

FILED
KING COUNTY WASHINGTON

DEC 22 2020

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SUPERIOR COURT CLERK

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

IN THE MATTER OF THE RESPONSE BY
KING COUNTY SUPERIOR COURT TO THE
PUBLIC HEALTH EMERGENCY IN
WASHINGTON STATE

No. 20-0-12050-5

**EMERGENCY ORDER #24 RE:
CIVIL,
FAMILY LAW, AND
DEPENDENCY MATTERS**

This matter comes before the Court on the public health emergency in Washington State.

IT IS HEREBY ORDERED that, based on the findings in King County Emergency Orders Nos. 1-23¹, the proclamations of Governor Jay Inslee's proclamations regarding the COVID-19 pandemic², the March 13, 2020 Proclamation of President Donald Trump³ regarding the COVID-19 pandemic, Chief Justice Debra Stephens' Orders⁴ and the Court's need to maintain public health and safety balanced against the Court's core constitutional obligations to the public.

This Court is governed by the laws of the State of Washington and Chief Justice's Emergency Orders. This Court has been deemed as "essential" function by the Governor.

The King County Superior Court now enters a revised order regarding procedures governing civil matters during the public health emergency. **This Order supersedes all prior Emergency Orders for Civil, Family, and Dependency unless specifically addressed within this order.**⁵

¹ <https://www.kingcounty.gov/courts/superior-court.aspx>

² <https://www.governor.wa.gov/office-governor/official-actions/proclamations>

³ <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>

⁴ <http://www.courts.wa.gov/newsinfo/index.cfm?fa=newsinfo.COVID19Orders>

⁵ The following Orders remain in effect: Emergency Order 19 (mandating facial coverings in the courthouses); Emergency Order 20 (expanding the pools for civil juries); Emergency Order 21 (Eviction Resolution Program); Emergency Order 22 et seq. (suspension of in-person jury trials)

1 This Order is in effect January 2, 2021 until June 30, 2021. The Order may be extended
2 beyond that date in light of the COVID crisis.

3 **This Order is intended to provide a transition to several important new methods of**
4 **doing business that will be enforced by judicial officers.** King County Superior Court has
5 adopted widespread use of video and telephonic technologies and intends to order the use of these
6 technologies in many cases. Our Court is promulgating public health guidelines for those who
7 visit in person, which will include the requirement to wear a mask and social distancing.

8 All parties and persons are encouraged to monitor the King County Superior Court website
9 at <https://www.kingcounty.gov/courts/superior-court.aspx> for these matters and for updates.

10 **A. CIVIL DEPARTMENT**

11 1. **All court hearings will be conducted** by telephone, video, or other electronic means.

12 In rare circumstances and with the court's approval, the parties may appear in-person
13 and must comply with social distancing requirements and wear face coverings.

14 2. All civil bench trials are conducted via video. In rare circumstances and with the
15 court's approval, bench trials may occur in-person if social distancing requirements
16 can be met and everyone wears face coverings. The assigned judge will hold pretrial
17 conferences for each case to discuss trial readiness and specifics of proceeding with
18 trial. **Pretrial orders and protocols of how to conduct a trial by video are on the**
19 **court's website.**

20 3. All civil jury trials are currently being held virtually, where the parties, counsel,
21 witnesses, and jurors will appear and participate entirely by Zoom including during
22 deliberations. The assigned judge will be physically present in the courtroom and
23 provide a means for public access to observe the proceedings. In all cases where a
24 virtual civil jury trial may be appropriate, the assigned judge will hold a pretrial
25 conference in order to discuss the procedures for the trial and hear the positions of the
26 parties to proceeding in that manner. The assigned judge will decide whether to

1 conduct a virtual jury trial based upon the particulars of the case, the positions of the
2 parties, and any legal issues raised. (The Findings in Emergency Rule 22 are
3 incorporated in this Order. The public health concerns have only increased since that
4 time.) **Pretrial orders and protocols of how to conduct a jury trial by video are**
5 **on the court's website.**

