IN THE MUNICIPAL COURT FOR THE CITIES OF ISSAQUAH, SNOQUALMIE AND NORTH BEND, COUNTY OF KING, STATE OF WASHINGTON

IN THE MATTER OF EMERGENCY RESPONSE TO THREAT OF PUBLIC HEALTH	)	ADMINISTRATIVE ORDER NO. 2020-5
	)	Re-Scheduling of Hearings and Other Changes to Court Operations

WHEREAS, on February 29, 2020, Governor Inslee proclaimed a state of emergency due to the novel coronavirus disease (COVID-19) outbreak in Washington; and

WHEREAS, The Chief Justice issued an emergency order in response to the public health emergency that affects the operations of trial courts in Washington State on March 4, 2020; and

WHEREAS, the Washington State Supreme Court adopted Order No. 25700-B-602, granting emergency authority to this court to adopt, modify, and suspend court rules and orders, and to take further actions concerning court operations, as warranted to address the current state of emergency;

WHEREAS, on March 11, 2020 the Governor imposed additional restrictions prohibiting gatherings of more than 250 people within King, Snohomish, and Pierce County due to the danger of continued spread of the virus and the increasing danger the virus presents to the health care system in the region;

WHEREAS, on March 11, 2020, Dr. Jeff Duchin, Health Officer for Public Health – Seattle and King County, issued a parallel local Health Officer Order for King County to prohibit gatherings of fewer than 250 people unless measures are taken by event organizers to minimize risk;

WHEREAS on March 13, 2020, President Trump declared a national emergency due to the COVID-19 outbreak across the United States; and

WHEREAS, on March 18, 2020, the Washington State Supreme Court adopted Order No. 25700-B-607 in the matter of statewide response by the Washington State courts to the Covid-19 public health emergency;

WHEREAS, during this state of emergency, the Centers for Disease Control and Prevention and the Washington State Department of Health have recommended increasingly stringent social distancing measures of at least six feet between people, and encouraged vulnerable individuals to avoid public spaces; and

WHEREAS, consistent with these recommendations, Governor Inslee issued and extended a "Stay Home, Stay Healthy" order directing non-essential businesses to close, banning public gatherings, and requiring Washingtonians to stay home except to pursue essential activities; and

WHEREAS, on April 13, 2020, the Washington State Supreme Court adopted Order No. 25700-B-615 in the matter of statewide response by the Washington State courts to the Covid-19 public health emergency noting that the coordinated response from Washington courts to prevent the further spread of COVID-19 must be continued beyond the time frames in the March 18, 2020 order, while allowing courts to operate effectively and maintain effective and equitable access to justice; and

WHEREAS, on April 29, 2020, the Washington State Supreme Court adopted Order No. 25700-B-618 in the matter of statewide response by the Washington State courts to the Covid-19 public health emergency noting that int may be necessary to continue the coordinated response from Washington courts to prevent the further spread of COVID-19 beyond the time frames in the April 23, 2020 order, while allowing courts to operate effectively and maintain effective and equitable access to justice; and

WHEREAS, on May 29, 2020, the Washington State Supreme Court adopted Order No. 25700-B-626 in the matter of statewide response by the Washington State courts to the Covid-19 public health emergency noting that int may be necessary to continue the coordinated response from Washington courts to prevent the further spread of COVID-19 beyond the time frames in the April 23, 2020 order, while allowing courts to operate effectively and maintain effective and equitable access to justice; and

WHEREAS, the Supreme Court has recognized that 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 this court has the duty, broad authority and inherent discretion to enforce order in the courtroom, protect the safety of all those in the courtroom, remove distracting spectators or litigants, and to reasonable regulate access to courts. RCW 2.28.010. RCW 7.21, See, *Bly v. Henry*, 28 Wn.App. 469 (1980)(citing, *Sandstrom v. State*, 309 So.2d 17, 22 (Fla.App.1975); *Friedman v. District Court*, 611 P.2d 77 (Alaska 1980)), *State v. Elwood*, 193 Wash. 514 (1938),*State v. Lormer*, 172 Wn.2d 85 (2011), *State v Giordano*, 57 Wn.App. 74 (1990), *State v. Hartzog*, 26 Wn.App. 576 (1980). *State v. Basford,* 1 Wn.App. 576 (1970). *State v. S.H.,* 102 Wn.App 468 (2000), *State v. Caffrey*, 70 Wn.2d 120 (1966).

