

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

IN RE: DISTRICT OF HAWAII
RESPONSE TO COVID-19 PANDEMIC

**AUGUST 24, 2020 TEMPORARY GENERAL ORDER REGARDING
DISTRICT OF HAWAII RESPONSE TO COVID-19 PANDEMIC**

This Temporary General Order supersedes the Court’s August 13, 2020 “Temporary General Order Regarding District of Hawaii Response to COVID-19 Pandemic.”

The Court has continued to monitor the spread of the COVID-19 virus in the State of Hawaii and the rest of the United States, and has carefully considered the need to protect the public, court employees, jurors, litigants, and counsel from being exposed to the COVID-19 virus. Most recently, the State of Hawaii has experienced a significant increase in the spread of COVID-19. As of the date of this Order, the State of Hawaii has the highest Effective Reproduction Rate (or “Rt” rate), in the United States—that is, the State of Hawaii has the highest average number of people who become infected by an infectious person. Further, on August 20, 2020, Hawaii Governor David Ige issued a “Twelfth Proclamation Related to the COVID-19 Emergency.” The Twelfth Proclamation states, in part, that “COVID-19 continues to endanger the health, safety, and welfare of the people of Hawaii and a response requires the serious attention, effort, and sacrifice of all people in the State of Hawaii to avert unmanageable strains on our healthcare system, and other catastrophic impacts to the State.” Further, City and County of Honolulu Mayor Kirk Caldwell issued an August 18, 2020 order (“Act Now Honolulu – No Social Gatherings”) recognizing that the resurgence of COVID-19 in Honolulu has resulted in a public health emergency.

Understanding the escalating threat that COVID-19 poses in the State of Hawaii, and in order to protect the public, court employees, jurors, litigants, and counsel, with the agreement of all of the judges of the United States District Court for the District of Hawaii, the Court orders a partial closure of the courthouse as follows:

From August 24, 2020 until October 13, 2020, the courthouse will be closed to the public on all Tuesdays, Wednesdays, and Fridays. The courthouse will remain open on Mondays and Thursdays (other than holidays), but solely for in-person court hearings. The public will be permitted to enter the courthouse on Mondays and Thursdays to attend in-person court hearings and for no other purpose. If needed, the courthouse can be opened on a Tuesday, Wednesday, or Friday for emergency matters.

No jury trial shall commence prior to October 13, 2020.

Mitigation Measures for the Courthouse:

- All persons entering the courthouse, including but not limited to litigants, attorneys, members of the public, media, vendors, and contractors, shall be required to wear a face mask fully covering the nose and mouth while in all public areas of the courthouse. The three exceptions to this rule are: 1) children too young to wear a face mask; 2) those who cannot wear a face mask due to medical necessity may wear a face shield in lieu of a face mask; and 3) individual judges may permit anyone speaking in a courtroom while court is in session to wear a face shield in lieu of a face mask, or permit a witness to testify behind plexiglass without a face mask or face shield.
- Anyone seeking entry to the courthouse without a face mask will be provided a free face mask at the courthouse entry. Anyone refusing to wear a face mask (or face shield, if permitted) as required by this Order shall be denied entry, or removed from the courthouse, by the United States Marshals Service.
- Hand sanitizer stations will be made available throughout the courthouse, including immediately upon entry and by all elevators.
- Everyone in the courthouse will be required to maintain social distancing of at least six feet, unless exempted by the Court. For instance, while at the entry pavilion or waiting for an elevator, all visitors are required to maintain at least a six-foot distance from the nearest person. The courtrooms will have chairs clearly designated for use that meet the six-foot distancing requirement.

- Entry to the courthouse will be denied to anyone who has been diagnosed as having COVID-19 within the previous 14 days; anyone living with or in close proximity to anyone diagnosed as having COVID-19 within the previous 14 days; and anyone having symptoms of a COVID-19 infection, including fever, chills, shortness of breath, unexplained coughing, and new loss of taste or smell.
- Entry to the courthouse will be denied to anyone required by the State of Hawaii to be in self-quarantine.
- Courthouse employees will be required to telework for a 14-day period after entering the State of Hawaii from anywhere outside the State of Hawaii.
- Any other person (that is, any non-courthouse employee) entering the courthouse who has been outside of the State of Hawaii during a previous 14-day period is required to provide the Court with written notification that the person intends to enter the courthouse. Notification must be provided as early as possible. This notification requirement includes attorneys (appearing for any purpose) and witnesses, and applies regardless of any State of Hawaii exemption to a 14-day quarantine. Attorneys are responsible to provide notification on behalf of witnesses the attorney intends to bring into the courthouse. Notice must be provided as soon as feasible and sent to the orders email address for the presiding judge. *See* <https://www.hid.uscourts.gov/contactJudges>. If grand jury is being held, notice regarding any grand jury appearances by an attorney or witness must be sent to Seabright_orders@hid.uscourts.gov. Each presiding judge retains the discretion to prohibit entry to any person based on COVID-19 concerns.

