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

IN RE:

**CORONAVIRUS/COVID-19
PRECAUTIONARY MEASURES XV**

**GENERAL ADMINISTRATIVE
ORDER NO. 2021 – 01**

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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 to suspend certain court rules and to take further actions concerning court operations is needed to promote the safety of court employees, court participants and the general public; and

WHEREAS, on March 4, 2020, Washington State Supreme Court Chief Justice Debra Stephens (“Chief Justice Stephens”) issued Order No. 25700-B-602 in response to this public health emergency that affects the operation of trial courts in Washington, granting emergency authority to this Court to adopt, modify, and suspend court rules and orders, as warranted to address this emergency;

WHEREAS, on March 13, 2020, Governor Jay Inslee ordered the closure of all schools in the State and, on March 16, 2020, ordered closure of all bars, restaurants and clubs in the State, in addition to limiting gatherings to no more than 50 people;

WHEREAS, on March 18, 2020, Chief Justice Stephens issued Order No. 25700-B-606, requiring this Court to adopt additional measures to address this public health emergency and giving this Court authority to adopt more restrictive measures, as needed;

WHEREAS, on April 2, 2020, Governor Inslee extended his statewide mandatory Stay Home order through May 4, 2020;

WHEREAS, on April 29, 2020, Chief Justice Stephens issued a Second Revised and Extended Order Regarding Court Operations, giving further guidance to this Court concerning

1 expansion of suspended operations and extending this Court’s authority to adopt, modify, and
2 suspend court rules and orders, as warranted to address this emergency;

3 WHEREAS, on May 1, 2020, Governor Inslee again extended his statewide mandatory
4 Stay Home order through May 31, 2020;

5 WHEREAS, on May 29, 2020, Chief Justice Stephens issued an Amended Third Revised
6 and Extended Order Regarding Court Operations, which again authorized courts in Washington
7 to adopt measures to protect health and safety during this public health emergency;

8 WHEREAS, Governor Inslee’s statewide Stay Home, Stay Healthy order expired at
9 11:59 p.m. on May 31, 2020 and the Governor immediately instituted a statewide Safe Start
10 order requiring significant continued phase-specific public safety restrictions;

11 WHEREAS, on June 5, 2020, Snohomish County was approved to move to Phase Two of
12 the Governor’s Safe Start protocol, allowing some easing of public health restrictions, but also
13 continuing restrictions on public gatherings and requiring other continued significant measures to
14 ensure public safety, including a requirement for safe distancing in all indoor and outdoor
15 settings;

16 WHEREAS, on October 13, 2020, Chief Justice Stephens issued Order No. 25700-B-646,
17 its Fourth Revised and Extended Order Regarding Court Operations, stating that in all court
18 operations, courts should follow the most protective public health guidance applicable in their
19 jurisdiction, and that individual courts have the authority to adopt more restrictive measures to
20 protect health and safety when necessary and as circumstances warrant;

21 WHEREAS, on November 16, 2020, in response to rapidly increasing statewide
22 transmission of COVID-19, Governor Inslee re-imposed and/or expanded public health
23 restrictions limiting indoor gatherings, prohibiting certain activities, and closing certain
24 businesses, while again recognizing that Courts provide essential services;

25 WHEREAS, on December 30, 2020, Governor Inslee extended public health restrictions,
effective immediately, due to a COVID-19 outbreak surge that he found, based on evidence of
how the virus is spread and risk factors that increase the risk for person-to-person COVID-19
transmission, puts Washington’s people, health system and economy in as dangerous a position
as was faced in March 2020;

1 WHEREAS, Governor Inslee’s December 30, 2020 extension of public health restrictions
has an expiration date of 11:59 p.m. January 11, 2021 unless otherwise extended;

2 WHEREAS, Governor Inslee modified and extended public health restrictions
3 indefinitely, based on a new phased reopening plan, and designating Phase I restrictions for the
4 Puget Sound Region, which includes Snohomish County, and specifying public health targets
5 that must be met before restrictions are modified or lifted;

6 WHEREAS, on January 16, 2021, this Court was notified that Snohomish County
7 Superior Court will not resume jury trials any sooner than the week of February 15, 2021, with
8 that date subject to change, thus preventing Everett Municipal Court from resuming jury trials
9 before February 15, 2021, as jurors for trials in this Court are procured via Snohomish County
Superior Court jury operations;

10 WHEREAS, Snohomish County continues to be subject to Phase I restrictions and public
11 health dictates that this Court take certain measures and pursuant to the authority of Washington
Supreme Court Orders described herein;

12 **NOW, THEREFORE, EFFECTIVE FEBRUARY 1, 2021, GENERAL**
13 **ADMINISTRATIVE ORDERS 2020-06, 2020-07, 2020-08, 2020-09, 2020-10, 2020-11, 2020-**
14 **15, 2020-17, 2020-19, 2020-20 and 2020-21 ARE RESCINDED AND IT IS HEREBY**
15 **ORDERED:**

