

IN THE LOWER DISTRICT COURT
FOR THE COUNTY OF KITTITAS

IN THE MATTER OF) ADMINISTRATIVE ORDER
EMERGENCY RESPONSE TO A) NO. 2021-01
THREAT TO PUBLIC HEALTH)

WHEREAS, on February 29, 2020, the Governor for Washington State declared a state of emergency due to the public health emergency posed by the spread of the coronavirus (COVID-19); and

WHEREAS, on March 4, 2020, the Chief Justice of the Washington State Supreme Court adopted Order No. 25700-B-602, granting emergency authority upon all Washington courts to adopt, modify, and/or suspend court rules and orders, and to take further actions concerning court operations, as warranted to address the current state of public health emergency that affects operations of trial courts in Washington State; and

WHEREAS, on March 6, 2020, Kittitas County Board of County Commissioners declared a state of emergency due to the public health emergency posed by the spread of COVID-19; and

WHEREAS, on March 16, 2020, this court issued the first of several subsequent administrative orders which detailed the manner in which court proceedings would occur while the public health emergency existed; and

WHEREAS, on April 14, 2020, the Kittitas County Health Officer issued a health order that required all residents of Kittitas County to stay at home; and

WHEREAS, there have been numerous subsequent orders, declarations, proclamations and advisories issued by the Governor, the Washington State Supreme Court and the Kittitas County Health Officer that have affected court proceedings, both locally and statewide, while still recognizing the doctrine of separation of powers and the independence of the judiciary; and

WHEREAS, on March 22, 2021, all counties in Washington State are being moved to Phase 3 of the Healthy Washington Roadmap to Recovery and access to various COVID-19 vaccine options are available to certain categories of Washington State residents¹; and

WHEREAS, President Biden has directed that all states make COVID-19 vaccines available for all people regardless of category by May 1, 2021, which means that all prospective jurors in Lower Kittitas County who want to be vaccinated could be at maximum vaccine efficacy by June 15, 2021; and

WHEREAS, the Lower Kittitas County District Court is a high volume court that operates from a relatively small physical space that is not large enough to conduct a jury trial with 6-foot physical distancing for participants in both the courtroom and the jury deliberation room; and

WHEREAS, the Kittitas County Superior Court has the only courtroom in the Lower Kittitas County area with sufficient space to conduct a jury trial with 6-foot physical distancing for participants in both the courtroom and the jury deliberation room but for the foreseeable future is only offering the Lower Kittitas County District Court the use of its courtroom for jury trial on April 29, 2021; and

WHEREAS, the Washington State Department of Health has updated its Public Health Risk Reduction Recommendations for COVID-19 and the Washington State Courts, and the most recent recommendations allow for jurors to be three feet apart in situations where the available courtroom does not allow for six feet of separation or in deliberation rooms as long as jurors wear a mask that matches the risk level at all times, and are given more frequent breaks that are socially distanced by six feet²; and

WHEREAS, additional action by the court is required beyond this court's Administrative Orders No. 2020-01, -02, -03, -04, -05, -06 and -07.

NOW, THEREFORE, THE FOLLOWING IS HEREBY ORDERED:

- 1) All prior Administrative Orders of this court are hereby rescinded except that IRLJ 2.6 remains suspended.

¹ <https://www.governor.wa.gov/sites/default/files/HealthyWashington.pdf>

² <https://www.doh.wa.gov/Portals/1/Documents/1600/coronavirus/CourtGuidanceCOVID-19.pdf>