- 6 4. All hearings for judicial review of agency action, judicial review of land use decisions,
7 appeals from courts of limited jurisdiction (including criminal RALJ appeals), and
8 motions for revision of commissioners' rulings shall be heard without oral argument
9 unless specifically requested by the assigned judge. If the court requests oral argument,
10 it will be conducted consistent with paragraph 1 above.
- 11 5. The Court continues to find good cause to expand the time limits in LCR 7(b) to a nine
12 judicial day motion as stated in Emergency Order #15. This includes motions noted in
13 the Ex Parte Department pursuant to LCR 40.1. The moving party shall serve and file
14 all motion documents no later than nine judicial days before the date the party wishes
15 the motion to be considered; opposing documents will be filed and served no later than
16 4:30 p.m. four judicial days before the motion is to be considered; and any optional
17 strict reply will be filed and served no later than 4:30 p.m. two judicial days before the
18 hearing.
- 19 6. The Court is aware that discovery for civil cases has been challenging during this
20 pandemic. To encourage parties to keep litigation pressing forward, the Court maintains
21 the following obligations:
- 22 a. Within 90 days of filing of the complaint, the parties shall meet and confer
23 to create a discovery plan, which shall be filed with the Court with a working copy
232 emailed to the assigned judge.

1 b. There is a presumption that depositions shall occur via remote means unless
2 good cause is shown. Counsel may be present with their client if appropriate social
3 distancing measures are taken.

4 7. The Court continues to strongly encourage all attorneys to submit e-working copies
5 pursuant to LGR 30(b)(4)(A)(iii). Attorneys may use GR 30(d)(2)(A) and self-
6 represented parties may use GR 30(d) (2)(B) regarding electronic signatures.

7 8. Supplemental Proceedings will continue to be conducted by telephone. See
8 <https://www.kingcounty.gov/courts/superior-court/directory/judges/cahan.aspx> for
9 instructions.

10 9. Oath of Attorneys will continue to be handled by telephone. See
11 <https://www.kingcounty.gov/courts/superior-court/directory/judges/cahan.aspx> for
12 instructions.

13 **B. EX PARTE**

14 1. **Generally.** The Ex Parte Department has developed a variety of processes to enable
15 remote access, telephonic and video hearings. Counsel and self-represented litigants
16 are expected to review the Ex Parte website to be informed of the procedures necessary
17 to litigate in Ex Parte. To the extent the instructions differ from prior Emergency
18 Orders, the most current procedures on the website shall apply.

19 2. **Motions Practice.** Matters required to be noted for hearing in the Ex Parte and Probate
20 Department will be heard by telephone, video, or other electronic means at the time of
21 the noted hearing. **See the Ex Parte website for detailed instructions.** In any matter
22 in which notice is required, the moving party shall provide notice of the requirement
23 for telephonic, video, or other electronic appearance, file proof of service thereof, and
24 shall include on the Notice of Hearing all known e-mail and telephone contact
25 information for opposing parties and counsel.

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3. **Ex Parte Presentations.** For any matter heard in Ex Parte and not otherwise addressed herein, particularly matters that would have been presented in-person without a noted hearing, parties should note their motions on the “Other Motions” calendar (s) as a nine judicial day motions described in A.5. above.

4. **Domestic Matters.** Procedures for presentation of Protection Orders, Agreed Temporary Family Law Orders, Adoptions, and certain agreed Family Law Orders not eligible for Ex Parte via the Clerk are available on the Ex Parte Department website: <https://www.kingcounty.gov/courts/superior-court/ex-parte-probate.aspx>

5. **Title 11 Guardian ad Litem.** The Court continues to authorize Guardians Ad Litem (“GALs”) to arrange for video conference interviews with Alleged Incapacitated Person (“AIPs”) without prior court authorization provided this is clearly described in detail in the GAL’s report.