- 16 1. Everett Municipal Court will continue to remain open during this emergency, at least
17 until further order of this court. Staff are required to report to work unless otherwise
18 directed. Staff who have underlying health issues or are feeling sick, running an
19 elevated temperature, experiencing chills or muscle pain, experiencing a cough, sore
20 throat, headache, new loss of taste or smell, or other respiratory problems are directed
21 to remain at home and take leave in accordance with City policy. While at work staff
22 are required to maintain social distancing requirements and follow emergency health
23 directives as ordered by the Presiding Judge.
- 24 2. The Probation Department shall continue to have telephonic/remote meetings with
25 defendants, whenever possible. The Probation Department may continue to have
face-to-face meetings, as necessary, if social distancing and other public health safety

1 requirements can be met. MRT classes shall be conducted remotely unless and until
2 in person classes are again approved by the Presiding Judge.

3 3. The Jury Term of February 8-9, 2021, is cancelled, and all out-of-custody cases
4 currently scheduled on the February 2, 2021, trial readiness calendar shall be reset to
5 the next available out-of-custody trial readiness date. Bench Trials currently set may
6 proceed as scheduled and bench trials may be specially set by the Court.

7 4. Out-of-Custody Arraignments:

8 a. Wednesday and Friday 8:30/9:30am arraignment calendars shall be limited to
9 ten defendants per calendar. Except for DUI/Physical Control or any
10 domestic violence cases, all arraignments may be scheduled up to ninety days
11 out from the date of violation, in order to comply with these calendar limits.
12 Arraignments on new DV arrests shall be set to the next court day at 11:30am.
13 Arraignments on new DUI arrests shall be set to the next Wednesday at
14 11:30am. DUI and DV cases filed by the City Prosecutor's Office shall be set
15 to the next available 11:30am arraignment calendar that allows for proper
16 summons to be issued to the defendant. Whenever possible, 11:30am
17 arraignment calendars shall be limited to five defendants per calendar. To the
18 extent that this order is in conflict with CrRLJ 4.1 time for arraignment
19 requirements, such rule is hereby suspended and/or modified so long as this
20 order is in effect.

21 b. Unrepresented defendants are required to attend arraignments in person,
22 unless remote appearance is approved by the Court in advance. Represented
23 defendants may appear remotely with counsel.

24 5. Out-of-Custody Criminal hearings:

25 a. Pretrial calendars shall be subject to a thirty-five defendant per calendar limit
and out-of-custody readiness calendars shall be subject to a forty defendant
per calendar limit. In-custody defendants shall not count toward these
calendar limits. Where necessary to maintain these limits, initial case settings
for pretrial and trial dates for out-of-custody defendants may be set beyond the
time for trial limits in CrRLJ 3.3 and cases already set may also be continued

1 by the court beyond such limits. Based upon the Supreme Court's finding that
2 the serious danger posed by COVID-19 is good cause to continue criminal
3 trials, and constitutes an unavoidable circumstance under CrRLJ 3.3(e)(8), to
4 the extent that this order results in trial dates outside the time for trial limits
5 under CrRLJ 3.3, such rule shall be suspended and/or modified so long as this
6 order is in effect.

7 b. Defendants are encouraged to appear through counsel for all pretrial hearings
8 and readiness hearings unless otherwise ordered by the Court, in accordance
9 with CrRLJ 3.4.

10 c. Defense counsel is not required to obtain signatures from defendants on orders
11 to continue criminal matters while this order is in effect. Ex parte review is
12 authorized and preferred for agreed orders.

13 d. Video attendance (or in person attendance where video attendance is
14 impossible) is required for Changes of Plea, entry of Court Monitored
15 Deferrals, and entry of Deferred Prosecutions. These matters may only be
16 heard on a case-by-case basis on pretrial/readiness calendars with prior Court
17 approval. Otherwise, any such disposition shall be set to an available Monday
18 morning Bench Trial/Motion calendar, subject to a ten defendant per calendar
19 limit. Prosecutorial Offers of Diversion (PODs) may be approved for entry
20 remotely, via video or audio, if a signed Jury Trial/Speedy Trial waiver has
21 been provided to the Court.

22 6. Language Assistance Calendars: In person appearance by the defendant, interpreter
23 and attorneys is required for language assistance calendars. Language assistance
24 calendars shall be subject to a ten defendant per calendar limit.

25 7. Competency hearings: Out-of-custody competency hearings will be set to Monday
morning disposition/motions calendars, subject to a ten defendant per calendar limit.