NOW, THEREFORE, pursuant to the authority granted by the Supreme Court and to administer justice and to ensure the safety of court personnel, litigants, and the public,

IT IS HEREBY ORDERED:

1. The Issaquah Municipal Court adopts all provisions of the Supreme Court's Order No. 25700-B-626 in the matter of statewide response by the Washington state courts to the Covid-19 public health emergency dated May 29, 2020 that are relevant to a municipal court (as well as the Supreme Court's March 18, 2020 order (as corrected March 19, 2020), its March 20, 2020 amended order, and its Extended and Revised Orders of April 13, 2020, April 29, 2020, and May 28, 2020) including, but not limited to, the provision that courts should hear matters by telephone, video or other

means that do not require in person attendance when appropriate, and that courts may hear matters that require in person attendance provided that any such hearings strictly comply with social distancing and other public health measures.

2. To the extent that this Administrative Order adopts measures to protect health and safety that are more restrictive than the Supreme Court's Order, including extensions of time frames under the court rules, this Administrative Order controls. See Supreme Court Order 25700-B-626, paragraph 23.

IT IS FURTHER HEREBY ORDERED that to protect the health and safety of the Issaquah Municipal Court staff, persons having business with the Court, and the public at large:

1. The Issaquah Municipal Court Clerk's Office is open Monday thru Friday from 8:30 a.m. to 4:30 p.m. and staff are available during those hours by telephone, and both mail and email will be received. To protect the health and safety of the Issaquah Municipal Court staff, persons having business with the court and the public at large, the front doors and clerk's window will only be open during those hours when in court hearings are in session. Persons who appear at the Issaquah Municipal Court Clerk's Office during these hours will be required to comply with the relevant portions of the social distancing and hygiene measures set forth below in paragraph number 5.

   Mailing Address: P.O. Box 7005, Issaquah, WA 98027
   Phone: (425) 837-3170
   Email: municipalcourt@issaquahwa.gov.

2. During the public health emergency related to the Covid-19 pandemic the court anticipates making daily findings under *State v. Bone-Club*, 128 Wash.2d 254, 906 P.2d 325 (1995) addressing whether there is a compelling interest requiring that hearings be held by way of a virtual courtroom and/or limiting physical access to the courtroom and limiting public interaction with the parties and court staff. Anyone who objects to the use of a virtual courtroom may contact the court at 425-837-3170 and request access to the hearing for the purpose of stating their objection, provided that permission to address the Court is requested and granted.

3. To protect the health and safety of the Issaquah Municipal Court staff, persons having business with the Court and the public at large, the court will continue to calendars for persons detained in jail virtually utilizing Zoom, which will be livestreamed on YouTube. The YouTube channel is accessible on the court's website. Other persons who are interested in participating in the hearing will also be given access to the video courtroom. However, video hearings are courtrooms and persons participating must remain quiet unless called upon to speak. Recording of the livestream broadcast is prohibited without prior approval of the court.

4. To protect the health and safety of the Issaquah Municipal Court staff, persons having business with the Court, and the public at large, the Court will be conducting hearings for persons not detained in jail virtually utilizing Zoom, which will be livestreamed

on YouTube. The YouTube channel is accessible on the Court's website. Defendants will be mailed notice advising them how to access the video courtroom, which can be done by utilizing an electronic device, including a computer, tablet or cell phone, or by calling in by telephone. While all persons are encouraged to appear by way of the virtual courtroom, the Issaquah Municipal Court is holding in-person hearings pursuant to the measures set forth in paragraph 5. Other persons who are interested in participating in the hearing will also be given access to the video courtroom. However, video hearings are courtrooms and persons participating must remain quiet unless called upon to speak. Recording the livestream broadcast is prohibited without prior approval of the court.

