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4 DISCIPLINARY BOARD

5 SECOND REVISED AND EXTENDED ADMINISTRATIVE ORDER IN RESPONSE TO
6 PUBLIC HEALTH EMERGENCY
7 IN THE STATE OF WASHINGTON

8 The following Administrative Order is issued pursuant to Washington Supreme Court
9 Orders 25700-B-609, Order 25799-B-615, and 25700-B-618. This order affects all matters in
10 the discipline and disability system, except those before the Washington Supreme Court. This
11 Order will be sent electronically to the Washington Supreme Court, to all parties in pending
12 discipline and disability matters, and will be posted on the WSBA website.

13 BACKGROUND AND FACTS

- 14 1. On February 29, 2020, Governor Jay Inslee declared a state of emergency for the
15 entire state of Washington due to the public health emergency posed by the
16 coronavirus disease, COVID-19.
- 17 2. On March 11, 2020, Governor Inslee issued Proclamation 20-07 prohibiting
18 gatherings of 250 people or more (in King, Pierce, and Snohomish counties), and
19 strongly encouraging mitigation measures in all other large gatherings (including
20 social distancing/6 feet, and frequent cleaning of all surfaces)¹; Proclamation 20-07
21 noted further restrictions for events in King County as imposed in a parallel Local
22 Health Order of the same date (see below).

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24 ¹ On March 13, 2020, Governor Inslee issued Proclamation 20-11, expanding the restrictions of
Proclamation 20-07 to all counties in the state of Washington.

- 1 3. On March 11, 2020, Dr. Jeff Duchin, Health Officer for Public Health – Seattle &
2 King County, issued a Local Health Officer Order for King County prohibiting
3 gatherings of fewer than 250 people unless organizers take the following steps: (1)
4 Older adults and individuals with underlying medical conditions that are at increased
5 risk of serious COVID-19 are encouraged not to attend (including employees); (2)
6 Social distancing recommendations must be met (i.e., limit contact of people within
7 6 feet from each other for 10 minutes or longer); (3) Employees must be screened for
8 coronavirus symptoms each day and excluded if symptomatic; (4) Proper hand
9 hygiene and sanitation must be readily available to all attendees and employees; and
10 (5) Environmental cleaning guidelines from the U.S. Centers for Disease Control and
11 Prevention (CDC) are followed (e.g., clean and disinfect high touch surfaces daily or
12 more frequently).
- 13 4. On March 16, 2020, Governor Inslee issued Proclamation 20-14 amending
14 Proclamations 20-07 and 20-11, pertaining to gatherings of 250 or more, to reduce
15 the size of the gatherings to 50 people or less, and to prohibit activities of less than
16 50 people unless organizers comply with social distancing and sanitation measures
17 established by the United States Centers for Disease Control and Prevention or the
18 Washington State Department of Health guidelines.
- 19 5. On March 20, 2020, Chief Justice Debra Stephens issued Amended Order 27500-B-
20 607, which suspends jury trials and other non-emergency matters until after April 24,
21 2020. The Order requires courts to allow telephonic or video appearances for hearing
22 scheduled between now and April 24, unless impossible. The Order also allows
23 courts to “adopt measures to protect health and safety that are more restrictive than
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1 this order, as circumstances warrant, including by extending as necessary the time
2 frames in this order.”

3 6. On April 29, 2020, Chief Justice Debra Stephens issue Second Revised and
4 Extended Order Regarding Court Operations, which suspends jury trials and other
5 non-emergency matters until at least July 6, 2020. The Order requires courts to allow
6 telephonic or video appearances for hearing scheduled during the orders, and
7 authorizes other processes to protect the health and safety of all people.

8 7. On March 23, 2020, Governor Inslee issued Proclamation 20-25 prohibiting all
9 gatherings and prohibiting all people in Washington from leaving their homes except
10 for the limited purposes stated in the Proclamation. Pursuant to Proclamation 20-
11 25.1, Proclamation 20-25 is effective through at least May 4, 2020. Pursuant to
12 Proclamation 20-25.3, Proclamation 20-25 is effective, with modifications, through
13 May 31, 2020.

14 8. On March 24, 2020, Chief Justice Debra Stephens issued Order 25700-B-609,
15 temporarily authorizing the Chief Hearing Officer and the Disciplinary Board Chair
16 to issue sua sponte emergency administrative orders relating to discipline and
17 disability matters, except for those matters before the Washington Supreme Court.
18 The emergency orders may include modifications of the manner and timing of
19 hearings and proceedings, depositions, default hearings, motions, settlement
20 conferences, filing, service, and delivery of other papers by the clerk under the ELC,
21 and transmission of other documents, papers and communications authorized or
22 required under the ELC, consistent with the Washington Supreme Court’s Revised
23 and Extended Order 27500-B-615 (April 13, 2020);

1 9. Based on the current health emergency, good cause exists to issue an administrative
2 order relating to pending discipline and disability matters, except those before the
3 Washington Supreme Court.

4 IT IS HEREBY ORDERED THAT:

5 HEARINGS

- 6 1. All in-person hearings in discipline and disability matters with hearing dates
7 currently set on or before July 6, 2020 are continued.
- 8 2. All unexpired deadlines in Scheduling Orders for matters described in paragraph 1
9 are continued until new or amended Scheduling Orders are issued.
- 10 3. Hearing Officers should work with the parties to establish new hearing dates for
11 matters described in paragraph 1 and should issue new or amended scheduling orders
12 by July 6, 2020.
- 13 4. For any matters where a hearing date has not been set as of the date of this order, the
14 hearing should not be set before August 1, 2020.

