

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

FILED
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HEIDI PERCY
COUNTY CLERK
SNOHOMISH CO. WASH

IN RE THE MATTER OF)
THE RESPONSE BY SNOHOMISH) NO.
COUNTY SUPERIOR COURT TO THE)
PUBLIC HEALTH EMERGENCY IN) AMENDED PARAGRAPHS OF
SNOHOMISH COUNTY AND THE STATE OF) EMERGENCY ORDER 10
WASHINGTON) RE: COURT OPERATIONS

_____) 2020-7012-31-A

Except as amended herein, all provisions of Emergency Order 10 remain in full force and effect.

Continuances and Time for Trial

This provision shall replace Paragraph 4 on page 6 of Snohomish County Superior Court Emergency Order 10.

- 4. Continuances and Time for Trial:
 - a. The provisions in previous Emergency Orders of this Court regarding continuances and time for trial shall remain in full force and effect except to the extent they may conflict with this Order. Any conflicts between previous Emergency Orders of this Court and any conflicts between this Order and previous Orders from the Washington State Supreme Court shall be controlled by this current Order.
 - b. The serious danger posed by COVID-19 constitutes an unavoidable circumstance under CrR 3.3(e) (8) so the time of the first Snohomish County Superior Court Emergency Order of March 13, 2020 and the next scheduled hearing after October 15, 2020, shall be EXCLUDED when calculating time for trial.
 - c. The provisions of CrR 2.2(g) are suspended for the duration of the Governor's state of emergency in response to the COVID-19 pandemic.

- d. Consistent with the Supreme Court Order of September 10, 2020 an attorney's signature constitutes representation that the client has been consulted and agrees to the continuance.
- e. In all criminal matters, the Court shall allow attorneys to waive their clients' presence unless presence is deemed necessary by the Court.
- f. While this Court acknowledges and adopts the Supreme Court Order for calculating time for trial and excluded period as well as the representation made by virtue of the attorney's signature on any court order, the process established in Emergency Order 10 paragraphs 4 (c) and 4 (d) should be followed. To repeat and readopt those provisions they state the following :
 - i. For all criminal trials continued with a waiver, the new time for trial will be in accordance with the order of continuance. For all waivers of time for trial in lieu of an express waiver for trial, the Court will accept a written attestation from defense counsel that the defendant understands and wishes to waive his or her right to time for trial.
 - ii. With regard to continuances, the following rules shall apply until further order of the Court:
 - 1. An order continuing a criminal case need not be signed by the defendant to be approved, provided it sets a trial within the time for trial set out above or, if set for trial beyond the time for trial set out above, if the defense attorney attests that he or she has reviewed the time for trial rights with the defendant, the defendant acknowledges understanding of those rights, and the defendant agreed to those dates in the order.

2. Defense counsel shall provide notice of new court dates to their clients.
 3. The Prosecuting Attorney's Office shall summons all pro se defendants for new court dates.
 4. Attorneys shall be permitted to sign any orders through digital signature, in accordance with SCLGR RULE 30.A - Digital Signatures.
- g. Through October 15, 2020, new trial settings at arraignment or return on warrant shall be set in accordance with a new commencement date of October 15, 2020 regardless of when the trial setting hearing takes place. Time for trial shall not run for in-custody cases before December 14, 2020, nor for out of custody cases before January 13, 2021.

Civil Trials/Arbitrations

This provision shall replace Paragraphs 10, 11, and 12 on page 12 of Snohomish County Superior Court Emergency Order 10.

10. There shall be a presumption that depositions in all civil matters for all parties and all witnesses will be performed remotely absent agreement of the parties or a finding of good cause by the Court to require the depositions be performed in person. To the extent any deposition is performed in person, proper social distancing and masks shall be required. Remote depositions shall be performed through electronic means where the person to be deposed can be visually observed rather than telephonic only, absent an agreement of the parties. A remote deposition does not preclude a deponent from being in the same room as their attorney, or preclude a party represented by an attorney from being in the same room as their client. The fact that a client and their attorney may be in the same room does not authorize the attorney or client on the adverse side to be present in the same room as the adverse party and attorney. COVID is not good cause for delay of discovery unless the parties agree it constituted good cause or such a finding is made by the Court.

11. Parties shall confer at least 14 days prior to trial to accomplish the following:
- a. Prepare an agreed document identifying which factual and legal issues are agreed and which are disputed;
 - b. Prepare an agreed document indicating which motions in limine are agreed and which remain to be argued;
 - c. Exchange and review proposed jury instructions in order to be able to provide the Court with a set of instructions that are agreed on the first day set for trial. Each side will also have to provide copies of proposed instructions that are not agreed.
12. Arbitration hearings pursuant to RCW 7.06, the Superior Court Civil Arbitration rules shall be conducted remotely unless the parties agree otherwise. If the Arbitration is conducted in person, appropriate social distancing shall be accommodated, and masks are required. Remote proceedings require the ability for the Arbitrator and attorneys to be able to visually observe the witnesses in addition to being able to hear the witnesses, absent an arbitrator authorizing the witness to testify telephonically pursuant to MAR 5.3(a).

Residential Unlawful Detainers for Non-Payment of Rent

In addition to the terms set forth in the original paragraph 15(d)(ii) of Emergency Order 10, the following shall be added:

- 15(d)(ii). Snohomish County Superior Court will be a pilot site for the Superior Court Judges Association pilot Unlawful Detainer Eviction Resolution Program (ERP). A standing order for ERP will be filed separately.

DATED this 24th day of September, 2020



Judge Bruce I. Weiss