

FILED

FEB - 2 2022

Superior Court
Linda Myhre Enlow
Thurston County Clerk

SUPERIOR COURT OF WASHINGTON
FOR THE COUNTY OF THURSTON

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

NO. 22-2-00001-34

**EMERGENCY ADMINISTRATIVE
ORDER No. 10**

**(Suspending Jury Trials through February
25, 2022)**

In response to the current public health emergency in Thurston County and Washington State, and in light of the findings of this Court's previous Emergency Orders 1-5, 7, 8 and 9, this Court enters this additional Order regarding the further suspension of jury trials. The Court makes the following findings:

1. On December 22, 2021, Dr. Dimyana Abdelmalek, Thurston County Health Officer, contacted the Court and recommended that jury trials be immediately suspended given recent increases in Covid-19 transmissions in the county. Following the recommendation of Dr. Abdelmalek, Thurston County Superior Court did not conduct jury trials the weeks of December 27, 2021, and January 3, 2022.

- 1 2. On December 28, 2021, Thurston County Health Officer Dr. Abdelmalek issued a letter
2 with recommendations for Thurston County Superior Court. This guidance sets forth Dr.
3 Abdelmalek’s concern about the “significant increase in COVID-19 transmission in
4 Thurston County over the past several weeks” and “the increased risk posed by in person
5 gatherings due to the Omicron Variant[.]” Letter attached.
- 6
7 3. On February 2, 2022, Thurston County Health Officer Dr. Abdelmalek issued a letter
8 with recommendations for Thurston County Superior Court. This guidance sets forth
9 Dr. Abdelmalek’s determination that there is “continued risk posed by in-person
10 gatherings” due to “ongoing elevated COVID-19 transmission in Thurston County over
11 the past several weeks.” Letter attached.
- 12
13 4. Court facilities continue to be limited in physical capacity and have constraints on
14 technical capacities. Limited by these constraints, the Court has instituted procedures
15 designed to preserve fairness for litigants consistent with appropriate COVID-19
16 mitigation measures to protect the safety of jurors, attorneys, staff, and litigants as
17 directed by county health authorities. The Court is constantly reevaluating these
18 procedures to adapt to changes presented by the public health emergency. At this time,
19 these efforts cannot safely accommodate jury trials.

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21 NOW, THEREFORE, IT IS HEREBY ORDERED THAT, EFFECTIVE IMMEDIATELY:

- 22 1. All criminal jury trials are suspended through February 25, 2022.
- 23 2. All civil jury trials are suspended through February 25, 2022.
- 24 3. A continuance of criminal jury trials is required in the administration of justice. Based
25 upon the Court’s finding that the serious danger posed by COVID-19 is good cause to
26

1 continue adult criminal jury trials, and constitutes an unavoidable circumstance under
2 CrR 3.3(e)(8), the time between December 28, 2021, and the next scheduled hearing after
3 February 25, 2022, shall be EXCLUDED when calculating time for trial. CrR 3.3(e)(3).
4

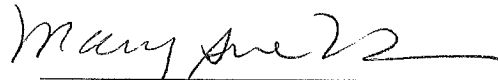
5 4. The Court may extend the timeframes in this Order as required by the continuing public
6 health emergency, and, if necessary, will do so by further order.

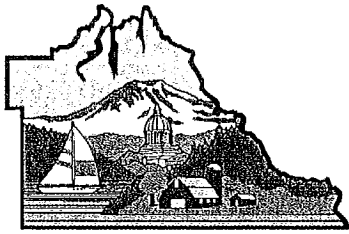
7 5. To the extent necessary to provide the Court the authority to effectuate all actions
8 referenced above, court rules are hereby suspended.
9

10 TO THE EXTENT NOT MODIFIED BY THIS ORDER, EMERGENCY ADMINISTRATIVE
11 ORDERS No. 5, No. 8, No. 9, AND AMENDED EMERGENCY ADMINISTRATIVE ORDER
12 No. 7 REMAIN IN EFFECT.
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14 THIS ORDER IS SUBJECT TO CHANGE AS CONDITIONS WARRANT.
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16 DATED this 2nd day of February, 2022.
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18 
19 Presiding Judge Mary Sue Wilson
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THURSTON COUNTY
WASHINGTON
SINCE 1852

