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**IN THE MUNICIPAL COURT OF FEDERAL WAY
KING COUNTY, STATE OF WASHINGTON**

IN THE MATTER OF
THE RESPONSE BY
FEDERAL WAY MUNICIPAL
COURT TO THE PUBLIC HEALTH
EMERGENCY IN WASHINGTON
STATE

GENERAL ORDER 2020-1

EMERGENCY ORDER REGARDING
COURT OPERATIONS IN RESPONSE
TO COVID-19

The court takes judicial notice of the various health warnings and declarations of emergency and sets forth its findings in Attachment A. Based upon that information and the court’s finding, the court enters this General Order pursuant [Washington State Supreme Court Order 25700-B-602](#) in an attempt to mitigate and prevent further spread of the current public health emergency affecting the public locally and throughout the state, nation, and entire world.

AFFECTED FUNDAMENTAL RIGHTS

1. The courts of this state are charged under the [Washington State Constitution](#), [Revised Code of Washington](#), and [Court Rules](#) with protecting individual rights, access to the courts, and enforcement of judgments including, but not limited to:

- 1 a. Due Process - Art. I, Sec. 3 provides that, “*No person shall be deprived of life,*
2 *liberty, or property, without due process of law*”;
- 3 b. Open and Public Hearings - Art. I, Sec. 10 provides that, “*Justice in all cases shall*
4 *be administered openly, and without unnecessary delay*”;
- 5 c. Trial by Jury - Art. I, Sec. 21 provides that the, “*The right of trial by jury shall*
6 *remain inviolate...*”;
- 7
- 8 d. Rights of the Accused - Art. I, Sec. 22 provides the following rights of the
9 accused:
- 10 i. To appear and defend in person;
- 11 ii. Right to counsel;
- 12 iii. Speedy public trial before an impartial jury.
- 13
- 14 e. Right to Speedy Arraignment – A defendant must be arraigned within 14 days
15 under [CrRLJ 4.1\(a\)\(1\) and \(a\)\(2\)](#);
- 16 f. Presence of the Defendant – The defendant in a criminal matter is required to be
17 present for several key hearings to take place. See [CrRLJ 3.4](#);
- 18 g. Right to a Speedy Hearing for Infractions – Under [IRLJ 2.6\(a\)\(1\)](#), a hearing must
19 be held no more than 120 days from the date of the Notice of Infraction.
- 20
- 21 2. Art. 1, Sec. 29 of the Washington State Constitution provides that, “*The provisions of this*
22 *Constitution are mandatory, unless by express words they are declared to be otherwise.*”;
- 23 3. The courts, through probation departments, assist in the preservation of the public safety
24 and peace through the proper enforcement of conditions of probation and conditions of
25 release.

1 **VOLUNTARY COMPLIANCE AND DUE PROCESS**

2 The court’s intent is to encourage voluntary compliance with this order while still
3 maintaining and protecting individual rights. In this regard, to protect the above rights any person
4 with an active case claiming to be aggrieved by this order may electronically file an ex parte
5 motion for relief pursuant to [FWMCLGR 30\(b\)\(4\)](#) as follows:
6

7 Documents may be filed online at <http://cityoffederalway.com/node/3354> or by email at
8 filing@cityoffederalway.com.

9 Alternatively, pleadings and other documents may be filed by fax at (253) 835-3020.

10 Service on the opposing party shall be made in the same manner and at the same time as
11 the filing with the court.

12 The designated contact information for the prosecutor for such service of process is:

13 Email: LATEMP@cityoffederalway.com
14 Fax: (253) 835-2569

15 Service at any other email address or fax number will not be considered adequate service.

16 **ORDER**

17 **I. General Precautions**

18 All judges, staff, attorneys, security and members of the public shall follow the
19 precautions as posted throughout the courthouse and as otherwise directed.

