

May 9, 2020

Greetings from Kitsap County Superior Court,

Many thanks to all of you for utilizing Zoom this week for your court appearances. We did have a modest increase in foot traffic in the Courthouse as we returned to our regular calendars. This was expected. Most of the folks that showed up in person were individuals representing themselves on Thursday's DVPO calendar. Those that did appear in person were given information and instructions about appearing remotely next time.

### **ZOOM**

Attorney compliance has been excellent. Please let us know if you had any problems connecting to Zoom or have any suggestions as to how we can make the process better. Like the restaurant business, it's the customers you don't hear from that you worry about. If you are not familiar with the process, you can go to our website: <https://www.kitsapgov.com/sc/Pages/default.aspx> and click on the "Remote Access to Superior Court" tab. This will take you to the instructions page. You can also click on the "Today's Calendar" tab for the most current Zoom Meeting ID numbers.

### **PROCEDURAL FAIRNESS**

It is important that the parties are on a level playing field when presenting their arguments to the court. The Zoom technology seems to be working well. But appearing via Zoom is different than appearing in person. Concerns over conducting hearings with one party appearing offsite and the other party appearing in person are legitimate. Objections regarding procedural fairness are righteous. Your client may ask, why do we have to appear remotely and the other side is there in front of the judge? It's a fair question.

Our plan is to use Courtroom 268 as a "remote appearance" courtroom. Courtroom 268 is our smallest courtroom. Because of the open courts doctrine and safe social distancing standards, we have not been utilizing it to conduct hearings. However, we can use it to provide remote access to another courtroom for those that come to the Courthouse (contrary to court instructions or because it is impossible for them to appear remotely). When you are appearing remotely and the other side shows up in court, we can direct that party to Courtroom 268 to appear via Zoom when arguments are made.

We endeavor to have the remote access system set up in Courtroom 268 by Thursday, May 14<sup>th</sup>. Many thanks to District Court for their assistance!

You can help with all of this by sharing the remote access link from Superior Court's website in your communications to the other side. Doing so will be beneficial to everyone. It will help keep foot traffic down in the Courthouse and ensure that you are on a level playing field when making your arguments. Many thanks for your cooperation in ensuring a safe courthouse and access to the courts.

### **JURY TRIAL WORK GROUP**

Jury trials have been suspended until at least July 6<sup>th</sup>. I'm pleased many of you have expressed interest in participating in our Jury Trial Work Group. The purpose of the work group is to exchange ideas and plan for how we will be handling jury trials whilst complying with proper social distancing standards. Including seats at counsel table, the maximum capacity in our largest courtroom (272) with safe social distancing is 20. It is inevitable that this limitation will change how we conduct *voir dire*.

Also, once a jury is picked, the jury cannot all sit in the jury box together and comply with safe social distancing. Some jurors will be in the box, others on the benches. How will this impact your presentations? How will the bench approach the question of testimony via Zoom? Will the court permit a witness to wear a mask while testifying, or will that unduly interfere with the ability of jurors to assess demeanor? There are many issues. I think it would be good to have some consensus regarding procedure and necessary changes so that you know what to expect and can plan accordingly. Trials are stressful endeavors. To the extent we can alleviate some of that stress by planning ahead will be beneficial to everyone.

All trial practitioners are welcome to participate in the Work Group as undoubtedly some of the topics may be relevant to bench trials as well. I will set up a meeting, accessible via Zoom, over the lunch hour for the week of the 18<sup>th</sup>. You will be provided the specific date, time and Zoom access code. We look forward to your ideas and comments.

Happy Mother's Day!

More anon, Kevin

Kevin Hull

Presiding Judge

Kitsap County Superior Court