Court employees.

(2) At the discretion of a judicial officer, a face covering may be removed to ensure effective communication, to enable compliance with ADA requirements and to implement any accommodations necessary to ensure the fairness of the proceedings and avoid prejudice to any person.

(3) A judicial officer may direct that witnesses' face coverings be removed during testimony.

(4) Any person who provides verifiable proof that their medical provider has determined that their health and safety is put at risk by wearing a face covering is exempt from this policy. Special accommodations for ADA issues will be addressed on a case-by-case basis.

(5) Children under the age of 5 years are not required to wear a face covering.

(6) Employees in a private space such as in an office or break room with no one else present are not required to wear a mask or face covering if they remain alone. Employees will be given short breaks at regular intervals to allow them access to a private area where they can safely remove their masks. Removal of the mask will also be allowed for the purposes of eating and drinking and shall be no longer than necessary to consume food or drink.

Attachment B

Virtual Hearings (Zoom)

Arraignment
Non-contested probation compliance hearings
Civil motions
Small claims mediation
Ex-parte motions
Contested infractions
Mitigation hearings
Name changes
Non-testimonial motions
Disposition hearings
Pre-trial/confirmation hearings
Jury trial call calendar for appearance only cases

In person hearings

Vehicle impound
Contested infractions at the discretion of the judicial officer
Contested probation hearings at the discretion of the judicial officer
Full order hearings
Evidentiary hearings on the motion calendar
Bench trials (including small claims trials)
Compliance review hearings for firearms/IID/SCRAM
Jury trial call calendar for confirmed cases
Jury trials