COUNTY COMMISSIONERS

Carolina Mejia
District One

Gary Edwards
District Two

Tye Menser
District Three

**PUBLIC HEALTH AND
SOCIAL SERVICES DEPARTMENT**

December 28, 2021

To:

The Honorable Mary Sue Wilson
Presiding Judge, Thurston County Superior Court
2000 Lakeridge Dr SW Bldg 3
Olympia, WA 98502

The Honorable M. Brett Buckley
Presiding Judge, Thurston County District Court
2055-2299 Lakeridge Dr SW
Olympia, WA 98502

From:

Dimyana Abdelmalek, MD, MPH
412 Lilly Rd NE
Olympia, WA 98506

Dear Judge Buckley and Judge Wilson,

I am writing to you today to inform you about a significant increase in COVID-19 transmission in Thurston County over the past several weeks and the increased risk posed by in person gatherings due to the Omicron Variant of the SARS-CoV-2 virus which has resulted increased infections in Thurston County and in communities around the world. On December 13, 2021 twenty-seven COVID-19 cases were reported to Thurston County Public Health and Social Services Department and today December 28, 2021 four hundred and eighteen cases were reported. Modeling data predicts that case counts will continue to rise. I am recommending at this time that all court procedures that can be addressed using remote technologies transition to utilizing those technologies at this time including in-person jury selection and trials as well as public observation of trials until there is a sustained downtrend in COVID-19 cases in Thurston County and safety for increased in person participation has been established for this new variant.

I am making this recommendation in my capacity as health officer for Thurston County pursuant to the Revised Code of Washington 70.05.070 – Powers and Duties of the Local Health Officer which authorizes the Public Health Officer to control and prevent the spread of any dangerous, contagious or infectious diseases that may occur within his or her jurisdiction. And the Washington Administrative Code 246-100-036 – Responsibilities and duties – Local health officers which empowers the local health officer to establish, in consultation with local health care providers, health facilities, emergency management personnel, law enforcement agencies, and any other entity he or she deems necessary, plans, policies, and procedures for instituting emergency measures necessary to prevent the spread of communicable disease or contamination.

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(360) 867-2500 FAX (360) 867-2601 TTY/TDD 711 or 1-800-833-6388
www.co.thurston.wa.us/health

Schelli Slaughter, MHA
Director

Dimyana Abdelmalek, MD, MPH
Health Officer

COVID-19 is caused by the SARS-CoV-2 virus and is primarily spread through droplets, aerosols and close contact with infected persons. The Omicron variant of the SARS-CoV-2 virus was identified in South Africa on November 24, 2021. The first case in the United States was identified on December 1, 2021 and since then has been identified all fifty states and associated with an increase in COVID-19 infections. The Omicron variant is more transmissible than prior variants and is able to more readily evade immunity from vaccines and prior COVID-19 infections. Gathering in indoor spaces for prolonged periods of time is a risk factor for COVID-19 transmission. The rapid growth rate of the Omicron variant has resulted in increased community transmission which in turn increases the risk posed by in-person court proceedings. Data on clinical severity of the Omicron variant is limited, however even with reduced clinical severity the increased COVID-19 infection rates projected with this variant has the potential to overwhelm hospital and public health capacity at this time. My recommendation is that those individuals whose physical presence in court is not essential to court proceedings engage via remote technologies to decrease the risk of person to person transmission of COVID-19 in our courts and promote the health and safety of those whose in person attendance is required for this essential function as well as members of the public who have been summoned for jury duty or who wish to observe court proceedings.

This recommendation is in agreement with The Supreme Court of Washington Order Re: Fifth revised and extended order regarding court operations No. 25700-B-658 filed on February 19, 2021 which states "In all court operations, courts should follow the most protective public health guidance applicable in their jurisdiction, and should continue using remote proceedings for public health and safety whenever appropriate." As well as The Supreme Court of Washington supporting document Resources to Address Public Trial Rights During COVID-19 which states "Open access to courts may be restricted to balance conflicting interests, like holding court during a public health crisis, so long as restrictions are narrowly drawn to respond to the compelling need and appropriate findings are made." This document further describes that courts have used remote technologies including telephone and video modalities to safely allow public access to court proceedings.