20 All efforts should be made to do everything paperless. Defendants will be
21 asked to acknowledge receipt of scheduling orders on the record instead of
22 signing them.
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1 **II. Scheduling of all future hearings or trials that are not currently scheduled**

- 2 a. Hearings or Trials for Persons Not in Jail – No civil case, infraction, or
3 out of custody criminal hearing shall be set before May 1, 2020 unless
4 authorized or directed by the judge. The judge shall only grant such a
5 request if there are public safety impacts or if there is substantial
6 prejudice caused by the delay;
7
8 b. Hearings or Trials for Persons in Jail – The scheduling of in custody matters
9 shall not be affected by the order, except that no defendant may be borrowed
10 from any jail unless it is approved on the record in open court after both sides
11 have had an opportunity to be heard. No new jury trial may be scheduled
12 before May 1, 2020. There will be a presumption in cases that are continued
13 without a waiver of speedy trial with the next court date as commencement
14 that CrRLJ 3.3(e)(8) applies to create an excluded period from the date of the
15 hearing through April 30, 2020 for speedy trial purposes.
16

17 **III. Handling of Trials or Hearings that are Currently Scheduled**

18 **1. Trials**

- 19 a. The parties shall immediately meet and confer to seek an agreement to
20 continue any trial and corresponding motions and readiness hearings
21 currently set between the date of this order and April 22, 2020;
22
23 b. By Thursday, March 19, 2020 at 1:15 pm the parties will report to the
24 court which trials have been continued and which trials remain scheduled;
25

- 1 c. The court hereby sets a hearing for March 26, 2020 at 1:15 pm in
2 Courtroom 2 to hear argument on why any remaining cases set for trial
3 should not be continued;
4
5 d. There will be a presumption that the trials will be continued. The parties
6 are also on notice that the court cannot likely comply with social
7 distancing requirements for jurors which would make voir dire nearly
8 impossible to conduct with a mistrial as the potential result;
9
10 e. All defendants with a case set for trial on April 1, 2020 shall appear at the
11 scheduled readiness hearing on March 26, 2020. The hearing will be
12 stricken if an agreed order is entered in advance of the hearing;
13
14 f. Defendants with trials on April 8, 2020, April 15, 2020, and April 22, 2020
15 shall be immediately summoned to appear on March 26, 2020 at 1:15 pm
16 in Courtroom 2. The hearing will be stricken if an agreed order is entered
17 in advance of the hearing;
18
19 g. Failure to appear on March 26, 2020 shall be grounds to strike the
20 currently scheduled trial date and place it back to pre-trial status with a
21 summons to a date after May 1, 2020;
22
23 h. There will be a presumption in cases that are continued without a waiver of
24 speedy trial with the next court date as commencement that CrRLJ
25 3.3(e)(8) applies to create an excluded period from the date of this hearing
through April 30, 2020 for speedy trial purposes;

- 1 i. Bench trials will be allowed if the defendant knowingly, voluntarily, and
2 intelligently waives his or her right to trial by jury;
3 j. Jurors will be notified of the cancellation of their service once all cases for
4 the period of service are continued or converted to bench trials.
5

6 **2. Out of Custody Domestic Violence, DUI, and Physical Control Hearings**

- 7 a. Currently scheduled out of custody domestic violence, DUI, and physical
8 control cases will still be heard;
9 b. No pre-trial or review will be set or re-set until after May 1, 2020,
10 unless authorized or directed by the judge. The judge shall only
11 grant such a request if there are public safety impacts or if there is
12 substantial prejudice caused by the delay;
13 c. There will be a presumption in pre-trial cases that are continued without a
14 waiver of speedy trial with the next court date as commencement that
15 CrRLJ 3.3(e)(8) applies to create an excluded period from the date of the
16 hearing through April 30, 2020 for speedy trial purposes;
17 d. No warrants shall issue for failing to appear unless there is a showing of a
18 public safety risk by not compelling the defendant's presence via warrant.
19
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21 **3. Warrant Quash Hearings**

- 22 a. Warrant quash hearings will be set per existing policy, but the \$100
23 warrant fee for the immediate quashing of catch and release qualified
24 warrants is waived.
25

1 CrRLJ 3.3(e)(8) applies to create an excluded period from the date of the
2 hearing through April 30, 2020 for speedy trial purposes;

- 3 e. No warrants shall issue for failing to appear unless there is a showing of a
4 public safety risk by not compelling the defendant's presence via warrant.
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6 **6. Infraction Hearings**