6. **Resumption of Default and Garnishment.** The court will hear motions for default, motions for default judgment, and requests for entry of judgment, and order to pay on writs of garnishment as outlined in LCR 40.1, LCR 55, and Local Family Law Rule (LFLR) 5 consistent with existing moratoria.

7. **Unlawful Detainers/Evictions.** Various federal, state, and local Executive Orders still are in place regarding unlawful detainer actions.

As outlined in Emergency Order 21, this court is participating in an Eviction Resolution Program. Parties are strongly recommended to voluntarily participate in that program while the moratoria are in place. Once the moratoria are lifted, participation is mandatory.

Currently, the moratoria provide for exceptions. When submitting an unlawful detainer Order to Show Cause, default judgment, or other unlawful detainer filing that argues for the underlying exception, parties must provide the following: (1) a declaration under oath providing the necessary specific facts to justify the exception; (2) a proposed

1 Order. The moving party shall serve a copy of the required declaration and proposed
2 order on the Respondent prior to seeking entry of the Judgment.

3 **C. CIVIL ARBITRATIONS**

4 All Superior Court Civil Arbitration hearings pursuant to RCW 7.06, the Superior Court
5 Civil Arbitration Rules, and King County Local Rules for Civil Arbitration will continue
6 via remote means unless the arbitrator and parties agree to in-person arbitrations with
7 appropriate social distancing measures in place.

8 **D. CIVIL PROTECTION ORDERS, RESTRAINING ORDERS, AND ANTI-
9 HARASSMENT ORDERS**

- 10 1. Remote (telephone and/or video) hearings are authorized for petitions seeking
11 protection orders and restraining orders in the following categories: domestic violence
12 protection orders (DVPOs), sexual assault protection orders (SAPOs), extreme risk
13 protection orders (ERPOs), anti-harassment protection orders, stalking protection
14 orders, vulnerable adult protection orders (VAPOs), and family law restraining orders.
15 Judicial officers will continue to review ex parte petitions to determine whether a
16 temporary order is warranted and, if so, shall set a full hearing on the petition.
- 17 2. The Court may order that service of these orders be made by mail or other means
18 calculated to provide actual service as authorized by proclamations of the Governor
19 and orders of the Supreme Court of Washington. If parties have previously agreed to
20 e-mail service or opted into e-service in the case or other currently open related case,
21 service of ex parte orders or reissuance/continuance orders by e-mail or e-service shall
22 be sufficient.
- 23 3. There are new procedures in place to allow for remote filings of these petitions and
24 hearings. **See the Ex Parte Department and the Civil Department webpage for
25 more information.**

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E. FAMILY LAW

1. The provisions of sections A-D above are applicable to Family Law matters except as to working papers and particular motions, which are addressed below.
2. Temporary changes to LFLRs are needed in order to avoid unnecessary submission and handling of paper working copies. Accordingly, it remains necessary to modify certain rules regarding Family Law proceedings. This includes LFLRs 5, 6, 8, 13, and 17.
3. The Family Law Department has developed a variety of processes to enable remote access and telephonic and video hearings, and electronic review of submissions. Counsel and self-represented litigants are expected to review the family law website, <https://www.kingcounty.gov/courts/superior-court/family.aspx> to be informed of how to conduct cases in the Family Law Department. To the extent the instructions on the website differ from prior Emergency Orders or this order, the most current procedures on the website should be followed.

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Family Law Motions Calendar

4. No working papers are required or permitted on the Family Law Motions Calendar until further notice. All parties will be required to provide a list of their submissions for each motion. Details regarding this requirement and a form to use for this purpose are on the website and this requirement will be referenced in an updated Notice of Hearing. Additional requirements regarding pagination of exhibits and flagging and citation of exhibits in declarations are addressed on the website.
5. Adjustments to the response and reply times for motions and adjustments to the procedure for confirming motions will be on the website, on the updated Notice of Hearing, and in an emergency rule, as deemed appropriate by the Court.
6. In order to manage the volume of motions, there is a limit on the number of motions set each day. All motions are set on the afternoon calendar so that petitions for domestic violence protection orders may be heard in the morning. There are separate calendars

1 for cases where both parties are self-represented. These procedures will remain in
2 effect indefinitely. Any adjustments or changes to the procedures will be announced
3 on the family law section of the court's website and on the Superior Court Clerk's
4 website.

