

**IN THE MAGISTRATE COURT OF RABUN COUNTY
STATE OF GEORGIA**

**IN RE: Compliance with
May 11 and June 12, 2020
Orders of the Chief *
Justice of the Georgia *
Supreme Court * Standing Order of the Courts
*

**STANDING ORDER FOR ONLINE AND IN-PERSON PROCEEDINGS
DURING THE COVID-19 PANDEMIC**

I. PURPOSE AND DURATION

The Chief Justice of the Georgia Supreme Court on May 11, 2020 entered an order requiring that each court must develop written guidelines as to how “**...in-court proceedings generally and particular types of proceedings will be conducted to protect the health of the litigants, lawyers, judges, court personnel, and visitors.**” That order further mandates that the written guidelines must address certain specific matters to ensure compliance with the recommendations of public health authorities. The terms of the May 11 Order were continued in force by subsequent order entered on June 12, 2020.

The following standing order is, therefore, entered to ensure recommended best practices are in place for the purpose of promoting the safety of all participants in the judicial process. It is anticipated that this order shall remain in effect for so long as the Covid-19 virus remains a public health threat in the communities served by the Magistrate Court of Rabun County.

The issue of health screening of court personnel also required to be addressed by the Order of the Chief Justice is not contained herein, but is provided for by separate internal operating procedures of the courts or by written personnel policy adopted by

the court.

The Chief Justice has established a task force for the purpose of providing assistance and guidance concerning many of the issues addressed by this order. It is, therefore, anticipated that this order may be amended based on guidance provided by the task force or based on a change in recommended best practices. Additional provisions shall also be made for the procedures to be followed in jury trials.

Therefore, in accordance with the order and direction of the Chief Justice, this Standing Order is entered after consideration of guidelines issued by the Centers for Disease Control (CDC), the Georgia Department of Public Health (DPH), the National Center for State Courts (NCSC), **the Georgia Court reopening Guide**, and consultation with State and Local Health officials.

II. ONLINE PROCEEDINGS

The Chief Justice's Order contemplates that whenever practicable proceedings shall continue to be held online. Cases involving the subject matter jurisdiction of the Rabun County Magistrate Court may be heard online unless the Court finds that the hearing should take place in-person as a result of the impracticality of presenting the case online or because an in-person hearing is required to secure a criminal defendant's rights to confrontation.

Provided, however, **that in the event that it appears that a virtual hearing is not feasible because, for example, of technical issues or language barriers**, the court may, sua sponte or on the motion of a party, recess a virtual proceeding and reschedule the matter for an in-person hearing at the court's earliest convenience, subject to the requirements that high-risk persons be accommodated

III. PROCEDURE FOR ONLINE/VIRTUAL HEARINGS

The Magistrate Court of Rabun County has selected an online platform such as Microsoft Teams, Webex or Zoom on which court proceedings may take place. The attorneys and litigants participating online by personal computer or smartphone through the selected platform must be able to hear the other participants, the Court, and any witnesses. The participants shall also have access to video to the extent feasible.

Attorneys and their clients must be able to communicate privately during the proceedings both orally and in writing either through a private meeting function on the platform application, by muting the other participants, or by private text or cell-phone conversation. The Court may grant reasonable breaks to permit the attorneys to speak privately to their clients.

The oath may be administered to witnesses by the Court, or the attorney calling the witness. A witness sworn online will be considered for all purposes as the oath having been administered in person.

Although the Magistrate Court of Rabun County is not a court of record, a party may request and provide for a court reporter. The court reporter may be present in the courtroom with the judge or online with access to the audio and video for any proceedings.

To ensure that all proceedings are open to the public as required by law; each daily court session (or each proceeding, depending on the application or platform used) shall be assigned a link by which any member of the public may listen to and/or view the entirety of the proceedings by joining the “meeting” as an observer or “webinar” participant.

Notice that the proceedings will be held online shall be posted on the websites of Rabun County, the Clerk of Magistrate Court, and shall also be distributed to the media, along with a notice that anyone who wishes to attend should contact the office of the Clerk for the link to be used to access the particular court session or proceeding.