- 7 a. Defendants that appear in open court are allowed to use the hearing by
8 mail form in lieu of waiting to be heard in person on the day of the
9 hearing;
- 10 b. All infraction hearings currently scheduled between March 27, 2020 and
11 April 29, 2020 shall be rescheduled to a date after May 1, 2020.
- 12 i. The clerk is authorized to manage the calendars to assure an even
13 distribution of continued cases.
- 14 c. The notice of the new court date shall include a form allowing the
15 defendant to appear by mail in lieu of the newly scheduled hearing;
- 16 i. A party that feels aggrieved by the court's order may request to
17 an in-person hearing within 10 days of the date of the order;
- 18 ii. The five-day requirement of FWMCLIR 3.5(a) is suspended
19 until April 30, 2020.
- 20 d. The time between the date of this order and April 30, 2020 shall not
21 count as time against the right to a speedy hearing under [IRLJ 2.6\(a\)\(1\)](#);
- 22 e. No failures to appear will be entered
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1 **7. Catch and Release Warrants**

- 2 a. The existing threshold of \$1,600 for non-DUI and Non-DV warrants to
3 qualify for catch and release or quash at the window is immediately
4 raised to \$5,000.

5 **8. Probation**

- 6 a. Probation appointments for people that are in compliance shall be
7 rescheduled to after May 1, 2020;
8 b. Between the date of this order and April 30, 2020, probation
9 appointments for people that are not in compliance shall be conducted
10 by phone or via electronic means unless the presence of the defendant is
11 necessary to download SCRAM data, to conduct urinalysis, or for other
12 public safety considerations.
13 public safety considerations.

14 **9. Payments**

- 15 a. Due dates for payment are extended by 90 days;
16 b. No referrals to collections will be made for 90 days from today's date;
17 c. People will be advised of the extension of the due dates and discouraged
18 from making payments, but the clerks will accept payment if the person
19 requests payment be made. The clerks have the authority to determine
20 which window will accept which form of payment.
21 which window will accept which form of payment.
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1 This Order will remain in effect until is it withdrawn and may be amended or
2 withdrawn as warranted to address the on-going public health emergency.

3 DATED THIS 16th day of March 2020.

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6 _____
7 Judge David A. Larson, Presiding Judge
8 Federal Way Municipal Court

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4 **Attachment A**

5 1. On February 29, 2020, Governor Jay Inslee declared a state of emergency due to
6 the public health emergency posed by the coronavirus disease 2019 (COVID-19).
7

8 2. On March 11, 2020, Governor Jay Inslee issued another Proclamation and Order
9 banning gatherings of 250 or more as follows:

10 **PROCLAMATION BY THE GOVERNOR**
11 **AMENDING PROCLAMATIONS 20-05 AND 20-06**
12 **20-07**

13 **WHEREAS**, on February 29, 2020, I issued Proclamation 20-05,
14 proclaiming a State of Emergency for all counties throughout the state of
15 Washington as a result of the coronavirus disease 2019 (COVID-19) outbreak in
16 the United States and confirmed person-to-person spread of COVID-19 in
17 Washington State; and

18 **WHEREAS**, on March 10, 2020, as a result of significant risks from
19 COVID-19 to persons living in congregate care settings, I issued Proclamation
20 20-06 amending Proclamation 20-05 by prohibiting certain activities and
21 waiving and suspending specified laws and regulations; and

22 **WHEREAS**, COVID-19, a respiratory disease that spreads easily from
23 person to person and may result in serious illness or death, has been confirmed
24 in 9 counties of Washington State resulting in 24 deaths, with significant
25 community spread in King, Pierce, and Snohomish counties; and

WHEREAS, to reduce spread of COVID-19, the United States Centers
for Disease Control and Prevention and the Washington State Department of
Health (DOH) recommend implementation of community mitigation strategies
to increase containment of the virus, including cancellation of large gatherings
and social distancing in smaller gatherings; and

WHEREAS, implementation of limitations on large gatherings and use
of social distancing prevent initial exposure and secondary transmission to our
most vulnerable populations, and are especially important for people who are
over 60 years old and those with chronic health conditions due to the higher risk
of severe illness and death from COVID-19; and

1 **WHEREAS**, the worldwide outbreak of COVID-19 and the resulting
2 epidemic in Washington State continue to threaten the life and health of our
3 people as well as the economy of Washington State, and remains a public
4 disaster affecting life, health, property and the public peace; and