5. Persons with court hearings and/or other business with the court who are unable to utilize the video courtroom and/or for some other reason need to appear in person at the courthouse may be able to appear in-person at the courthouse. To protect the health and safety of these persons, the Issaquah Municipal Court staff, other persons having business with the Court and the public at large, any person who enters the Issaquah Municipal Court building will be required to comply with the following court rules which will be displayed on the courthouse doors:

    - For defense counsel and pro se defendants: For purposes of social distancing, absent extraordinary circumstances the prosecutor will be present in the virtual courtroom and will not be appearing in-person for court hearings. If you need to speak to a prosecutor, you must do so by phone, email or other means prior to entering the courthouse. If you do not have contact information for the prosecutor, please contact the court at 425-837-3170 or municipalcourt@issaquahwa.gov.

    - Defense counsel are neither required nor encouraged to wear traditional courtroom attire for in-court hearings. Business casual is encouraged.

    - If you feel ill, do not enter the courthouse - contact your attorney and/or court staff at 425-837-3170.

    - Absent extraordinary circumstances, a maximum of one defendant, one private defense attorney, one public defender, one witness and, on limited occasions, one prosecutor, will be permitted in the courtroom at a time. In addition, a maximum of one defendant, one defense and one witness will be permitted in the hallway outside the glass partition that separates the courtroom from the hallway. Persons waiting outside the glass partition may proceed to enter the courtroom when the preceding hearing has concluded, and all participants have left the courthouse.

    - To maintain social distancing protocols, spectators will not be allowed in the courthouse. Spectators may observe the proceedings by way of the virtual courtroom. A live stream of the court hearing can be accessed on the court's website. https://issaquahwa.gov/303/Municipal-Court

- All persons must keep 6 feet from others while both inside the courthouse, and in any line to enter the courthouse and must observe all social distancing markers. Persons shall not congregate outside the courthouse doors. No exception will be given for family members.
- All persons in line to enter the courthouse, and all persons entering the courthouse must wear a protective mask or other face covering. Persons who do not have a face covering should contact their attorney to inquire about the availability of masks and/or to reschedule their court date so that they can appear with a face covering. Persons without an attorney should contact the court to inquire about the availability of masks and/or to reschedule their court date so that they can appear with a face covering. The first occurrence of a defendant having to reschedule a court date as a result of a lack of a face covering will result in a finding that the defendant has "failed to appear," but will not be the basis for the issuance of a warrant. An arrest warrant may, however, be issued for reasons unrelated to the failure to appear including, but not limited to, ongoing criminal law violations. Speedy trial will recommence at the defendant's next court date, except to the extent it is extended by this Administrative Order and/or Supreme Court Order 25700-B-626.
- All persons will be required to use hand sanitizer upon entering the courthouse, and prior to electronically signing any documents. All persons are encouraged to use hand sanitizer upon exiting the courthouse.
- All persons entering the courthouse will be required to have their temperature taken utilizing the court's non-contact infrared thermometer. Persons with temperatures above 99.1 will not be permitted into the courthouse. For these persons, the docket will reflect a failure to appear for medical reasons and their court date will be rescheduled.
- Persons waiting outside the glass partition must be seated unless instructed otherwise. Desks and chairs are not to be moved.
- Persons entering the courtroom must be seated in the designated seats unless instructed otherwise. Desks and chairs may not to be moved.
- Do not approach the in-court clerk's desk without receiving permission from the judge.
- At the conclusion of any in-court hearing defense counsel shall retrieve all paperwork from the designated location in the courtroom and provide it to each defendant at the paper transfer location. Defendants will receive all paperwork prior to leaving the courtroom. Defendants shall not stop at the clerk's office at the conclusion of their hearing. Defendants should call 425-837-3170 or email the clerk's office at municipalcourt@issaquahwa.gov with questions about their case.