- 2) The Emergency Local Rule dated April 20, 2020, pertaining to physical access to the courthouse and/or courtrooms remains in place.
- 3) All hearings, civil and criminal, that are currently scheduled will remain on the calendar (except jury trials, see item 4 below). Advance continuances in writing will be only granted upon showing of good cause or by agreement of the parties with an accompanying waiver of speedy trial and should be filed no later than noon on the business day prior to the scheduled hearing. If an advance continuance in writing is not sought or granted, then parties are required to appear, either personally or by their representative attorney. Failure for a party or their representative attorney to appear may result in a warrant being issued in a criminal matter and a detrimental finding in a civil matter.
- 4) Jury trials set through June 15, 2021, are cancelled except for those set on April 29, 2021. Defendants are required to be present at the trial readiness hearing as the court finds it is necessary for defendants to be present in order for their case to proceed. Local court rule LCrR 4.5 (A) providing for the use of a stipulated pre-trial statement of readiness is suspended for the duration of the current state of emergency.
- 5) Prospective jurors who receive a jury summons for 2021 should continue to follow the instructions to call in prior arriving for jury duty. Prospective jurors who are supposed to be in isolation or quarantine due to having COVID-19 or symptoms of COVID -19 or having been in close contact with someone diagnosed with COVID-19 should inform the court prior to arriving for jury if possible. Prospective jurors who wish to be at maximum vaccine efficacy before serving as a juror should call the court no later than noon prior to their scheduled jury duty in order to be excused from service.
- 6) All other scheduled proceedings will use the procedures described in the attached document (Lower Kittitas County District Court: COVID-19 Procedures updated 3/22/2021).
- 7) Case-by-case exceptions, including the use of WebEx for virtual proceedings may be ordered at the discretion of the Court after consultation with the parties involved.
- 8) This Order does not affect the Court's consideration of any matter that can be resolved without a hearing and parties are encouraged to do so when possible.

9) The above takes effect immediately and remains in place until further notice.

Lower Kittitas County District Court remains open and is available by email, telephone or fax. Mail will be received and processed usually by the next business day after receipt. Both criminal and civil intake desks remain open for filings.

DATED this 22 day of March, 2021.



Paul R. Sander
Presiding Judge
Lower Kittitas County District Court

Lower Kittitas County District Court: COVID-19 Procedures

updated March 22, 2021

Health & Safety protocol

No one should enter the courthouse or courtroom if they are ill or have been diagnosed with an illness, regardless of having symptoms. The only people allowed in the courtroom will be:

- Parties whose case is being heard at that scheduled time
- Supporters of parties and/or victim (no more than 4 & must all be same household)
- Members of public (to be determined by available seats & if all same household)
- Attorney for the next scheduled hearing

Everyone in the courtroom must comply with existing state or local orders as they pertain to wearing cloth masks or face coverings and maintaining social distance, except that when speaking on the record parties may remove their cloth mask or face covering when seated where a physical barrier is in place. Gallery seating is limited and reserved for victims and their supporters, defendant supporters, and members of the public wishing to observe. Only members of the same household should sit next to each other. Audio will be livestreamed with a link provided on the court's website during hearings. People waiting for court may be in the hallway if, 1) their hearing is scheduled within the next hour and, 2) they are wearing cloth masks or face coverings and maintain 6 feet social distance of others. Failure to comply with these Health and Safety Protocols may result in a party's case being continued to a future date and persons being directed to leave the courthouse.

Types of proceedings

Jury Trials

Until June 15, 2021, jury trials will be in the Kittitas County Superior Court courtroom with 6-foot social distancing and all participants wearing cloth masks or face coverings except when speaking on the record. After June 15, 2021, jury trials will resume in the Lower Kittitas County District courtroom following the most current Public Health Risk Reduction Recommendations for COVID-19 and the Washington State Courts published by the Washington State Department of Health¹, which allows for jurors to be three feet apart in situations where the available courtroom does not allow for six feet of separation or in deliberation rooms as long as jurors wear a mask that matches the risk level at all times, and are given more frequent breaks that are socially distanced by six feet. All participants at a jury trial will be required to complete a health screening for

¹ <https://www.doh.wa.gov/Portals/1/Documents/1600/coronavirus/CourtGuidanceCOVID-19.pdf>

symptoms consistent with COVID-19 or contact with a confirmed case within the past 14 days similar to that completed daily by Kittitas County employees. Trial readiness hearings will be set prior to the jury trial where additional Covid-19 precautions may be discussed. Defendants are required to be present at the trial readiness hearing as the court finds it is necessary for defendants to be present in order for their case to proceed. Local court rule LCrR 4.5 (A) providing for the use of a stipulated pre-trial statement of readiness is suspended for the duration of the current state of emergency.