5 **WHEREAS**, the DOH continues to maintain a Public Health Incident
6 Management Team in coordination with the State Emergency Operations Center
7 and other supporting state agencies to manage the public health aspects of the
8 incident; and

9 **WHEREAS**, the Washington State Military Department Emergency
10 Management Division, through the State Emergency Operations Center,
11 continues coordinating resources across state government to support
12 the DOH and local health officials in alleviating the impacts to people, property,
13 and infrastructure, and continues coordinating with the DOH in assessing the
14 impacts and long-term effects of the incident on Washington State and its
15 people.

16 **NOW, THEREFORE**, I, Jay Inslee, Governor of the state of
17 Washington, as a result of the above-noted situation, and under Chapters 38.08,
18 38.52 and 43.06 RCW, do hereby proclaim that Proclamations 20-05
19 and 20-06 remain in effect and are amended to impose restrictions on large
20 gatherings in King, Pierce, and Snohomish counties as provided herein, and that
21 a State of Emergency continues to exist in all counties of Washington State. I
22 again direct that the plans and procedures of the *Washington State*
23 *Comprehensive Emergency Management Plan* be implemented throughout state
24 government. State agencies and departments are directed to continue utilizing
25 state resources and doing everything reasonably possible to support
implementation of the *Washington State Comprehensive Emergency*
Management Plan and to assist affected political subdivisions in an effort to
respond to and recover from the COVID-19 epidemic. As a result of this event,
State to include the National Guard and the State Guard, or such part thereof as
may be necessary in the opinion of The Adjutant General to address the
circumstances described above, to perform such duties as directed by competent
authority of the Washington State Military Department in addressing the
outbreak. Additionally, I continue to direct the DOH, the Washington State
Military Department Emergency Management Division, and other agencies to
identify and provide appropriate personnel for conducting necessary and
ongoing incident related assessments.

FURTHERMORE, based on the above situation and under the
provisions of RCW 43.06.220(1)(b) and RCW 43.06.220(1)(h), to help preserve
and maintain life, health, property or the public peace, I hereby prohibit the
following activities in King, Pierce and Snohomish counties related to social,
spiritual, and recreational gatherings, which restrictions shall remain in effect
until midnight on March 31, 2020, unless extended beyond that date: Gatherings
of 250 people or more for social, spiritual and recreational activities including,

1 but not limited to, community, civic, public, leisure, faith-based, or sporting
2 events; parades; concerts; festivals; conventions; fundraisers; and similar
3 activities. Violators of this of this order may be subject to criminal penalties
pursuant to RCW 43.06.220(5).

4 Signed and sealed with the official seal of the state of Washington on this 11th
5 day of March, A.D., Two Thousand and Twenty at Olympia, Washington.

6 3. On March 11, 2020, King County Public Health Local Health Officer, Dr. Duchin
7 issued the following Order banning groups of smaller than 250 unless certain steps can be taken:

8 LOCAL HEALTH OFFICER ORDER

9 **Whereas** on February 29, 2020, Governor Inslee proclaimed a state of
10 emergency within the State of Washington due to COVID-19;

11 **Whereas** on March 1, 2020, King County Executive Constantine
proclaimed a state of emergency within King County due to COVID-19;

12 **Whereas** state law, RCW 70.05.070(2)-(3), requires and empowers the
13 local health officer to take such action as is necessary to maintain health and to
control and prevent the spread of any contagious or infectious diseases within the
jurisdiction;

14 **Whereas** state regulation, WAC 246-100-036, requires the local health
15 officer, when necessary, to institute disease control and containment control
measures, including social distancing measures he or she deems necessary based
on his or her professional judgment;

16 **Whereas**, there is evidence of increasing transmission of COVID-19
17 within King County, scientific evidence and national public health guidance
support strategies to slow the transmission of COVID-19 and protect vulnerable
18 members of the public from avoidable risk of serious illness or death resulting
from exposure to COVID-19;

19 **Whereas**, the age, condition, and health of a significant portion of the
20 population of King County places it at risk for serious health complications,
including death, from COVID-19. Although most individuals who contract
21 COVID-19 do not become seriously ill, persons with mild symptoms and
asymptomatic persons with COVID-19 may place other vulnerable members of
22 the public at significant risk; whereas a large surge in the number of persons with
serious infections can compromise the ability of the regional healthcare system to
23 deliver necessary healthcare to the public;