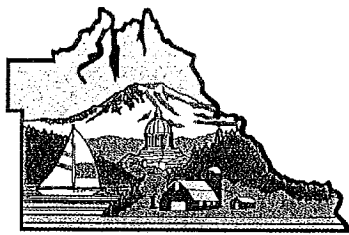
The Omicron variant of the SARS-CoV-2 virus is more transmissible than prior variants and has resulted in rapidly rising case rates in Thurston County including among those who have been vaccinated or have had prior infection. At this time there is a significant risk to indoor gatherings posed by COVID-19, which can lead to serious illness and death as well as quickly exceed health care and public health capacity to respond. Minimizing the risk of exposure to members of the court and litigants posed by in person participation by individuals whose physical presence in the court is not required for essential functions is critical. Also essential mitigating the risk to the public responding to summons and those seeking to observe court proceedings.

Thank you for your efforts to prevent the spread of the Omicron variant of the SARS-CoV-2 virus and in protecting the health and safety of the public, litigants and members of the court. I look forward to continuing to work with you to respond to this dynamic situation to facilitate the safe function of our courts.



Dimyana Abdelmalek, MD, MPH

Health Officer, Thurston County



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**PUBLIC HEALTH AND
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The Honorable Mary Sue Wilson
Presiding Judge, Thurston County Superior Court
2000 Lakeridge Dr SW Bldg 3
Olympia, WA 98502

The Honorable M. Brett Buckley
Presiding Judge, Thurston County District Court
2055-2299 Lakeridge Dr SW
Olympia, WA 98502

February 2, 2022

Dimyana Abdelmalek, MD, MPH
412 Lilly Rd NE
Olympia, WA 98506

Kurt Hardin
Interim Director

Dimyana Abdelmalek, MD, MPH
Health Officer

Dear Judge Buckley and Judge Wilson,

I am writing to you today to inform you about the ongoing elevated COVID-19 transmission in Thurston County over the past several weeks and the continued risk posed by in-person gatherings due to the Omicron variant of the SARS-CoV-2 virus (BA.1) and newly identified Omicron subvariant (BA.2). At the time of my previous communication on December 28, 2021, our case count was at four hundred and eighteen.

Although Thurston County is experiencing a downward trajectory in the number of infections, COVID-19 transmission rates in the county are still high. As of today, the Washington State Department of Health is reporting a transmission rate of 2796.9 cases per 100,000 population over 14 days in Thurston County. In addition, the impact of the newly identified Omicron subvariant BA.2, a subvariant which has been identified in Washington State, on COVID-19 transmission rates is yet to be determined.

In light of continued high rates of transmission, I am continuing to recommend that all court procedures that can be addressed using remote technologies transition to utilizing those technologies including, in-person jury selection and trials as well as public observation of trials until there is a sustained downtrend in COVID-19 cases in Thurston County and safety for increased in-person participation has been established for this new variant.

I am making this recommendation in my capacity as Health Officer for Thurston County pursuant to the Revised Code of Washington 70.05.070 – Powers and Duties of the Local Health

Officer which authorizes the Public Health Officer to control and prevent the spread of any dangerous, contagious or infectious diseases that may occur within his or her jurisdiction. And the Washington Administrative Code 246-100-036 – Responsibilities and duties – Local health officers which empowers the local health officer to establish, in consultation with local health care providers, health facilities, emergency management personnel, law enforcement agencies, and any other entity he or she deems necessary, plans, policies, and procedures for instituting emergency measures necessary to prevent the spread of communicable disease or contamination.

At this time there continues to be a significant risk to indoor gatherings posed by COVID-19, which can lead to serious illness and death and further COVID-19 hospitalizations in Thurston County remain high. Minimizing the risk of exposure to members of the court and litigants posed by in-person participation by individuals whose physical presence in the court is not required for essential functions is critical, in addition to mitigating the risk to the public responding to summons and those seeking to observe court proceedings.

Thank you for your efforts to prevent the spread of the Omicron variant of the SARS-CoV-2 virus and in protecting the health and safety of the public, litigants, and members of the court. I look forward to continuing to work with you to respond to this dynamic situation to facilitate the safe function of our courts.

Sincerely,



Dimiyana Abdelmalek, MD, MPH
Health Officer, Thurston County