15 DEPOSITIONS

- 16 1. Until this order is amended or rescinded, depositions may be held by telephone or
17 videoconference only.

18 DEFAULT HEARINGS

- 19 1. Until this order is amended or rescinded, default hearings may proceed by telephone
20 or videoconference only.

21 DISCIPLINARY BOARD MATTERS

- 22 1. Sue sponte considerations and stipulation approvals may continue by telephone or
23 videoconferencing only.

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MOTIONS

1. Until this order is amended or rescinded, motions may be heard by telephone or videoconference only.

SETTLEMENT CONFERENCES

- 1. Until this order is amended or rescinded, settlement conferences may be held by telephone or videoconference only.
- 2. Settlement conferences already completed are not subject to this order.

ORDERS ENTERED PRIOR TO MARCH 24, 2020

1. Orders entered prior to today, and not specifically mentioned in this order, remain in full force and effect. Obligations in stipulations, probation, diversion agreements, cost orders, and other similar orders, remain in effect and failure to comply could be grounds for discipline or other action authorized by the Rules for Enforcement of Lawyer Conduct.

FILING AND SERVICE BY THE CLERK

- 1. Until this order is amended or rescinded, all filing should be done electronically, unless impossible.
- 2. Until this order is amended or rescinded, the Clerk may serve orders electronically, unless impossible.

SERVICE AND DELIVERY OF OTHER PAPERS

1. Until this order is amended or rescinded, unless personal service is required under the Rules for Enforcement of Lawyer Conduct, service of papers under Title 4 of the Rules for Enforcement of Lawyer Conduct may be accomplished by electronic

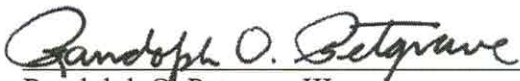
1 means.

- 2 2. Until this order is amended or rescinded, all other documents, papers, and
3 communications authorized or required under the Rules for Enforcement of Lawyer
4 Conduct may be transmitted by electronic means.

5 RELIEF

- 6 1. Any party requesting relief from this Order must electronically file a written motion
7 with the Chief Hearing Officer (matters before a hearing officer) or Disciplinary
8 Board Chair (matters before the Disciplinary Board). Motions for relief should be
9 submitted by email to onlinefiling@wsba.org.

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12 Dated this 6th day of May 2020.

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15 Randolph O. Petgrave III
16 Chief Hearing Officer

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18 Janice Sue Wang
19 Disciplinary Board Chair

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF TEMPORARILY)
DELEGATING AUTHORITY TO THE WSBA)
DISCIPLINARY BOARD CHAIR AND CHIEF)
HEARING OFFICER TO ADOPT EMERGENCY)
ORDERS RELATED TO THE RULES FOR)
ENFORCEMENT OF LAWYER CONDUCT (ELCs))

ORDER

NO. 25700-B-609

WHEREAS, during this state of emergency, the Centers for Disease Control and Prevention and the Washington State Department of Health have urged increasingly stringent social distancing measures of at least six feet between people, and encouraged vulnerable individuals to avoid public spaces; and

WHEREAS, consistent with these recommendations, Governor Inslee has issued a proclamation directing Washington residents to stay at home except to meet essential needs and has prohibited most gatherings of any size, while continuing to encourage using telephonic, video or other means of conducting business without in-person contact; and

WHEREAS, pursuant to this Court's Amended Emergency Order 27500-B-607, issued March 20, 2020, Washington courts and judicial branch agencies have already taken important steps to protect public health while ensuring continued access to justice and essential court services; and it may become necessary for the Washington State Bar Association to suspend operations further or otherwise significantly modify their operations that administer the lawyer and disability system under the Rules for Enforcement of Lawyer Conduct (ELCs).

Now, Therefore, the Court finds that the following order should be entered.

IT IS HEREBY ORDERED:

ORDER
No. 25700-B-609
March 24, 2020

(a) The Court retains exclusive responsibility to administer the lawyer discipline and disability system under Rule for Enforcement of Lawyer Conduct (ELC) 2.1; however, in order to continue the administration of lawyer discipline and disability while ensuring the health and safety of participants, the court temporarily authorizes the Chief Hearing Officer and the Disciplinary Board Chair to issue sua sponte emergency administrative orders relating to discipline and disability matters, except for those matters before the Washington Supreme Court. The emergency orders may include modifications of the manner and timing of hearings and proceedings, depositions, default hearings, motions, settlement conferences, filing, service, and delivery of other papers by the clerk under the ELC, and transmission of other documents, papers and communications authorized or required under the ELC, consistent with the Washington Supreme Court's Amended Order 27500-B-607 (March 20, 2020);

(b) This temporary delegation of authority expires at such time as the public health emergency has abated to the extent that the WSBA can resume normal operations;

(c) Nothing in this order prevents the court from issuing additional orders related to the administration of the lawyer discipline and disability standards;

(d) Emergency orders issued by the Chief Hearing Officer and the Disciplinary Board Chair shall be forwarded to the Supreme Court and posted on the WSBA.org website.

(e) This order is effective immediately and will be published on the Washington Court's website.

DATED at Olympia, Washington this 24th day of March 2020

For the Court


CHIEF JUSTICE