Regular criminal pretrial & probation violation calendars

Pretrial and probation violation (PV) hearings currently on a calendar (except first appearance PV hearings) will be assigned specific times *IF AND ONLY IF* both parties indicate to the clerk by phone or email by noon of the preceding business day that a case is resolved (guilty plea or probation disposition) or needs a bail hearing. Working copies of guilty plea statements and Deferred Prosecution paperwork should be provided to the court at least one business day before the hearing. Hearings will be scheduled 15 or 30 minutes apart at the court's direction. No hearings will be set after 11:00 or 4:00. Once set hearings are completed, remaining cases will be called. Advance continuances in writing will be only granted upon showing of good cause or by agreement of the parties with an accompanying waiver of speedy trial and should be filed no later than noon on the business day prior to the scheduled hearing. If an advance continuance in writing is not sought or granted, then parties are required to appear, either personally or by their representative attorney. Failure for a party or their representative attorney to appear may result in a warrant being issued in a criminal matter and a detrimental finding in a civil matter.

Midday calendars

Midday hearings may be assigned specific times by the clerk. Priority will be given to in-custody first appearance cases. Walk-in mandatory first appearance cases will be scheduled sequentially as time allows but will not displace an existing afternoon calendar and may be delayed until the end of that day.

Contested PV or 3.5/3.6 calendars

Contested PV or 3.5/3.6 cases will be assigned specific times by the clerk at the time of scheduling and after the filing of relevant motions. Hearings will be scheduled either 30 or 60 minutes apart at the court's direction. Exhibits should be marked prior to commencement of the hearing. No hearings will be set after 4:00 p.m. Advance continuances in writing will be only granted upon showing of good cause or by agreement of the parties with an accompanying waiver of speedy trial and should be filed no later than noon on the business day prior to the scheduled hearing. If an advance continuance in writing is not sought or granted, then parties are required to appear, either personally or by their representative attorney. Failure for a party or their representative attorney to appear may result in a warrant being issued in a criminal matter and a detrimental finding in a civil matter.

Protection Order calendars

Protection Order (Ex parte and Permanent) hearings will be heard as scheduled and set 60 minutes apart. Any testimony provided will take place from counsel tables. Any exhibits should be marked prior to commencement of hearing.

Civil calendars

Civil hearings will be assigned specific times by the clerk and grouped by case type. Small claims first hearings will be set for 8:30 a.m. and limited to 5 cases per calendar. Name changes will be set at 9:00 a.m. and limited to 5 cases per calendar. Other civil cases will be set beginning at 9:30 a.m. and on calendars 15 minutes apart with a limit of 5 cases per calendar. No hearings will be set after 10:15 a.m. Small claims trials are held monthly and will be set at 9:00 a.m. and 10:00 a.m., if necessary. Any exhibits should be marked prior to commencement of hearing.

Monday arraignment calendar

Monday arraignment calendar will be split into an 8:30 a.m. calendar (for cases directly filed by citation) and 9:30 a.m. calendar (for cases filed by prosecutor and for cases requiring pretrial conditions in which an attorney files a notice of appearance). No more than 6 defendants at a time will be allowed in the courtroom in order to maintain proper social distancing, with the rest remaining in the hallway with proper social distancing or outside the building.

Infractions with attorneys

Contested infraction hearings with attorneys that are on a calendar will be assigned specific times by the clerk *IF AND ONLY IF* defense counsel indicates to the court by phone or email by noon of two business days preceding that the case is ready to proceed. Hearings with witness(es) subpoenaed will be scheduled either 15 or 30 minutes apart at the court's direction. Hearings without witness(es) subpoenaed will be set 5 minutes apart. Any exhibits should be marked prior to commencement of the hearing. No hearings will be set after 4:30. If there are not enough time slots available for all the cases that are ready to proceed, the court will reschedule on the record. Once set hearings are completed, remaining cases will be called and reset. Advance continuances in writing will be only granted upon showing of good cause or by agreement of the parties with an accompanying waiver of speedy trial and should be filed no later than noon on the business day prior to the scheduled hearing. If an advance continuance in writing is not sought or granted, then parties are required to appear, either personally or by their representative attorney. Failure for a party or their representative attorney to appear may result in a warrant being issued in a criminal matter and a detrimental finding in a civil matter.

Infractions with pro se defendants

Contested infraction hearings with pro se defendants will be assigned specific times by the clerk *IF AND ONLY IF* the pro se defendant indicates to the court by phone or email by noon of the preceding business day that the case is proceeding in person instead of in writing. Any exhibits should be marked prior to commencement of the hearing. No hearings will be set after 4:30. Once set hearings are completed, remaining cases will be called and may be handled or will be reset. Mitigation infraction hearings will only be conducted in writing.²