24 **Whereas**, the implementation of limitations on large gatherings and use of
social distancing decreases the risk of COVID-19 transmission to our most
25 vulnerable populations, and is especially important for people who are over 60

1 years old and those with chronic health conditions due to the higher risk of severe
2 illness and death from COVID-19;

3 **Whereas**, this Order will reduce the likelihood that many individuals will
4 be exposed to COVID-19 at a single event, and will thereby slow the spread of
5 COVID-19 in our community; Whereas, this Order will help preserve critical and
6 limited healthcare capacity in the County by reducing the spread of COVID-19;

7 **Whereas**, this Order is issued in accordance with, and incorporates by
8 reference, the March 11, 2020 Governor’s Executive Proclamation on COVID-19
9 Community Mitigation Strategies;

10 **Whereas** this Order is issued in light of the existence of 234 cases of
11 COVID-19 (including 26 deaths) in King County, as of March 11, 2020, and a
12 significant and increasing number of assumed cases of community transmission
13 and at a time when implementation of largescale social distancing measures is
14 recommended;

15 **Whereas**, social distancing measures can reduce COVID-19 transmission
16 by decreasing the frequency and duration of social contact among persons of all
17 ages, this Order is issued to prevent circumstances often present in mass
18 gatherings that may exacerbate the spread of COVID-19, such as: (a) the increased
19 likelihood that mass gatherings will attract people from a broad geographic area;
20 (b) the a physical environment in which large numbers of people are in close
21 proximity and have multiple opportunities for close contact with one another that
22 facilitates the spread of COVID-19 and; (c) the difficulty in tracing exposure and
23 implementing traditional public health containment measures when large numbers
24 of people attend a single event;

25 **Whereas**, this Order comes after the release of substantial guidance from
Public Health—Seattle & King County, the Centers for Disease Control and
Prevention, and other public health officials throughout the United States and
around the world. The Local Health Officer will continue to assess this quickly
evolving situation and may modify or extend this Order, or issue additional
Orders, related to COVID-19;

Whereas, the Local Health Officer hereby finds it is necessary to institute
social distancing measures within King County;

Therefore, as Local Health Officer I ORDER as follows:

1. All events of 250 people or more, are prohibited.
2. Events with fewer than 250 attendees are prohibited unless event
organizers take the following steps to minimize risk: Older adults and
individuals with underlying medical conditions that are at increased risk of serious
COVID-19 are encouraged not to attend (including employees); Social
distancing recommendations must be met (I.e., limit contact of people within 6
feet from each other for 10 minutes or longer); Employees must be screened for

1 coronavirus symptoms each day and excluded if symptomatic; and ☐ Proper hand
2 hygiene and sanitation must be readily available to all attendees and employees.

3 3. Environmental cleaning guidelines from the US Centers for Disease
4 Control and Prevention (CDC) are followed (e.g., clean and disinfect high touch
5 surfaces daily or more frequently) For the purposes of this Order, an “event” is a
6 gathering for business, social, or recreational activities including, but not limited
7 to, community, civic, public, leisure, or sporting events; parades; concerts;
8 festivals; conventions; fundraisers; and similar activities.

9 Signed and ordered this day of March 11, 2020, in Seattle, Washington, by

10 Dr. Jeff Duchin Local Health Officer
11 Public Health – Seattle & King County

12 4. On March 12, 2020, Governor Jay Inslee ordered all schools closed in King,
13 Pierce and Snohomish counties until April 24.

14 5. On March 13, 2020, President Donald Trump Declared a National Emergency.