If the number of persons seeking to attend a virtual proceeding exceeds the limit permitted by the platform or application (e.g. 250 on Microsoft Teams), the proceedings shall be continued until the first available date following the expiration of the emergency order or until arrangements can be made for the proceedings to be live-streamed so that they may be viewed by an unlimited number of persons, whichever first occurs.

There shall be made available in each courthouse at least two (2) computers (with a webcam, if possible) for use by litigants. Each such computer shall be maintained in a separate room in the courthouse so as to avoid any contact between litigants, particularly in proceedings under the Family Violence Act. O.C.G.A 19-13-11

All proceedings shall be subject to the provisions of O.C.G.A. § 15-1-10.1 and Uniform Magistrate Court Rule 11 (or the applicable rule of any other court). Therefore, the proceedings may not be recorded except in accordance with the rules of court. Attorneys and unrepresented parties may record the proceedings after giving notice to the Court. Members of the public may only record after making a request and being granted permission to record pursuant to the rule.

The outgoing sound or voice for members of the public observing proceedings shall be muted and they shall not speak or use any messaging feature of the application to communicate publicly or privately with the Court, the litigants, or the attorneys. This shall not prohibit private communications between the attorneys and their clients or staff.

Members of the public observing the proceedings shall not “unmute” themselves so that they can be heard, nor shall they speak or otherwise disrupt the proceedings. Attorneys, parties and observers in any online proceeding are expected to behave as they would in a courtroom. Any person who disrupts a proceeding shall be subject to removal from the proceedings. A person who seriously or repeatedly disrupts proceedings, thereby interfering in the administration of justice, shall be subject to the contempt power of the court. Instructions for attending a virtual hearing shall be provided litigants or their attorney of record by the clerk of the Magistrate Court.

IV. IN-PERSON PROCEEDINGS

As to proceedings held in-person:

- A. The total number of persons inside the bar of the court and in the courtroom audience shall not exceed the maximum occupancy as posted outside the Rabun County Magistrate courtroom or other space.
- B. Persons seated in the courtroom shall maintain at least 6 feet of distance from other persons. Provided, however, that persons who occupy the same household shall not be required to distance from each other, but only from other persons in the courtroom. Attorneys may move closer to their clients as needed to communicate confidentially.
- C. All persons shall wash their hands with soap and water prior to entering the courtroom. If hand-washing stations are available outside the courthouse, they shall be used prior to entry into the courthouse.
- D. Hand Sanitizer shall be available at each counsel table.
- E. All persons present in the courtroom shall use a face covering. **PPE may be provided by the court or county if available.**
- F. Attorneys shall not be permitted to approach a witness who is testifying.

- G. All matters shall be set for a specific time with a break before the next scheduled matter to allow for the courtroom surfaces to be cleaned.
- H. All matters expected to last longer than 45 minutes shall be specially set for a date certain based on the time estimate provided by counsel or the parties (if self-represented or agent representative). Attorneys or parties shall contact the Rabun County Clerk of Magistrate Court or her designee to specially set a matter. Proceedings shall be scheduled sufficiently in advance.
- I. First appearances, bond hearings, and extradition hearings held after hours, on the weekends, and holidays will be held at the discretion of the on-call Magistrate pursuant to the Official Code of Georgia and Uniform Rules of Magistrate Court. The hearing dates and times shall be orchestrated with the Rabun County Detention Center and that information shall be made available to the public upon request.

V. SECURING PUBLIC ACCESS TO PROCEEDINGS AND CRIMINAL DEFENDANTS' RIGHT TO OPEN COURTROOMS

- A. In the event that the Rabun County Magistrate courtroom seating capacity is insufficient to accommodate all those persons who wish to attend a proceeding, priority for courtroom seating shall be given on a first-come, first-served basis and those who cannot be accommodated shall be provided with access to view the proceedings remotely. Remote access may be provided by either "broadcast" of the proceeding to a monitor in another location within the courthouse where additional seating is available or by providing remote access to a link whereby the proceedings may be viewed online, or both. In any event where members of the public are accommodated by remote access, the proceedings shall

be accessible with “live” sound and video.

B. Additionally, with notice and prior approval of the court, family members, friends or interested members of the public may designate someone present in the courtroom to broadcast the proceedings to them by phone or video.

