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SWINOMISH TRIBAL COURT
SWINOMISH INDIAN TRIBAL COMMUNITY



In re:

Case No.: *CVSO-2020-0022*

Swinomish Tribal Court.

General Order of Amended Practice in Tribal Court (9/9/2020)

TO: Swinomish Tribal Police; Swinomish Tribal Prosecutor; Swinomish Tribal Advocates;
Parties appearing before the Tribal Court

THIS MATTER came before the Court *sua sponte*. This Order is issued in response to the continued public health concern caused by Covid-19 and in supplement of previous emergency orders of the Court regarding this matter. In any place where prior orders are in conflict with the terms of this order, this order shall prevail.

This order incorporates by this reference previous findings regarding the state of emergency caused by the Covid-19 virus and the official responses of the country, state, and Swinomish Tribe. As of the date of this order, the rate of infection in the nation and the state remains high and the Swinomish Tribe is attempting to adjust governmental functions to serve the community while still protecting the employees and public that rely on those services. Within the last month, the immediate Swinomish community experienced it first positive infections. The Tribal Court, in coordination with the Tribal Senate, will continue to serve the community, but must make accommodation in procedures to ensure the safety of Tribal Court personnel, parties that appear before the court, and the public.

SCANNED
9/9/20 BR

1 The CDC, OSHA, and other health and safety organizations provided guidelines designed
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3 to safely open businesses and government facilities while reducing the spread of Covid-19. The
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5 Swinomish Senate and public health officer provided similar guidance to the Court and other
6
7 government services. The below procedures are based on the best public health advice available
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9 and are designed to reduce the spread of COVID-19.
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11 In light of this guidance, the Court adopts the following rules regarding proceedings
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13 before the Court:
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17 **I. Interactions with the Clerk's Office and/or Court generally.**
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20 A. Until further notice the preferred method for filing pleadings will be by email directed
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22 to the Court Clerk at tribalcourtinfo@swinomish.nsn.us. The filing party must
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24 include in the email a mailing address, email address and a phone number where they
25
26 can be reached. All electronic filings are subject to the following rules:
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- 28 1. Parties must file pleadings and documents with the Court by electronic mail in
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30 PDF form from a valid email address. The subject line must include the case
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32 number (if assigned) and the name of the document. The body of the email must
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34 include a description of the pleading, the date and time of the filing, the name of
35
36 the filing party, and the party designation (i.e. plaintiff, defendant, etc.).
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- 38 2. For any new filing, a filing fee will be assessed and collected after filing as
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40 appropriate for the case to continue through the judicial process.
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- 43 3. Upon receipt, the Court Clerk shall deliver by email written confirmation to the
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45 filing party of the date and time the email program recorded receipt of the
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47 filing. If the return email comes back as undeliverable, the Court Clerk shall
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1 contact the filing party to request a valid email address. If one is not provided, the
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3 electronic filing shall not be valid.
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6 4. The Swinomish IT department scans all in-coming emails for computer viruses or
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8 other malware using anti-virus software. If a virus or other malware is detected,
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10 the filing will not be delivered to the Court Clerk and the sending party will not be
11
12 notified the email was rejected. Some emails may be otherwise misdirected. If a
13
14 party does not receive a confirmation email from the Clerk, it is the filing party's
15
16 responsibility to follow-up by phone or email to ensure their filing was received
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18 and filed. Parties may not assume a filing has been accepted without receiving
19
20 confirmation from the Court Clerk.
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23 5. Filings received after the Court's scheduled business hours shall be deemed to
24
25 have been received the next business day.
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28 6. Late filings may be accepted by the Court on a case-by-case basis if the filing
29
30 party can demonstrate that the late filing was caused by the email software or
31
32 electronic transmission error.
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35 7. Exhibits and attachments must be filed with a pleading or with a declaration
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37 explaining the exhibit or attachment.
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40 8. Exhibits and attachments may be included with any document filed electronically,
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42 provided:
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44 (a) The exhibit or attachment, when converted to .PDF is less than five
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46 (5) megabytes in size;
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1 (b) Any exhibit or attachment that consists of any previously filed document or
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3 exhibit that is already a part of the record may be omitted.
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6 (c) Exhibits or attachments of audio or video must identify the software program
7
8 needed to view the audio or video exhibit.
9

