

**IN THE MUNICIPAL COURT OF THE CITY OF BELLINGHAM
WHATCOM COUNTY, WASHINGTON**

)
) AMENDED
) EMERGENCY ORDER
) RE: RESUMPTION OF
) LIMITED COURT
) OPERATIONS

The Court, being fully informed, hereby issues the following FINDINGS:

1. All findings and Orders in the "Emergency Order Re: Resumption of Limited Court Operations" dated June 2, 2021 are incorporated herein, except as may be modified below.
2. Court operations remain extremely limited due to labor shortages caused, in large part, by the interference by the executive branch of the City of Bellingham in issues related to court personnel in violation of General Rule 29, Bellingham Municipal Code 2.16.030(c), Revised Code of Washington 3.50.080, and constitutional principles requiring separation of powers.
3. The Presiding Judge of Bellingham Municipal Court has attempted to stop the unlawful intrusion into her lawful authority by initiating a legal action against the City of Bellingham and its Mayor, Seth Fleetwood, in Whatcom County Superior Court Cause No. 21-2-00541-37.
4. Visiting Skagit County Superior Court Judge Elizabeth Yost Neidzowski granted the Presiding Judge's "Motion for Emergency Temporary Injunctive Relief" on June 4, 2021 in that civil cause.
5. On May 28, 2021, Judge Lev requested that the State of Washington's Commission on Judicial Conduct review any allegations of misconduct in the Bellingham Municipal Court.
6. The Court is making every effort to return to normal operations. Prior to the present disruption of court operations, there were unfilled court staff positions due to the City of Bellingham's Human Resources Department's hiring processes. Additionally, because of the failure of several court staff to report to work, including the Court's only accounting clerk, the Court remains extremely short of staff.
7. The Court has attempted to hold as many hearings as possible in those cases of greatest importance to public safety and community needs as provided by the Emergency Order Re: Resumption of Limited Court Operations. However, the Court has determined that the level of operations anticipated by that Order is not sustainable.
8. There are numerous tasks and court requirements that must be accomplished outside of the courtroom which can no longer be met due to staffing shortages and reallocation of available resources. These tasks include, but are not limited to, daily court accounting, responding to all public requests, screening applications of eligibility for public defenders, processing of traffic infractions and parking violations, and referring matters to collection. Although screening of indigency

applications can no longer be completed, constitutional requirements will be met and the Court will not deny individuals their right to counsel.

Now, therefore, it is hereby ORDERED:

1. Unless otherwise ordered by a judicial officer, the Court will now hold calendars on the following days/times:
 - a. In-custody calendars commence at 8:30 a.m. on Mondays, Wednesdays and Fridays.
 - b. Arraignment calendars commence at 9:45 a.m. on Tuesdays.
 - c. High-priority probation violation hearings, including domestic violence cases, will be heard on alternating Thursdays commencing at 1:30 p.m. Any more urgent matters may be addressed by a written Notice of Violation with sworn testimony supporting a bench warrant request. Plea and Resolution calendars will be heard on the other alternating Thursdays commencing at 1:30 p.m.
2. Calendar start times may be adjusted due to staffing and caseload considerations.
3. All other calendars are cancelled until further notice.
4. All motions, including motions to quash bench warrants, shall be on written pleadings unless otherwise ordered.
5. The Court will not process traffic infractions or make findings of failure to appear in those matters.
6. The Court will not process parking violations.
7. The Court will not hold any of the following calendars until the present emergency is resolved:
 - a. Jury and bench trials;
 - b. Pretrial conferences;
 - c. Readiness;
 - d. Status;
 - e. Wellness (mental health court);
 - f. Contested;
 - g. Mitigation (including mitigation by mail and by email);
 - h. Deferred findings; and
 - i. Jail reviews.
8. Due to the inability to screen defendants for eligibility for a public defender, any requests for public defender are hereby GRANTED until further ordered.
9. Due to the inability to screen defendants for eligibility to serve commitments on electronic home detention through Friendship Diversion Services and the inability to monitor compliance, hold regular violation hearings, and the need for staffing reallocations, the Court will no longer sentence defendants to electronic home detention in lieu of jail. Consequently, all jail sentences not already ordered will be served at either the Whatcom County Jail or the Whatcom County Jail Alternatives, unless otherwise ordered.
10. The Court will no longer refer matters to collections.
11. All orders relating to time, including speedy trial, enlargement, etc. found in the Emergency Order on June 2, 2021 remain in effect.

DATED this 9 day of June, 2021.

A handwritten signature in blue ink, appearing to read 'DL', is written above a horizontal line.

DEBRA LEV,
Presiding Judge