- 5 7. For cases where both sides agree to waive oral argument, there are slots available to
6 note motions without oral argument on the Family Law Motions Calendar.
- 7 8. Motions for adequate cause in nonparental custody matters shall be noted to the
8 assigned judge. (RCW 26.10 is repealed effective 1/1/21, but may remain in effect for
9 purposes of concluding cases filed but not resolved before that date.)
- 10 9. All motions required to be set on the Family Law Motions Calendar pursuant to **LFLR**
11 **5** may be noted if slots are available. Motions to upset the calendar are strongly
12 disfavored; where there is a compelling circumstance they may be submitted to the
13 Orders for Review queue through the Clerk's e-filing application. Directions for the
14 Orders for Review queue are found at [https://kingcounty.gov/~media/courts/superior-
15 court/docs/COVID-19/FL-Default-AO-for-Review-Instructions.ashx?la=en](https://kingcounty.gov/~media/courts/superior-court/docs/COVID-19/FL-Default-AO-for-Review-Instructions.ashx?la=en)
- 16 10. Motions for default *that require notice because a party has appeared, but has not*
17 *responded* may be noted before the Chief Unified Family Court (Chief UFC) Judge on
18 Fridays at 1:30 p.m. Hearings should be noted using the Notice of Court Date Chief
19 UFC Judge, which includes instructions for appearing by phone.

18 **Motions to Assigned Judges or Chief UFC**

- 19 11. Motions for adequate cause in nonparental custody cases shall be noted for hearing
20 before the assigned judge.
- 21 12. Motions that are to be noted to the assigned UFC judge or the Chief UFC Judge
22 pursuant to LFLR 5 shall be noted using the expanded timelines to LCR 7 listed in
23 section A6 above. Except for dispositive motions, judges have discretion to determine
that oral argument is not necessary.

1 13. All motions must be noted on the Family Law Motions Calendar or to the assigned
2 judge or Chief UFC Judge according to LFLR 5 except as specifically ordered in
3 paragraphs E.8, E.10, E.11, and E.12.

4 **Trials and Trial Management**

5 14. Trials, with rare exception, shall be conducted by video. The provisions of section A.2
6 of the CIVIL section apply.

7 15. UFC judges shall have authority to prioritize and continue family law trials as set out
8 in the separate Unified Family Court General Order Re: Authority to Prioritize and
9 Continue Trials.

10 16. Family Law trials without children assigned to non-UFC judges shall be governed by
11 section A(4) of the CIVIL section including the trial start date.

12 17. Trials by Affidavit (TBA) are being conducted telephonically except in rare
13 circumstances permitted by the judicial officer. Working papers **are** required for Trials
14 by Affidavit and must be supplied in plastic covered three-ring binders. Details
15 regarding changes to TBA working papers submission requirements, including
16 requirements regarding submission of proposed orders, are on the website.

17 **Other Matters**

18 18. The current COVID-19 emergency constitutes a substantial change in circumstances
19 pursuant to RCW 26.09.260(1) where there is an allegation that the health of the child
20 is at risk if there is not a temporary modification of the parenting plan. Any party
21 seeking a temporary modification of a parenting plan or non-parental custody order due
22 to a COVID-19 emergency, may note a hearing for temporary order without filing a
23 Petition for Modification or noting a Motion for Adequate Cause; and the moving party
24 may seek an immediate order and order to show cause in the Ex Parte Department if it
25 is an emergency and there is an imminent threat of irreparable harm. Notice shall be
26 given to the other party or their counsel that an immediate order is being sought and

1 the other party's or counsel's telephone and e-mail contact information shall be
2 provided, along with the moving party's contact information, so that both sides can be
3 contacted telephonically. Those motions shall be set to the assigned judge, or if there
4 is no assigned judge, to the Chief UFC Judge.