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11 (d) Exhibits or attachments over five (5) megabytes may be filed by alternative
12
13 means after consultation with the Court Clerk.
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16 B. Parties wishing to file physical pleadings and documents in the court may do so after
17
18 contacting the Court Clerk to make arrangements for filing.
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21 C. Individuals that wish to plead or pay their traffic judgment may do so by mail. If a
22
23 person admits the violation occurred and wishes to pay the fine pursuant to STC 5-
24
25 01.130 an individual may mail their signed ticket and payment to: Swinomish Tribal
26
27 Court, 17337 Reservation Rd, La Conner, WA 9857. Until further notice payments
28
29 will not be accepted at the Clerk's Office.
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32 D. At such time that the Clerk's Office opens to conduct in-person business, the Court
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34 will enforce the mask rules and visitor sign-in rules stated below regarding in-person
35
36 hearings for all individuals entering the Swinomish Social Services Building. Under
37
38 NO CIRCUMSTANCES may a visitor to the Court enter the building or the Court
39
40 area without first contacting the Court Clerk's office at (360) 466-7217 as described
41
42 below.
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45 **II. Rules regarding hearings.** For the foreseeable future the Swinomish Tribal Court will
46
47 conduct hearings remotely and, if necessary and when possible, in-person. Parties shall pay close
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1 attention to all “Notices of Hearing” to determine when and where their hearing will be
2
3 conducted.
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6 **Remote Hearings:**
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- 10 A. Remote hearings before the Swinomish Tribal Court will be conducted using the
11 Zoom platform. Court hearings held via Zoom will be recorded and retained for the
12 record in accordance with Swinomish Tribal Code and Local Court Rules.
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14 B. Participants should appear for Zoom hearings by video if at all possible.
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16 C. If a party is unable to participate via Zoom due to lack of access to a cell phone or a
17 computer, please contact the Court Clerk and/or the Tribal Public Defender.
18
19 1. Questions about signing up for Zoom or the Swinomish Tribal Court Zoom
20 Hearing process may be directed to Sr. Court Clerk Blair Page
21 at bpage@swinomish.nsn.us or 360-982-1779.
22
23 2. Questions regarding a specific criminal case or the inability to participate via
24 Zoom may be directed to the Tribal Public Defender, Laurence Blakely,
25 at lblakely@swinomish.nsn.us or 360-708-4493.
26
27 D. To ensure access to scheduled hearings, it is strongly advised that parties create a
28 Zoom account prior to the scheduled hearing.
29
30 1. To create a Zoom account: Visit: <https://zoom.us/signup> or download the app for
31 your mobile phone and create a free account.
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33 2. To sign into a Zoom meeting: Open the app or go to <https://zoom.us/>
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- 1 3. Click join a meeting, Enter meeting ID and Password (from your court
2 notification).
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5 4. When you sign in, you may be asked to wait for a meeting to start. Please be
6 patient and the Clerk will open the meeting.
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10 5. The Clerk will know that you are waiting, so be assured that you will be brought
11 into the hearing as close to your hearing time as possible.
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15 E. Parties appearing remotely must dress appropriately for a court hearing. Hearing
16 participants should remain seated in a well-lit and distraction free location. Parties
17 should keep their microphone muted until they are addressed and asked to speak.
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19 Parties that appear in violation of this rule or are unable to maintain a clear
20 connection to the hearing may have their hearing continued to a later date.
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27 **In-person Hearings:**
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30 F. Parties that are directed to appear for an in-person hearing shall do so in the
31 Swinomish Tribal Courtroom located on the second floor of the Swinomish Social
32 Services building at 17337 Reservation Road, La Conner, WA. 98257.
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36 G. Only parties, their counsel, and individuals having business before the Court for a
37 scheduled hearing will be allowed in the courtroom. Any hearing that would
38 otherwise be open to the public may be viewed streaming on the Court's YouTube
39 page at <https://www.youtube.com/channel/UCkACjQJcU3E9C4IUx-NhC9w>
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44 H. Individuals allowed to enter the courtroom may only sit in designated seating areas or
45 as directed by Court staff.
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1 I. All parties expecting to appear before the Court shall remain OUTSIDE the
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3 Swinomish Social Services building until they are escorted to the courtroom by Court
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5 staff. Upon arrival for a hearing, the party shall call the Court bailiff by phone at
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7 (360) 708-3029, or Court Clerk at 360-982-1779, to report their presence for the
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9 hearing.
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11 J. All persons entering the Swinomish Social Services building and the Swinomish
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13 Court shall sign the designated "Visitor Log" and provide all requested contact
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15 information. Any person choosing not to provide the requested information will be
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17 denied access to the building. Individuals wishing to keep the requested information
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19 confidential may seek special accommodations with the bailiff or Court Clerks.
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22 K. In compliance with the Swinomish Senate employee mask policy, and
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24 recommendations of all health professionals, all persons working for or having
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26 business with the Swinomish Tribal Court shall comply with the following mask
