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TIMOTHY W. FITZGERALD  
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	<p><b>SUPERIOR COURT OF WASHINGTON FOR SPOKANE COUNTY</b></p>
<p>IN THE MATTER OF THE RESPONSE BY SPOKANE COUNTY SUPERIOR COURT TO THE PUBLIC HEALTH EMERGENCY IN WASHINGTON STATE</p>	

No. 94-2-06940-8  
 AMENDED EMERGENCY  
 ORDER #14  
 Trials in Spokane Superior Court

WHEREAS, on February 29, 2020 the Governor of the State of Washington declared a state of emergency in all counties of Washington due to the public health emergency caused by the Coronavirus Disease 2019 (COVID-19); and

WHEREAS, The Commissioners of Spokane County, the Mayor of the City of Spokane and the Spokane Regional Health District have also declared a state of emergency in Spokane County due to the same public health concerns; and

WHEREAS, on March 23, 2020, April 2, 2020, May 1, 2020, November 15, 2020 and again on January 5, 2021, the Governor of the State of Washington has added additional restrictions on the citizens of the State of Washington due to the declared state of emergency concerning COVID-19 with proclamations; and

WHEREAS, the Washington State Supreme Court issued the Fourth Revised and Extended Order No. 25700-B-646 on October 13, 2020 directing that in all court operations, courts should follow the most protective public health guidance applicable

1 in their jurisdiction, and should continue using remote proceedings for public health and  
2 safety whenever appropriate; and  
3

4 WHEREAS, this Fall, the spread of COVID-19 began to accelerate. As of  
5 November 18, 2020, the rise in infections is not projected to ease until February 2021.  
6 [https://covid19.healthdata.org/unitede-states-of-america/washington?view=infections-](https://covid19.healthdata.org/unitede-states-of-america/washington?view=infections-testing&tab=trend&test=infections)  
7 [testing&tab=trend&test=infections.](https://covid19.healthdata.org/unitede-states-of-america/washington?view=infections-testing&tab=trend&test=infections)  
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9 WHEREAS, On November 15, 2020, Governor Inslee issued a new proclamation,  
10 imposing new restrictions on social gatherings and other behavior. In doing so, he  
11 explained, “[P]ositive COVID-19 related cases and hospitalizations have been on a  
12 steady rise since early September; and, most alarmingly, from the latter part of October  
13 through the first two weeks of November 2020, COVID-19 related hospitalizations have  
14 risen sharply, putting our people, our health system, and our economy in as dangerous  
15 a position as we faced in March 2020.” State of Wash. Office of the Governor,  
16 Proclamation 20-25.8 “Stay Safe – Stay Healthy Rollback of City– by–City. Phased  
17 Reopening Responding to a COVID-19 Outbreak Surge” (Nov. 15, 2020).

18 WHEREAS, The Governor recognized in the Proclamation that “a significant risk  
19 factor for spreading the virus is prolonged, close contact with an infected person  
20 indoors,” and that “several factors increase the risk for person-to-person COVID-19  
21 transmission,” including: (1) “the more that people and groups interact”; (2) “the longer  
22 those interactions last”; (3) “the closer the contact between individuals”; and (4) “the  
23 denser the occupancy for indoor facilities.”

24  
25 WHEARAS, on November 20, 2020, Washington Supreme Court Chief Justice  
26 Debra Stephens issued a message to all Washington courts, acknowledging the  
27 dramatic rise of COVID-19 activity in the State and requesting that all courts reassess  
28  
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2 “the risk of in-person proceedings and the present ability to mitigate those risk  
3 consistent with public health guidance.”

4 WHEREAS, Spokane County Superior Court leadership is actively assessing the  
5 public health risks posed by COVID-19 including the positivity rate and hospitalizations.  
6 As of January 6, 2021, Spokane County had an 19.5% positivity rate, which was the  
7 15<sup>th</sup> highest of 39 counties. [https://coronavirus.wa.gov/what-you-need-know/covid-19-  
8 risk-assessment-dashboard#dashboard](https://coronavirus.wa.gov/what-you-need-know/covid-19-risk-assessment-dashboard#dashboard).