5 19. Any temporary modification order issued pursuant to paragraph 18 shall be in effect
6 only through the expiration of Phase 2 of the Governor's Phased Approach. Upon
7 expiration of any temporary orders entered pursuant to paragraph 18, the parties shall
8 immediately resume following the prior parenting plan or non-parental custody order
9 unless they have filed a Petition for Modification and have noted a motion for adequate
10 cause and temporary parenting plan or non-parental custody order consistent with RCW
26.09.260(1), or have obtained an ex parte emergency restraining order.

11 20. The Status Conference Calendar is now being conducted by paper review. Cases will
12 not be dismissed solely for failure to appear on the status conference calendar. Cases
13 may be dismissed for failure to comply with the court's previous Status/Non-
14 Compliance orders. Prior to dismissal, parties will be ordered to appear by telephone
15 or video on a Non-Compliance calendar conducted by the Chief UFC Judge and show
16 cause why their case should not be dismissed. Further changes may be made to the
Status/Non-Compliance calendar and will be announced on the website.

17 21. A variety of processes and procedures have been implemented to provide family law
18 services consistent with public health requirements, including mandatory FLO and
19 parenting seminars, Courthouse Facilitator Services for self-represented parties,
20 mediation in cases where both parties are self-represented, and Family Court Services
21 parenting evaluations by virtual means. These may be adjusted as appropriate in light
22 of the Governor's phased-in approach to reopening. Parties should review the Family
23 law website, <https://www.kingcounty.gov/courts/superior-court/family.aspx> for further
instruction and updates. To the extent the instructions on the website differ from prior

1 Emergency Orders, the most current procedures on the website should be followed.
2 With rare exception, these services are provided virtually (by e-mail, phone, or video
3 conference).

4 **F. DEPENDENCY**

5 1. RESUMPTION AND METHOD OF APPEARANCE

6 Operation of dependency calendars, dependency trials, and termination trials
7 resumed on June 8, 2020 operating with specific pandemic protocols. The Court, in
8 its discretion, will continue to hear some matters on the pleadings and others will be
9 heard remotely, via conference call lines, or via Zoom video. In-person appearances
10 may be accommodated in certain circumstances. If the Court determines that an in-
11 person hearing is necessary, parties will be expected to follow any safety protocols
12 issued by King County Superior Court or the judicial officer. A copy of the full
13 dependency step up plan is available at [https://www.kingcounty.gov/courts/superior-
14 court/dependency.aspx](https://www.kingcounty.gov/courts/superior-court/dependency.aspx) and incorporated herein.

15 2. AGREED ORDERS

16 The Court continues to accept Agreed Orders via e-Filing and e-Service protocols.

17 3. REGULAR CALENDARS

18 The Court will conduct calendars as follows:

19 *TOP Hearings*

20 Motions for Publication are being presented to the Court and notice provided to the
21 parent(s). Motions for Publication should be submitted in accordance with the e-
22 Working Papers protocol and proposed Orders must be submitted in Word format.

23 A motion to continue the Preliminary Hearing may also be presented to the Court
24 so the matters can be heard together (if not already addressed on the Pretrial Calendar).

25 Notice sent to parent(s) must include the conference line and pin and instruct that
26 they must be on the phone call when court begins at 8:30 am.
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1 *Preliminary Hearings*

2 Preliminary Hearings will be heard remotely. Parties will call in to the appropriate
3 conference line at 8:30 am for the daily calendar.