- Court staff, including court security, may direct persons to comply with social distancing and hygiene measures and persons entering the courthouse will be required to comply with any such directives. Any failure to comply with a direction from court staff will be grounds for removal from the courthouse and may result in a finding that a defendant has failed to appear and in the issuance of a bench warrant.

The above policies will remain in place until further notice.

6. To protect the health and safety of the Issaquah Municipal Court staff, persons having business with the Issaquah Municipal Court and the public at large, absent a showing of good cause any emergency non-testimonial motions, including but not limited to motions to quash bench warrants, will be heard by email. Where the court determines that an additional hearing is necessary and/or required and/or where the court authorizes a hearing pursuant to a party's request the court will schedule a hearing and may require that it be held using the virtual courtroom.

   Motions should be filed by submitting an email indicating the requested relief at: municipalcourt@issaquahwa.gov, a judge's working copy should also be submitted directly to the judge at NScotts@issaquahwa.gov. The defendant's name and cause number should be included in the subject line of the email. The email must also establish that opposing counsel has either agreed to the motion, or has been provided notice of the motion. Notice to the Law Office of Lynn Moberly by email sent to McBarron.law@gmail.com will be considered sufficient notice. Notice to Valley Defenders by email sent to whitney@valleydefenders.com will be considered sufficient notice. Notice to the O'Brien, Barton & Hopkins, PLLP, by email sent to jamie@obrienlawfirm.net will be considered sufficient notice. For any other attorney it will be necessary for the moving party to establish proper service.

   Absent emergent circumstances, or the necessity of setting an additional hearing, motions will be considered after 12:00 p.m. on the court date following the date on which they are filed and served. For purposes of calculating the date filed and served, a motion will be considered filed and served on a specific date so long as it is emailed prior to 4:30 p.m. A motion filed and served on a Saturday, Sunday or legal holiday will be considered on the following Tuesday after 12:00 p.m. Counsel will be notified of the court's ruling by email. Where a hearing is to be set, the court will contact the parties to schedule the hearing. Where a warrant is quashed, the court will mail notice of the next court date.

   Where a defendant files a motion or request by mail the court clerk will forward a copy of the written motion by email to the prosecutor and, where appropriate, counsel of record. The court will consider any such request on the date following the date on which the clerk forwarded the email, in the same manner as a motion by email as set forth above.

7. To protect the health and safety of the Issaquah Municipal Court staff, persons having business with the Issaquah Municipal Court and the public at large, persons protected by a no contact order or other order who wish to be heard on a request to modify or

lift the order must confer with the DV advocate first and may then request a hearing to address any requested modification. Hearings to modify orders will be heard in the virtual courtroom unless otherwise ordered by the court. The DV advocate can be reached at: Kim Leyton, phone: 425-785-4803, email: dkmzbs@hotmail.com.

8. To protect the health and safety of the Issaquah Municipal Court staff, persons having business with the Issaquah Municipal Court and the public at large, defendants will be allowed to apply for the public defender by email and/or phone by contacting the Issaquah Municipal Court at (425) 837-3170 or municipalcourt@issaquahwa.gov. Where they are appointed, the public defender is encouraged to waive arraignment whenever authorized and appropriate, thus allowing cases to be set directly to pretrial.

9. To protect the health and safety of the Issaquah Municipal Court staff, persons having business with the Issaquah Municipal Court and the public at large, probation appointments with Probation Officer Melanie Vanek will be conducted by telephone except as otherwise required by Ms. Vanek.

10. To protect the health and safety of the Issaquah Municipal Court staff, persons having business with the Issaquah Municipal Court and the public at large, this Administrative Order suspends the requirement under CrRLJ 4.1(a)(2) that defendants "shall be arraigned not later than 14 days after that appearance which next follows the filing of the complaint or citation and notice, if the defendant is not detained in such jail or subject to such conditions of release."

