

**EVERETT MUNICIPAL COURT
SNOHOMISH COUNTY, WASHINGTON
OFFICE OF THE PRESIDING JUDGE**

IN RE:

**CORONAVIRUS/COVID-19
PRECAUTIONARY MEASURES X –
JURY TRIAL PROCEEDINGS**

**GENERAL ADMINISTRATIVE
ORDER NO. 2020-16**

This Court finds that there is a public health emergency caused by the spread of Coronavirus/COVID-19 in all Washington counties, including Snohomish County, and that an order regarding safely resuming jury trials is needed to consistently implement specific strategies for reducing the risk of possible COVID-19 transmission within the courts and to protect the health of court staff members, jurors, litigants and the public during jury trials and other court proceedings requiring in-person court appearances;

WHEREAS, Washington has been in a state of emergency since Governor Inslee's proclamation on February 29, 2020, due to the novel coronavirus (COVID-19) pandemic, necessitating court-imposed restrictions on in-person proceedings; and

WHEREAS, The governor's "Stay Home, Stay Healthy" proclamation on March 23, 2020 excluded court business which was recognized as "essential"; and

WHEREAS, consistent with the governor's proclamations to protect public health, the Washington Supreme Court issued various orders aimed at protecting court staff members, litigants, jurors, and the public from COVID-19, suspending all jury trials and other non-emergent court proceedings March 18, 2020 until July 6, 2020; and

WHEREAS, more recent Supreme Court orders have continued to encourage remote proceedings when appropriate, while allowing for phasing in of in-person proceedings; and

WHEREAS, The governor's proclamations (Stay Home-Stay Healthy and Safe Start-Stay Healthy) continue to acknowledge that courts are essential services and that the Judicial Branch is a separate branch of government operating under the direction of the Chief Justice, and that having been recognized by the governor as an essential service, the courts have latitude in their adherence

to prescriptive guidelines, such as gathering sizes, which significantly impact court activities and for which viable alternatives are lacking; and

WHEREAS, in consultation with trial courts, public health officials, justice partners and coordinate branches of government, the Washington Supreme Court convened a work group that produced a set of recommendations for modifying certain procedures and court rules to provide a framework in which courts may safely resume jury trials, and received Washington State Department of Health guidance specific to trial court operations; and

WHEREAS, in the Washington Supreme Court “Order Re: Modification of Jury Trial Proceedings”, No. 25700-B-631, filed June 18, 2020, that Court makes a finding that the presiding judges across Washington need direction and authority to effectively administer their courts in response to this state of emergency, including authority to adopt, modify, and suspend court rules and orders as warranted to address the emergency conditions;

WHEREAS, it is recognized that while courts of limited jurisdiction across the state share similar risk factors, each court is unique with regard to size, seating areas, entrances and exits, waiting areas, ventilation, etc.

WHEREAS, the courts’ fundamental duty is to uphold the rule of law through the administration of justice of the peaceful resolution of conflict. As a social construct, our rule of law, and hence the courts, are foundational to social welfare. At the heart of the justice system is the jury trial. To that end, it is important that jury trials and other in-person court proceedings be safely resumed at the earliest possible time through the implementation of strategies that balance COVID-19 public health risks and the societal and personal value of these proceedings,

NOW, THEREFORE, EFFECTIVE JUNE 30, 2020, UNTIL THIS ORDER IS RESCINDED OR MODIFIED, IT IS HEREBY ORDERED:

1. Jury trials will recommence at the Everett Municipal Court starting July 13, 2020.
2. All applicable public health guidance and requirements of this Order and previous Court Orders will be strictly adhered to, at all times, by court employees, jurors, litigants and other participants, spectators, and other visitors present in the courthouse facility.
3. All actions related to safely resuming jury trials will be tailored to the particular setting and needs of the Everett Municipal Court. Court staff will maintain communication with local public health experts to address conditions specific to this court that are not already covered by Court Order.
4. General safety requirements for hearings and jury trials are set forth below.

- a. Room Ventilation. When possible, heating, ventilation and air conditioning filters will be upgraded to a Minimum Efficiency Reporting Value (MERV) of 13 (high-level) to improve air filtration, or the highest filtration rate possible for the court's existing heating, ventilation and air conditioning system.
- b. Physical Distancing
 - i. Physical distancing of six feet is required when feasible, to avoid inhaling droplet spray from talking, coughing and sneezing. Possible procedural changes will be investigated by the Court if, during a jury trial, it is discovered that existing physical space does not allow for six feet of distancing. This may include, but is not limited to, the use of alternate physical space for jury selection.
 - ii. With the strict use of facial coverings, physical distancing in courts can be reduced to three feet if alternatives for increased distancing are not feasible.
 - iii. In addition to directives of the judge during any particular trial, adherence to the markers that have been installed to indicate six-foot intervals is required.
- c. Facial Coverings.
 - i. Staff: Unless working alone in an office or cubicle, staff is required to wear masks at all times. In a medium-risk court environment, disposable masks, such as KN95, are required.
 - ii. Court Visitors: Facial coverings are required for all who enter the courthouse facility, including litigants, witnesses, jurors, and spectators. Disposable masks are available at the lobby counter.
 - iii. Jury Trial: Under certain circumstances and for specific participants, the wearing of a facial covering may be legally undesirable during a jury trial. In such cases, the judge presiding over a trial may determine that a face shield will be required in lieu of a mask.
- d. Physical Partitions
 - i. Clear physical partitions (Plexiglas) have been installed in courtroom and lobby areas.
 - ii. Plexiglas partitions in the jury trial courtroom will be sanitized at the end of each day, at a minimum, with additional sanitization as required.
- e. Hand Sanitization
 - i. Jurors and other participants in a jury trial will be given frequent opportunity to wash their hands and use EPA-approved hand sanitizer.
 - ii. Use of hand sanitizer will be required upon entering the court facility. Hand sanitizer will be conspicuously displayed in common areas, especially near doors and counters.
 - iii. Tissues will be available throughout the courtroom and waiting areas.