9  
10 WHEREAS, as of January 7, 2021 Spokane County has had 28,600 COVID-19  
11 cases, 399 deaths, 1,254 hospitalizations and currently has 55 hospitalizations.  
12 <https://covid.srhd.org/topics/spokane-county-case-data>.

13  
14 WHEREAS, based upon all the foregoing sources of information, the dramatic  
15 increase in positive COVID-19 rates in Spokane County, and predictions that increases  
16 will continue, this Court finds that now it is not reasonably feasible or safe to require  
17 jurors, litigants and other participants to travel to the court and congregate in indoor  
18 facilities. Due to these circumstances and the serious danger posed by COVID-19, a  
19 continuance of all jury trials is supported by good cause, required in the administration  
20 of justice, and unavoidable circumstances.

21 WHEREAS, there has been widespread and increasing absenteeism due to both  
22 illness and required quarantine periods that has resulted in unavailability of jurors,  
23 attorneys, witnesses, and parties, all of which has adversely affected the ability to  
24 conduct trials during this public health emergency.

25  
26 WHEREAS, this Court issued its Emergency Orders #1 through #13 to respond  
27 to the state of emergency and mitigate the effect of COVID-19; and  
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2 NOW, THEREFORE, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY:

3  
4 1. All in-person criminal jury trials are hereby suspended until February 16, 2021.  
5 The Court is actively creating a process to conduct jury selection and jury trials  
6 by Zoom and anticipates having that as an option on January 25, 2021.

7 a. For all pending Spokane County Superior Court criminal cases, under  
8 CrR 3.3, it is the Court's obligation to ensure compliance with the  
9 applicable time for trial rules;

10 b. The Court, upon its own motion, and pursuant to Washington State  
11 Supreme Court Order 25700-B-646 ¶12, concludes a continuance in  
12 these criminal jury trials is necessary for the administration of justice;

13 c. All criminal jury trials presently scheduled for trial prior to February 16,  
14 2021 are continued by operation of this order to that date unless by  
15 agreement of the parties the trial date is continued to either a later date  
16 or an earlier date if arranged to be done by Zoom with the Court.

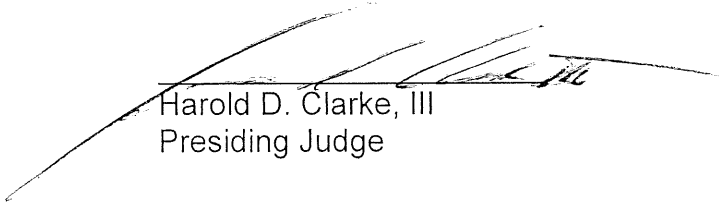
17 d. The Court finds that as of January 7, 2021 the serious danger posed by  
18 the virus is good cause to continue criminal jury trials and constitutes an  
19 unavoidable circumstance under CrR 3.3(e)(8).

20 e. Based upon the court's finding that the serious danger posed by the virus  
21 is good cause to continue criminal jury trials and constitutes an  
22 unavoidable circumstance under CrR 3.3(e)(8), the time between  
23 November 23, 2020 and the date of the next scheduled trial date is  
24 EXCLUDED when calculating time for trial.

25 2. All in-person civil jury trials are hereby suspended until February 16, 2021. The  
26 Court is actively creating a process to conduct jury selection and jury trials by  
27 Zoom and anticipates having that as an option on January 25, 2021.  
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3. The Courthouse remains open to the public, but the Court strongly encourages all hearings and non-jury trials to be conducted by telephonic or remote conferencing (such as Zoom) rather than by in-person appearance at the Courthouse. Attorneys and litigants are directed to conduct Court proceedings remotely whenever feasible and practicable under the circumstances. All in-person proceedings shall continue to be conducted with strict adherence to health and safety standards set by the Center for Disease Control, Washington State Health Department, Spokane Regional Health District, and the Court pursuant to its own Orders and direction.
  4. Spokane County Superior Court may adopt further restrictions as necessary to respond to the current state of emergency to mitigate the effect of COVID-19 and will do so by further court order.

Dated: January 8<sup>th</sup>, 2021.



Harold D. Clarke, III  
Presiding Judge