

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

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

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

1. The Presiding Judge of the Bellingham Municipal Court has exclusive authority over court personnel decisions “including but not limited to working conditions, hiring, discipline, and termination.” GR 29(f)(5).
2. The Presiding Judge is also “responsible for leading the management and administration of the court’s business, recommending policies and practices that improve the court’s effectiveness, and allocating resources in a way that maximizes the court’s ability to resolve disputes fairly and expeditiously.” GR 29(e)
3. GR 29(f) expressly prohibits judges from delegating such duties to persons in the executive or legislative branches of government except for “ministerial duties” when directed by the Presiding Judge.
4. Bellingham’s Mayor, Human Resources Department, and City Attorney’s Office are all located within the executive branch of government and have no lawful authority to interfere with court personnel or court operations, with the exception of “wages, or benefits directly related to wages.” GR 29(f)(5).
5. In April of 2021, one or more employees of the Court contacted the Human Resources Department with concerns that, according to that Department, related to “working conditions” at the Court.
6. Without notifying the Court, the Human Resources Department, City Attorney’s Office and other executive branch personnel launched an “investigation” into the Court’s working conditions without lawful authority.
7. In the course of the unlawful investigation, Court personnel were ordered by executive branch personnel to meet with investigators and discuss the Court’s working conditions. Interviews were conducted without notifying the Presiding Judge and interfered with scheduled court operations.
8. Court employees who refused to participate in the unlawful investigation were retaliated against. Without legal authority, the Human Resources Director placed one court employee on administrative suspension, and that employee’s electronic access to the Municipal Court Building was suspended. An attorney from the Civil Division of the City Attorney’s Office, the Court’s assigned attorney, served the documents unlawfully suspending the court employee, without approval from the Presiding Judge. A second, senior court employee’s electronic access to the Municipal Court Building was revoked and computer access was revoked by the executive branch, also without the consent of the Presiding Judge or lawful authority.

9. The Presiding Judge of the Bellingham Municipal Court repeatedly attempted to resolve the situation in a lawful manner, but the executive branch refused. On May 27, 2021 Judge Lev filed a lawsuit against the Mayor and City of Bellingham seeking declaratory, injunctive and other relief in the Whatcom County Superior Court under Cause No. 21-2-00541-37. That case is presently pending.
10. The events set in motion by the executive branch's unlawful interference with the Court have greatly disrupted court personnel and operations of the Court. Several judicial employees have walked off the job and are not currently working. Other employees are unable to work effectively and/or without fear due to the unlawful retaliation by the executive branch described above.
11. As a result, the Court conducted an emergency closure effective from May 28-June 1. The Court conducted limited hearings for in-custody cases during that time. After receiving support from other courts and reallocating its extremely limited resources, the Court will now attempt reopening on a limited basis. Due to staff shortages, the need to communicate with the public, and disruptions from the executive branch, the Court is only able to operate one courtroom at a time and is only able to conduct one calendar per morning and one calendar per afternoon.
12. In order to prioritize those cases with the greatest impact on public safety and cases involving incarcerated defendants, and to ensure that, to the greatest extent possible under the circumstances, the Court may preserve the public's right of access to justice, the Court has prioritized certain cases and calendars while this emergency continues. The Court will conduct arraignments, in-custody hearings, probation hearings, hearings in cases relating to domestic violence, wellness calendars, warrant quash hearings, pleas and resolutions. Doing so requires rescheduling some calendars and cancelling others.
13. The Court presently lacks sufficient resources to conduct trials, infraction hearings and routine pretrial conferences, among other matters.

Now, therefore, it is hereby ORDERED:

1. Unless otherwise ordered by a judicial officer, the Court will continue to hold the following calendars on their regularly scheduled times:
 - a. Monday morning in-custody calendars;
 - b. Tuesday morning (alternating) wellness calendars and plea and resolution calendars;
 - c. Wednesday morning in-custody calendars and Wednesday afternoon probation calendars;
 - d. Thursday morning arraignments and Thursday afternoon domestic violence calendars; and
 - e. Friday morning in-custody calendars.
2. Unless otherwise ordered by a judicial officer, the Court hereby reschedules the following calendars as follows:
 - a. Monday morning arraignment calendars shall now be heard at 1:30 p.m. on Monday afternoons;
 - b. Wednesday morning warrant quash calendars shall now be heard at 1:30 p.m. on Tuesday afternoons, and pleas and resolutions may be noted on Tuesday afternoon's calendar if adequate resources permit;
 - c. Wednesday afternoon motion calendars shall now be heard on the pleadings or may be special set under extraordinary circumstances if directed by a judicial officer;

- d. Friday morning arraignment calendars shall be heard at 1:30 p.m. on Friday afternoons.
3. The remaining calendars are hereby cancelled until further notice and matters currently set for hearing or trials on those calendars will be administratively rescheduled as soon as the Court's limited resources permits.
 4. Due to the emergency circumstances described above, the Court finds good cause to continue all trials, pretrial conferences, readiness hearings, status conferences, and infraction hearings. Speedy trial time in such criminal cases is excluded from this date until the date of the rescheduled hearings pursuant to CrRLJ 3.3(e)(8) due to the unforeseen circumstances set forth above. In all criminal cases in which time limits apply, for any cases that are continued to a later date due to the circumstances described above, time is enlarged pursuant to CrRLJ 8.1(b). The Court finds good cause to continue all infraction hearings.
 5. Due to lack of available staff, all funds received by the Court for parking infractions shall be forwarded to the Finance Department for processing as soon as practical.
 6. This is a temporary order in effect as long as the emergency persists.

DATED this 2 day of June, 2021.



DEBRA LEV,
Presiding Judge