f. Surface Sanitization

- i. During a jury trial, all frequently contacted surfaces will be cleaned and disinfected between courtroom activities to prevent the potential spread of COVID-19 between groups or individuals. As an example, frequently contacted surfaces around the jury box should be cleaned whenever the jury departs, and the witness box cleaned between witnesses.
- ii. Other high contact surfaces, such as restroom door handles, will be cleaned frequently throughout the day.
- iii. Sanitation will be with an EPA-approved disinfectant.

g. Jurors

- i. Mask use among jurors is mandated at all times in the courtroom.
- ii. The first day of jury trial, jurors will have been assembled at the Snohomish County Superior Court. If there are subsequent days of trial in this court facility, jurors will, prior to arrival, fill out the Washington State Courts Health Screening Questionnaire to identify any potential COVID-19 symptoms or contact with a confirmed case.
- iii. To help prevent the spread and possible impact to overall court proceedings, jurors will be restricted from interaction with any court employee other than the judge, the jury trial clerk, and the security guard(s).
- iv. Jurors may bring their own water bottles. Upon request, the court will provide disposable water cups for juror use.

h. Visitors to the Court / Spectators

- i. Educational materials focusing on the use of physical distancing, facial coverings and hand sanitization are prominently displayed throughout the courthouse and will be strictly adhered to.
- ii. Court staff will update the court website and posted information to advise potential visitors to the court and/or spectators of the public safety requirements at the court.
- iii. The judge presiding over the jury trial has authority to take any action he/she deems necessary to restrict in-person attendance of court proceedings to the extent possible, taking appropriate steps to establish and promote web-based viewing or other distant viewing options of court proceedings.
- iv. While the use of temperature checks is a common practice at some businesses and public gathering locations, body temperature as an indicator of COVID-19 infection is recognized by the Washington State Department of Health as “problematic and a rather course triage practice.” The questionable accuracy of measurement equipment, combined with the high prevalence of asymptomatic COVID-19 carriers, impacts the overall value of body temperature as an indicator of infractions. Because of this, at this time temperature checks of court visitors/jury trial spectators are not

required.

5. General procedural requirements for jury trials are set forth below.

a. Jury Selection.

- i. The Washington Supreme Court has authorized the use of video conference proceedings for jury selection. The judge presiding over the jury trial may authorize the use of remote technology in jury selection, including use of video for voir dire, so long as all participants are able to simultaneously see, hear and speak to one another.¹
- ii. If necessary, jury selection may occur in multiple phases of groups sized as appropriate based on consideration of location, facility and applicable public health guidelines. The Court will use a script of information provided about the proceedings and the case to ensure consistency among each potential juror group.
- iii. When jurors are escorted to this court from the Snohomish County Superior Court, 3 jurors will be seated in the 7 jury box seats in the jury box and the remaining jurors will be seated dispersed throughout the gallery of the courtroom.

b. Hardship Excusals.

- i. People at higher risk for severe COVID-19 include those with underlying health conditions (e.g. chronic lung disease, moderate to severe asthma, serious heart conditions, and diabetes), especially individuals who are over 60 years of age.
- ii. Parties will be allowed to stipulate off the record to hardship excusals of potential jurors.
- iii. So long as defendants can have continual, confidential communications with their counsel, parties may consider hardship excusal requests on the record by telephone or video conference.

c. Peremptory Challenges

- i. There will remain 3 peremptory challenges each for the City and for the defendant.
- ii. The right to additional peremptory challenges for alternate jurors (CrRLJ 6.5) is eliminated until further General Administrative Order or unless allowed by the judge who is presiding over a particular jury trial.

6. In the event the court is made aware that a person with confirmed COVID-19 was in the courthouse, court staff will immediately call the local public health agency to provide information about the person who was present and to request recommendations. If the

¹ It is not required that all potential jurors be able to simultaneously see one another.

infected person was a court employee or juror, all identified close contacts of the infected person may be required to self-quarantine for 2 weeks to prevent disease spread to others.

7. The rate of COVID-19 is likely to fluctuate over time and across communities. The court will monitor the rate of COVID-19 occurrence within Snohomish County. The greater the prevalence of COVID-19, the higher risk that a COVID-19-carrying member of the community will be summoned to participate in a jury trial.
8. Washington Supreme Court Order No. 25700-B-631, this General Administrative Order, and other applicable emergency orders may be deemed part of the record in affected cases for purposes of appeal without the need to file the orders in each case.
9. Existing General Administrative Orders remain in effect. However, where any provision of this Order may be interpreted to conflict with any provision of another General Administrative Order addressing the conduct of jury trials, this Order shall control.

DATED this 30th day of June, 2020.



HON. AMY KAESTNER
PRESIDING JUDGE