

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

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

**AUGUST 17, 2021 TEMPORARY GENERAL ORDER REGARDING
DISTRICT OF HAWAII RESPONSE TO COVID-19 PANDEMIC**

This Temporary General Order supersedes the Court’s “August 3, 2021 Temporary General Order Regarding District of Hawaii Response to COVID-19 Pandemic.”

The Court continues to monitor the spread of COVID-19 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 COVID-19. On August 5, 2021, Hawaii Governor David Ige issued an “Emergency Proclamation Related to the COVID-19 Response.” The Emergency Proclamation states, in part, that a highly contagious strain of the COVID-19 virus, the Delta variant, “has resulted in spiking case numbers . . . and continues to spread at an alarming rate” in Hawaii, creating “considerable risk of infection for members of our community who are not vaccinated.” As a result, “COVID-19 continues to endanger the health, safety, and welfare of the people of Hawaii and requires the serious attention, effort, and sacrifice of all people in the State to avert unmanageable strains on our healthcare system and other catastrophic impacts to the State.”

COVID-19, and in particular the Delta variant, has spread rapidly in the State of Hawaii and the rest of the United States over the past weeks. On July 27, 2021, the Centers for Disease Control and Prevention (CDC) advised all people, regardless of vaccination status, to wear a mask in public indoor settings in areas of “substantial” or “high” transmission. The CDC also reports that “preliminary evidence suggests that fully vaccinated people who do become infected with the Delta variant can be infectious and can spread the virus to others.” According to the Hawaii State Department of Health, confirmed positive COVID-19 cases in the

State have increased 82% between August 1, 2021 and August 14, 2021, with a 7-day average of new cases totaling 651.7. And as of August 16, 2021, the CDC COVID-19 data tracker lists the City and County of Honolulu as an area of “high” transmission.

Considering the ongoing threat that COVID-19 poses in the State of Hawaii, but also taking into account that a significant portion of the State of Hawaii’s population has been fully vaccinated and the need for the court to continue its operations, with the agreement of all the judges of the United States District Court for the District of Hawaii, the Court orders as follows:

Mitigation Measures for the Courthouse:

- The courthouse and the Clerk’s Office will be open to the public Monday through Friday, 8:30 am to 4:00 pm, other than on holidays recognized by the Court.
- 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 (without valves) that fully covers the nose and mouth while in all public areas of the courthouse. 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) a presiding judge may permit specific individuals to forgo wearing a face mask or permit the wearing of a face shield in lieu of a face mask, in that judge’s courtroom.
- 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 public areas of the courthouse will be required to maintain social distancing of at least six feet, unless exempted by the Court or a presiding judge in that judge’s courtroom. 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.
- In order for presiding judges to make an informed decision as to whether to permit an individual to forgo wearing a face mask (or to wear a face shield in lieu of a face mask), individual judges must know whether that individual has been fully vaccinated. A person is fully vaccinated two weeks after the final dose of either a 2-dose or 1-dose vaccine regimen. Attorneys who previously submitted vaccination status to the court need not do so again. Attorneys or pro se attorneys who have not provided the court with vaccination status, but who wish to do so, may contact the Clerk’s Office (by emailing hid_clerks@hid.uscourts.gov or calling (808) 541-1890) to inquire as to the information that must be submitted to the court.
- Entry to the courthouse will be denied to anyone, regardless of vaccination status:
 - 1) who has tested positive for COVID-19, unless asymptomatic for 10 days after receiving the positive test result;
 - 2) who has been in close proximity (within 6 feet for a total of 15 minutes or more over a 24-hour period) to a person known to have COVID-19, unless 10 days have passed since the last contact with the positive individual or the person seeking entry to the courthouse has tested negative for COVID-19 and has been cleared to be in public by a physician;
 - 3) who is living in the same household with a person who has tested positive for COVID-19, unless 20 days have passed since the person tested positive;
 - 4) who has symptoms of a COVID-19 infection, including fever, chills, shortness of breath, unexplained coughing, and new loss of taste or smell; or

- 5) who is required by the State of Hawaii to be in self-quarantine.
- Regardless of vaccination status, any non-courthouse employee planning to enter the courthouse who has been outside of the State of Hawaii during a previous 10-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 quarantine exemption. Attorneys are responsible to provide notification on behalf of witnesses the attorney intends to bring into the courthouse. Notice must be 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 efforts to minimize traffic in the courthouse. Each presiding 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 non-jury trials.
- At the discretion of the presiding judge, the Court will continue to conduct certain criminal proceedings by telephone or Zoom 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 permitted and 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.

- For registered CM/ECF users, filings will be processed in civil and criminal cases via the CM/ECF electronic system, by mail, in person at the Clerk's Office, or through use of the Court's drop box located outside the courthouse. Sealed matters may be filed by email to the Clerk's Office at clerks_orders@hid.uscourts.gov.
- Pro se litigants may file by mail, in person at the Clerk's Office, using the Court's drop box, or by email to the Clerk's Office at hid_clerks@hid.uscourts.gov. File-stamped copies will be returned by United States mail or email. 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 at www.hid.uscourts.gov/covid.
- Parties must provide mandatory chambers copies as required by Local Rule 10.3. Mandatory chambers copies may be mailed as permitted by Local Rule 10.3(c)(2).

Jury Proceedings:

- No civil or criminal jury trials will be held before October 4, 2021.
- The Court understands that the continuance of jury trials has and will continue to cause hardship for all parties. For 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 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, each presiding judge will make the individual findings required by the Speedy Trial Act.

ORDERED ON BEHALF OF THE COURT:

DATED: Honolulu, Hawaii, August 17, 2021.



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

In Re District of Hawaii Response to COVID-19 Pandemic; August 17, 2021 Temporary General Order Regarding District of Hawaii Response to COVID-19 Pandemic