4 *72 Hour Shelter Care Hearings*

5 72 Hour Shelter Care Hearings will continue to be heard remotely, if discovery and
6 proposed orders were exchanged in advance. Parties are directed to use ShareFile for
7 any evidence they wish to present to the Court. If there are any discovery issues or if
8 information was not exchanged prior to the hearing, parties may need to appear in
9 person. If an in-person hearing is necessary, parties will be expected to follow any
10 safety protocols issued by King County Superior Court. As per normal operations, these
11 hearings need to be pre-approved by the dependency coordinator. The request should
12 be set on the appropriate DCYF day (unless an emergency issue exists) and a maximum
of 3 per day will be scheduled.

13 *30 Day Shelter Care Hearings*

14 As most 30 Day Shelter Care Hearings are status quo, parties are to submit an
15 Agreed Order through the e-Filing system on the scheduled hearing date so court staff
16 can easily track to ensure all orders are received. If this hearing is contested, please
notify parties and the Court per normal practice.

17 *Motions – Contested/Non-Emergency Hearings*

18 The Court will address non-emergency motions on the pleadings only, unless
19 otherwise ordered. Daily motion limits of 5 per day still apply. Email the dependency
20 email box for motion date availability.

21 These matters are to be set in accordance with LJuCR 3.12 for regularly scheduled
22 motions and LJuCR 1.8 for motions without oral argument, regardless of the hearings
being heard on the pleadings.

1 *Disposition Hearings, Initial Progress Review Hearings*

2 These hearings will be heard remotely. Parties will call in to the appropriate
3 conference line at 8:30 am for the daily calendar.

4 *Review and Permanency Planning Hearings*

5 Review and Permanency Planning Hearings will be heard on the record , unless an
6 Agreed Order has been submitted. Parties are directed to submit court reports,
7 responses, replies, and any other documentation necessary In advance of the hearing
8 pursuant to local rules and statutory requirements.

9 For all contested hearings, the Court may set forth additional requirements as
10 needed to ensure the efficient and expedient adjudication of cases.

11 3. WORKING PAPERS

12 Parties must follow the e-Working Papers protocol unless otherwise instructed.

13 4. MEDIATIONS AND SETTLEMENT CONFERENCES

14 Mediations will be conducted remotely (via video and/or phone based on the needs
15 of the parties). The Court schedules mandatory mediations at the 72 Hour Shelter Care
16 Hearing.

17 Parties can submit a Request Form for termination/guardianship settlement
18 conference to the FJCIP.

19 Parties can participate in a dependency settlement conference by obtaining their
20 own mediator or by contacting the bailiff of a judge on the volunteer settlement
21 conference list.

22 5. TRIAL CALENDAR

23 For all cases ready for trial, the assigned judge will determine how the trial is heard.
24 Information on how to submit exhibits, call witnesses, etc., will be provided at the time
25 of assignment or as outlined in the pretrial conference order.

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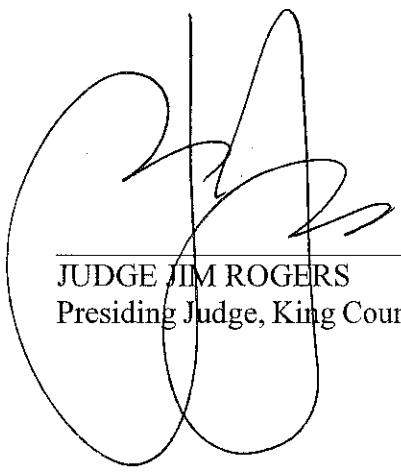
6. FAMILY TREATMENT COURT

Agreed Orders for Leveling Up in the FTC Program may be submitted per the above procedure.

FTC will continue to hold staffing and FTC Review Hearings, FTC Acceptance Hearings, and Permanency Planning Hearings on Wednesdays in Kent and Thursdays in Seattle, via Zoom. Motions will continue to be addressed by the Court without oral argument.

IT IS SO ORDERED.

Dated: December 22, 2020



JUDGE JIM ROGERS
Presiding Judge, King County Superior Court