8. Motions: Motion calendars shall be subject to a ten defendant per calendar limit,
except where cases beyond that limit are approved by the Court. The following
hearings are determined to be especially time-sensitive and shall have preference over
other types of motion hearings:

- a. Motions to quash non-recallable warrants
- b. Motions to review pre-trial release conditions
- c. Protected party motions to rescind/modify No Contact Orders
- d. Any other emergency motion with the consent of the Court

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4 9. Order to Surrender Weapons compliance hearings: Firearms compliance hearings
5 will remain as currently set and will continue to be set for review on the Wednesday
6 motions calendar. If the Court finds the defendant not in compliance at the initial
7 review hearing, in person attendance is required for any further firearm compliance
8 hearings. Initial review hearings do not count toward the ten defendant maximum for
9 the Wednesday motions calendar.

10 10. Pretrial violation hearings: Hearings to address pretrial release conditions/alcohol
11 monitoring violations may be specially set by the Court.

12 11. Mental Health Alternatives Program (MAP) hearings: MAP staffing will be
13 conducted remotely until further order of the Court. MAP hearings will continue to
14 be heard as currently scheduled.

15 12. Jail calendars: Jail calendars will continue to be heard daily and shall be limited to a
16 maximum of twenty defendants per calendar unless necessitated by the number of
17 cases for arraignment. With the consent of the Court and subject to this limit, motions
18 for disposition, motions for release, TRO, and bail review may be heard on the jail
19 calendar.

20 13. Show Cause, Probation Revocation hearings and other probation hearings: In person
21 appearance is required for contested Probation Revocation hearings. Probation
22 Revocation calendars shall be subject to a ten defendant per calendar limit. All other
23 probation calendars shall be subject to a twenty defendant per calendar limit.
24 Personal appearance for future hearings is waived for any defendant who has fully
25 complied with the terms of their POD agreement. The City may present an ex parte
motion to dismiss any POD where all requirements have been completed.

14. Any continuance of criminal hearings and trials pursuant to this order is required to
protect public health in the administration of justice. Based upon the Washington
Supreme Court's finding that the serious danger posed by COVID-19 is good cause to

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continue criminal jury trials and constitutes an unavoidable circumstance under CrRLJ 3.3(e)(8). For any case continued under the terms of this order, the entire period of the continuance shall constitute an excluded period when calculating time for trial. CrRLJ 3.3(e)(3).

15. Administrative hearings: Administrative hearings (e.g. impound hearings, dog hearings, etc.) may be scheduled on a case-by-case basis by court order, as needed. In person appearance is required, unless otherwise agreed by the parties and authorized by the Court.

16. Infraction and Parking hearings:

a. Contested Hearings: In person appearance is required for respondents intending to proceed with a full contested hearing if witnesses have been subpoenaed to testify. Contested hearing calendars shall be subject to a limit of ten unrepresented respondents.

b. Mitigation Hearings: Mitigation and NVOL infraction/relicensing calendars shall be subject to a twenty respondent per calendar limit.

c. Parking Infraction Hearings: Parking calendars shall be subject to a twenty respondent calendar limit.

d. Matters may be reset as needed by the Court to meet calendar limits. The time for hearing periods set out in IRLJ 2.6 are suspended and all continuances pursuant to this Order shall be excluded periods. Both mitigation and contested hearings may continue to be conducted by mail, upon request.

17. For any hearings and trials reset pursuant to this order, the Court will provide notice of new hearing dates to the City, defense counsel, and unrepresented defendants. Defense counsel shall provide notice to defendants of new court dates provided pursuant to this order.

18. Unless otherwise specified by this order or otherwise ordered by the Court, remote appearance is required, where at all possible, for all criminal and infraction hearings. Except for jail calendars, Microsoft Teams will be used for all calendars and hearings. Microsoft Teams video links, phone-in instructions and meeting ID numbers will be provided to all attorneys and unrepresented defendants/respondents by court staff. A

1 defendant's presence may also be waived by the court where appropriate and upon
2 defense motion. Where court matters must be heard in person, social distancing and
3 other public health measures must be strictly observed.

4 19. The Court may increase or decrease any of the calendar limits set by this Order when
5 necessary to address growing case backlogs or when necessary to ensure compliance
6 with current public health and safety guidelines from the Centers for Disease Control,
7 the Washington Department of Health, or local health department.

8 20. Ex Parte No Contact Orders: The Court may enter an ex parte No Contact Order
9 where a citation or complaint is filed with the Court and the Court finds probable
10 cause for a domestic violence offense, stalking offense or harassment offense. Such
11 order may be served upon the defendant by mail.

12 21. Other Ex Parte Orders: Agreed Orders of any kind may be presented for ex parte
13 review. Where possible, such orders should be filed at least 24 hours prior to any
14 pending court date. Defense counsel is not required to obtain signatures from
15 defendants on orders to continue criminal matters while this order is in effect.

16 22. Cases with outstanding bench warrants: Unless a case-specific exception is noted by
17 the Court when issuing a bench warrant, any defendant with an outstanding warrant in
18 this court may appear at the front counter to get a new court date and such warrant
19 will be recalled. Warrant recall fees are waived while this order remains in effect.

20 DATED this 27th day of January, 2021.

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22 **HON. AMY KAESTNER**
23 **PRESIDING JUDGE**