VI. ACCOMODATION FOR HIGH-RISK INDIVIDUALS

“High Risk” means someone who has a risk factor for severe illness if they contract the Coronavirus and is defined by the CDC as including:

- People 65 years and older;
- People living in a nursing home or long-term care facility;
- People who have chronic lung disease or moderate to severe asthma;
- People who have a serious heart condition;
- People who are immunocompromised;
- People with severe obesity (body mass index [BMI] of 40 or higher);
- People with diabetes;
- People with chronic kidney disease undergoing dialysis; and/or
- People with liver disease.

Any person who is considered “high risk” shall not be required to participate in in-person proceedings. If the person who is high-risk is a witness, their testimony may be presented by videoconference. If the high-risk person is a party or attorney, the matter shall be continued and rescheduled to take place at such time as a change in their health or the public health situation relating to Covid-19 makes this requirement moot. Provided, however, that if the matter is urgent and cannot be continued, the proceedings shall take place online, so long as in criminal cases, the Defendant

consents to such procedure or their right to confrontation is determined to be satisfied.
U.S v. Carter, 907 F. 3d 1199, 1208 (9th Cir. 2018).

VII. SANITIZATION OF THE COURTHOUSES AND COURTROOMS

All common areas of the Rabun County Magistrate Courtroom shall be sanitized in accordance with the CDC publication *Guidance for Cleaning and Disinfecting Public Spaces, Workplaces, Businesses, Schools and Homes* by use of approved cleaning products and routine disinfection of frequently touched surfaces. The Rabun County Magistrate Courtroom shall be cleaned daily by cleaning staff after or before court is held. Before leaving when their business is concluded, Litigants, Attorneys, and Court Personnel shall wipe down counsel tables and chairs that they have used with provided disinfectant wipes or spray and paper towels. To the extent practicable the published CDC guidance regarding building ventilation shall also be followed.

VIII. ACCESS TO THE COURTHOUSE AND COURTROOMS

In order to protect the public health, including the health of court employees, parties, court participants and all individuals, the Sheriff of Rabun county is directed to prominently post notices in the following form and to enforce the terms thereof:

NOTICE: BY ORDER OF THE JUDGES OF SUPERIOR COURT:

IN ORDER TO PROTECT THE PUBLIC HEALTH YOU MUST NOT ENTER THE RABUN COUNTY MAGISTRATE COURTROOM IF:

- 1. YOU OR ANYONE YOU HAVE HAD CONTACT WITH IN THE LAST 14 DAYS HAS TESTED POSITIVE FOR COVID-19/CORONAVIRUS;**
- 2. YOU HAVE BEEN DIRECTED TO SELF-QUARANTINE BY A PHYSICIAN, MEDICAL PROFESSIONAL OR PUBLIC HEALTH OFFICIAL; OR**
- 3. YOU ARE NOW OR HAVE EXPERIENCED THE FOLLOWING SYMPTOMS WITHIN THE LAST 14 DAYS: COUGH, SHORTNESS**

OF BREATH OR DIFFICULTY BREATHING, FEVER, CHILLS, MUSCLE PAIN, HEADACHE, SORE THROAT, NEW LOSS OF TASTE OR SMELL, NAUSEA, VOMITING OR DIARRHEA.

IF YOU ARE SUBJECT TO ANY OF THE REQUIREMENTS ABOVE, YOU MUST NOTIFY THE DEPUTY STATIONED AT THE COURTHOUSE ENTRANCE. WHILE YOU WAIT OUTSIDE, THE JUDGE OR THE OFFICE YOU ARE SEEKING TO VISIT WILL BE CONTACTED IMMEDIATELY AND WILL DETERMINE HOW YOUR BUSINESS MAY BE ACCOMODATED WITHOUT ENTRY INTO THE COURTHOUSE.