15 6. On March 12, 2020, the Seattle Times published a Gates Foundation study cited
16 by both Governor Inslee and Dr. Duchin, *Working paper-model-based estimates of COVID-19*
17 *burden in King and Snohomish counties through April 7, 2020*, Klein, Hagedorn, Kerr, Hu,
18 Bedford and Famulare; Institute for Disease Modeling; Bill and Melinda Gates Foundation; Fred
19 Hutchinson Cancer Research Institute, March 10, 2020. The conclusions of this study were based
20 upon business as usual; 25, 50, and 75 per cent reduction, from January 15 to April 7. The
21 conclusion of “business as usual” (that is to say, no general orders such as entered by the
22 Governor and Public Health Officer, no banning of large or small groups, no precautions)
23 estimated 25,000 infections and 400 deaths by April 7. On the other hand, mitigation efforts such
24 as announced above could reduce the range of deaths by a significant amount.
25

1 7. Governor Inslee has explained that the coronavirus doubles the infection rate every
2 five to seven days. Some estimates say that by end of April, the infection rate could be one
3 million, without mitigation.

4 8. Federal Way Municipal Court summons (compels) citizens to act as jurors from
5 on Wednesday each week at Federal Way Municipal Court. An average daily turnout is 40
6 sometimes larger, sometimes smaller. They sit together and wait in each courthouse in one
7 courtroom. During voir dire, an average of between 35-50 jurors sit together closer than the social
8 distancing recommendations by Public Health while questioned. During a trial, 7 jurors sit
9 together closer than the social distancing recommendations by Public Health. During breaks and
10 at the end of the trial, they all gather in one room in close quarters around a table for some hours
11 and deliberate on a possible verdict.

12 9. Social distancing during jury selection and jury trials is nearly impossible.

13 10. The people served by Federal Way Municipal Court are often more vulnerable to
14 infections because of their life circumstances.

15 11. Up to 250 people are frequently in the courthouse during the course of the day;

16 12. Criminal and civil infraction calendars can involve between 20 to 60 people sitting
17 together in a courtroom together for up to 4 hours. Maintaining a social distance is nearly
18 impossible in these situations.

19 13. Several court staff are in the high risk category, as well as several of the regular
20 attorneys.

21 14. On March 11, 2020, the Governor and Public Health Officer entered new orders as
22 quoted above to step up measures of “community mitigation.” On the same day, the World
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1 Health Organization declared a global pandemic and the President of the United States spoke to
2 the nation about extreme measures he was taking. The next day, the Governor closed the schools
3 in three counties as noted. Seattle Municipal Court ordered jury trials suspended on March 12,
4 2020. Snohomish County Superior Court plans to order jury trials suspended today. Many and
5 other state and municipal courts are suspending jury trials for the above reasons.
6

7 15. Compelling citizens by legal process (jury summons) will more probably than not
8 transmit the COVID-19 disease.

9 16. Suspending jury summons will result in criminal cases being delayed because the
10 vast majority of criminal trials in Federal Way Municipal Court are jury trials.

11 17. Each criminal defendant has a right to a speedy trial under the constitution and
12 criminal court rule.

13 18. Domestic Violence and Driving Under the Influence charges involve a significant risk
14 to the public safety if left unaddressed.

15 19. For criminal cases, the Court finds that as of March 13, 2020 this serious danger
16 posed by the virus is good cause to continue criminal jury trials. It constitutes an unavoidable
17 circumstance beyond the control of the court and the parties under CrRLJ 3.3(e)(8).
18

19 20. On March 4th, 2020, Chief Justice Debra Stephens entered an Emergency Order
20 that states, in part, as follows:
21

22 **WHEREAS**, during this state of emergency, it may become necessary for
23 courts in these counties to close, relocate, or otherwise significantly modify their
24 regular operations; and

25 **WHEREAS**, the presiding judges in these counties need sufficient
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.

1 **NOW, THEREFORE**, pursuant to the Court's authority to administer
2 justice and to ensure the safety of court personnel, litigants, and the public,

3 **IT IS HEREBY ORDERED THAT:**

4 1. The Presiding Judges of the Washington courts are authorized to
5 adopt, modify, and suspend court rules and orders, and to take further actions
6 concerning court operations, as warranted to address the current public health
7 emergency;

8 2. Each court shall immediately transmit copies of emergency local
9 rules adopted or modified to address the public health emergency to the
10 Administrative Office of the Courts in lieu of the requirements of General Rule 7;

11 3. Each court that closes pursuant to this Order or General Rule 21
12 shall sign an administrative order closing the court, file the original with the clerk
13 of the affected court, and notify the Administrative Office of the Courts as soon as
14 practicable.
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