Non-Jury Proceedings:

- In order to minimize the risk of COVID-19 transmission, the Court will make every effort to minimize traffic in the courthouse. Each presiding district or magistrate judge will determine whether civil matters, including case management matters, settlement conferences, and hearings, will be taken off calendar pursuant to Local Rule 7.1, or conducted by telephone, Zoom, or in court.

- Each presiding judge will determine how to proceed with civil non-jury trials.
- At the discretion of the presiding judge, the Court will continue to conduct certain criminal proceedings by telephone or video as permitted by the Court's most current CARES Act Order.
- Certain criminal proceedings that fall outside the Court's most recent CARES Act Order will be conducted in court, if possible.
- If a presiding judge elects to proceed with a hearing by telephone or Zoom, all hearings will be available to members of the public and the media, to the extent practicable. Specific information will be available on each case's individual docket on PACER, and further instructions can be found on the Court's website. Members of the public and media are strictly prohibited from recording or broadcasting any hearing (whether telephonic or Zoom), in whole or in part, in any fashion. Failure to abide by this restriction may result in sanctions. Further information may be set forth on the Court's website, www.hid.uscourts.gov, and may change from time to time.
- Filings will continue to be processed in civil and criminal cases via the CM-ECF electronic system and by mail. Rather than coming to the Clerk's Office, paper filings must be deposited in the drop box located outside the courthouse.
- Although the Clerk's Office will be closed to the public until October 13, 2020, pro se litigants may file by United States mail, by using the drop box located outside the courthouse, or by email (hid_clerks@hid.uscourts.gov). File-stamped copies will be returned by United States mail. Anyone seeking assistance from the Clerk's Office should call (808) 541-1890. Additional procedures for filing court documents can be found on the Court's website at the COVID-19 information page (www.hid.uscourts.gov/covid).
- Until further notice, in both civil and criminal matters, no courtesy copies of filings are to be provided to chambers unless specifically ordered by a presiding judge.

Jury Proceedings as of October 13, 2020:

- The Court has determined that no jury trials can be safely conducted in the courthouse until October 13, 2020.
- Given the size of the courthouse and the district court’s fourth floor courtrooms, and the need for parties, counsel, paralegals, interpreters, court staff and jurors to maintain the required six-foot social distancing throughout any trial, certain multi-plaintiff or multi-defendant cases cannot be conducted safely. Until further notice and in the interest of safety, the Court will thus limit the number of counsel and parties that can be in a courtroom during a trial. Each case will be considered on a case-by-case basis, taking into account the number of participants involved and any other relevant considerations.
- The Court further finds that multiple trials cannot safely be conducted simultaneously; once the court reopens to trials, only one trial can be safely held at a time.
- The Court understands that the continuance of jury trials will cause further delay for all parties. As a general rule, individual judges will attempt to move trials currently set in the months of August, September, October, and November later by approximately two months. The Court also recognizes that this may not be practicable for all cases. Counsel in civil cases are required to confer in an effort to agree on a new trial date. With respect to criminal cases, individual presiding judges will hold trial setting status conferences as required. But before any status conference is held parties are required to confer to determine if a stipulation can be entered to continue the trial date and toll time under the Speedy Trial Act, which may eliminate the need for a status conference. Each presiding judge will make appropriate

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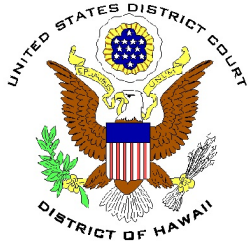
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findings and enter an order (whether as part of a stipulation or as a standalone order) tolling time under the Speedy Trial Act; that is, although all judges agree that no trials can be held before October 13, 2020, each presiding judge will make the individual findings required by the Speedy Trial Act.

ORDERED ON BEHALF OF THE COURT:

DATED: Honolulu, Hawaii, August 24, 2020.



/s/ J. Michael Seabright
J. Michael Seabright
Chief United States District Judge

In Re District of Hawaii Response to COVID-19 Pandemic; August 24, 2020 Temporary General Order Regarding District of Hawaii Response to COVID-19 Pandemic