ALL PERSONS SEEKING TO ENTER THE RABUN COUNTY MAGISTRATE COURTROOM ARE SUBJECT TO HAVING THEIR BODY TEMPERATURE CHECKED BY INFRARED THERMOMETER. ANY PERSON WHOSE BODY TEMPERATURE EXCEEDS 100° FARENHEIT SHALL BE REFUSED ENTRY

ALL VISITORS TO THE RABUN COUNTY MAGISTRATE COURTROOM ARE REQUIRED TO WASH THEIR HANDS PRIOR TO ENTERING THE COURTROOM, IF HAND-WASHING STATIONS ARE AVAILABLE. IF NOT, THEY MUST DO SO IMMEDIATELY UPON ENTRY. VISITORS ARE REQUIRED TO WEAR A FACIAL COVERING WHILE THEY ARE IN THE BUILDING

NOTICE: BY ORDER OF THE JUDGES OF THE RABUN COUNTY MAGISTRATE COURT:

ALL PERSONS ENTERING THE COURTROOMS SHALL WEAR A FACE COVERING OVER THEIR MOUTH AND NOSE, UNLESS DOING SO WOULD ADVERSELY AFFECT THE HEALTH OF THE INDIVIDUAL OR WHERE THE INDIVIDUAL IS LESS THAN TWO YEARS OF AGE.

NOTICE: BY ORDER OF THE JUDGES OF THE RABUN COUNTY MAGISTRATE COURT:

IF YOU ARE CONSIDERED MEDICALLY “HIGH RISK” FOR SEVERE ILLNESS IF YOU WERE TO CONTRACT THE CORONAVIRUS, DEFINED BY THE CDC AS INCLUDING:

- **PEOPLE 65 YEARS AND OLDER;**
- **PEOPLE LIVING IN A NURSING HOME OR LONG-TERM CARE FACILITY;**
- **PEOPLE WHO HAVE CHRONIC LUNG DISEASE OR MODERATE TO SEVERE ASTHMA;**
- **PEOPLE WHO HAVE A SERIOUS HEART CONDITION;**
- **PEOPLE WHO ARE IMMUNOCOMPROMISED;**
- **PEOPLE WITH SEVERE OBESITY (BODY MASS INDEX [BMI] OF 40 OR HIGHER);**
- **PEOPLE WITH DIABETES;**
- **PEOPLE WITH CHRONIC KIDNEY DISEASE UNDERGOING DIALYSIS; AND/OR**
- **PEOPLE WITH LIVER DISEASE.**

YOU ARE NOT REQUIRED TO ENTER THE RABUN COUNTY MAGISTRATE COURTROOM OR PARTICIPATE IN IN-PERSON PROCEEDINGS. IF YOU BELIEVE THAT YOU ARE “HIGH-RISK,” YOU SHOULD CONTACT THE OFFICE OF THE ASSIGNED JUDGE FOR INSTRUCTIONS OR ASK THAT THE CLERK OF COURT OR COURTHOUSE SECURITY DO SO ON YOUR BEHALF. THE SAFETY OF HIGH-RISK PERSONS SHALL BE SECURED BY MAKING ARRANGMENTS FOR THEM TO ATTEND COURT ONLINE, BY VIDEO OR TELEPHONE CONFERENCE, OR BY CONTINUANCE OF THE MATTER TO A LATER DATE.

IX. CONCLUSION

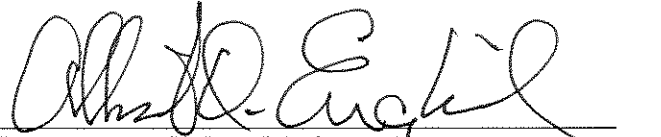
This Standing Order shall be prominently posted at the courthouse entrances and on the website of the Clerk of the Rabun County Magistrate Court so as to give advance notice to the litigants, the lawyers and the public.

Additionally, as required by Order of the Chief Justice, the Superior Court Judges of the Mountain Judicial Circuit, and consistent with public health guidance, the provisions set forth above limiting access to the courthouse based on illness or exposure are made applicable to all Rabun County Magistrate courthouse personnel, including the judges, assigned staff of the Rabun County Clerk of Magistrate Court, and assigned deputies of the Rabun County Sheriffs Office.

IT IS FURTHER ORDERED that the undersigned shall immediately notify and

serve a copy of the order on the Chief Superior Court Judge, and the Clerk of Rabun County Magistrate court to ensure expeditious receipt; and

IT IS SO ORDERED this 8th day of July, 2020 at 1:10 p.m. in Clayton, Rabun County, Georgia.

A handwritten signature in black ink, appearing to read "Albert O. English". The signature is written in a cursive style with a large initial "A" and "E".

Albert O. English, Chief Magistrate
Magistrate Court
Rabun County, Georgia