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28 policy:
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32 1. All persons over two years of age seeking entry to, or occupying, the Swinomish
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34 Tribal Court must wear a layered face covering or mask at all times unless
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36 otherwise directed by Court staff.
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40 2. A layered face covering is one in which the fabric, fit, and breathability are
41
42 acceptable to the Court. Layered face coverings are two or more layers of tightly
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44 woven cloth, such as cotton, that cover one's nose and mouth in a fitted manner to
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46 reduce the spray of respiratory particles. Bandanas, mesh masks, and similarly
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48 porous fabrics, and masks with a valve that allows unfiltered exhalation, are not
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1 suitable face coverings to satisfy the goals of this Mask Policy and are not
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3 authorized for use in the courtroom.
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6 3. The face covering must completely conceal the wearer's nose and mouth at all
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8 times.
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12 4. Any visitor seeking entry to the courtroom without a face covering or mask will be
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14 provided a mask by the Court.
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17 5. Attorneys who appear for proceedings shall wear a mask or a face shield when not
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19 speaking during proceedings. Attorneys may lower their mask when speaking
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21 during proceedings.
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25 6. Persons who are not wearing a face covering or mask at entry and who decline a
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27 Court-provided mask will be denied entry unless they state that a medical
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29 condition, mental health condition, or disability prevents them from safely wearing
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31 a mask. Medical documentation is not required. Those making such a declaration
32
33 will not be required to wear a mask and will instead be offered a clear plastic face
34
35 shield. Persons who decline this face shield will be asked to step outside to
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37 telephone the Bailiff or Court staff to discuss options for their entry to the
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39 courthouse. If arrangements cannot be made, the Bailiff or Court staff is
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41 authorized to deny entry. Individuals with disabilities who foresee an issue with
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43 these procedures are advised to contact the Clerk's Office to make arrangements in
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45 advance.
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1 7. The Bailiff shall enforce this Order and deny entry to those individuals not
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3 wearing a face covering or mask.
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6 **III. General Emergency Rules of Court:**
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10 A. Because this emergency is fast moving and requires changes in behavior and
11 practice, sometimes on a daily basis, the Court will post all notices of docket changes,
12 rule changes, and other important information on the Court web page at
13 www.swinomish.org/resources/tribal-court.aspx and parties may rely on the orders
14 and rules posted there.
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17 B. Parties seeking emergency relief may contact the Court Clerk between the hours of
18 8:30 a.m. and 5:00 p.m. Monday – Friday at (360) 982-1779 or by email at
19 tribalcourtinfo@swinomish.nsn.us. During non-business hours people are directed to
20 call 911.
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23 C. The Court may enter ex parte no contact orders Pursuant to STC 7-11 or STC 7-12
24 when a petition is filed with the Court and the Court finds that a preponderance of
25 evidence is present that a sex offense, domestic violence, elder abuse or harassment
26 offense has occurred. Ex parte orders may be served upon the respondent by mail.
27 This provision does not relieve the prosecution of proving a knowing violation of
28 such ex parte order in any prosecution for violating the order. Good cause exists for
29 the Court to extend ex parte orders beyond the initial fourteen (14) day period until a
30 hearing can be held.
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46 D. The Court continues to find that, due to the current inability to obtain an adequate
47 spectrum of jurors and the effect of the above public health situation on the
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1 availability of witnesses, counsel and Court staff to be present in the courtroom, the
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3 time period of the continuances ordered and delays in hearings resulting from this
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5 crisis will be excluded under SITC 3.03.350 speedy trial requirements, as the Court
6
7 finds that the ends of justice served by ordering the continuances outweigh the best
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9 interests of the public and any defendant's right to a speedy trial.
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12 E. In order to limit the physical exchange of documents, signatures on documents in
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14 criminal proceedings conducted remotely will not be required. Instead, the Court will
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16 make a record that the document has been reviewed and authorized by the signatory
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18 and is fully binding. Such documents include, but are not limited, Statements of
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20 Defendant on Plea of Guilty, Deferred Judgments and Judgment and Sentencing
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22 Orders.
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26 SO ORDERED this 9th day of September, 2020.
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34 Mark W. Pouley, Chief Judge
35 Swinomish Tribal Court
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