11. To protect the health and safety of the Issaquah Municipal Court staff, persons having business with the Issaquah Municipal Court and the public at large, this Administrative Order suspends the requirement under CrRLJ 3.3(b)(1) that a defendant who is detained in jail shall be brought to trial within the longer of 60 days after the commencement date specified in Rule 3.3, or the time specified in subsection 3.3(b)(5), and 3.3(b)(2) that a defendant who is not detained in jail shall be brought to trial within the longer of 90 days after the commencement date specified in Rule 3.3, or the time specified in subsection 3.3(b)(5). The court may continue to require speedy trial waivers where continuances are sought. The court will continue to endeavor to conduct as much court business as can be done including, where possible, the scheduling of both bench and jury trials consistent with the Supreme Court Order and Criminal Rules for Courts of Limited Jurisdiction, while also working to ensure public health and safety.

12. During the Covid-19 outbreak, obtaining signatures on court pleadings and documents places significant burdens on defendants, defense attorneys, prosecutors and other persons having business with the court. Therefore, to protect the health and safety of the Issaquah Municipal Court staff, persons having business with the Issaquah Municipal Court and the public at large, by this Administrative Order the court finds that an electronic signature shall be deemed a reliable means for authentication of documents and shall have the same force and effect as an original signature to a paper copy of any document so signed. An electronic signature shall include, but is not limited to, (1) an electronic image of a person's handwritten signature, (2) circumstances where a person during a recorded open court session

verbally authorizes that his or her signature be placed on a document by another person, or (3) any other process logically associated with an electronic record and executed or adopted by a person with the intent to sign the record, including but not limited to "/s/ [name of signatory]", including circumstances where the signature is placed by the attorney at the request or direction of his or her client. This Administrative Order specifically suspends the requirement under CrRLJ 3.3(c)(2)(i) to the extent that it requires that a written waiver of the right to a speedy trial be signed by the defendant and authorizes the use of an electronic signature.

13. Notwithstanding paragraph 12, above, guilty pleas will only be accepted with a defendant's original signature to a paper copy, or an electronic image of a defendant's signature utilizing OCourt, a facsimile, a PDF or some other similar process that the court determines to be acceptable.

14. To protect the health and safety of the Issaquah Municipal Court staff, persons having business with the Issaquah Municipal Court and the public at large, this Administrative Order suspends the requirement under IRLJ 2.6(a)(1) that infraction hearings "be scheduled for not less than 14 days from the date the written notice of hearing is sent by the court, nor more than 120 days from the date of the notice of infraction or the date a default judgment is set aside."

15. No part of this order suspends the defendant's right to a public trial, or the general right of the public to be present at court proceedings under the constitutional provisions that require the open administration of justice.

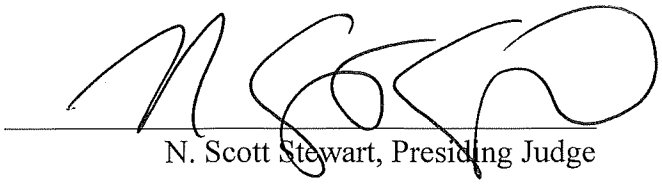
16. The court will re-assess the terms of this administrative order weekly, beginning Friday, June 5, 2020.

17. The court may re-assess the need for other protective measures on an as needed basis.

18. This order replaces the prior court order dated May 5, 2020.

For all hearings currently pending and for hearings on new cases filed during the pendency of this order that are delayed by effect of this order, this administrative order suspends the right to a hearing within any specific time period required by any court rule AND/OR any delay/continuance shall constitute an excluded period for purposes of Speedy Trial, CrRLJ 3.3, CrRLJ 4.1, IRLJ 2.2, IRLJ 2.4, IRLJ 2.6, and any other applicable court rule.

Dated June 2, 2020



N. Scott Stewart, Presiding Judge