

**IN THE SUPERIOR COURTS OF THE WAYCROSS JUDICIAL CIRCUIT
STATE OF GEORGIA**

**ORDER DECLARING A JUDICIAL EMERGENCY
IN THE WAYCROSS JUDICIAL CIRCUIT**

The undersigned Chief Judge of the Waycross Judicial Circuit of Georgia declared the existence of a judicial emergency in this circuit, pursuant to O.C.G.A. § 38-3-60 et. seq. on July 10, 2020. The emergency is ongoing. The nature of the emergency is due to the COVID-19 pandemic. Governor Brian Kemp has declared a Statewide Public Health Emergency on March 13, 2020 and Chief Justice Harold D. Melton of the Georgia Supreme Court issued an Order Declaring a Statewide Judicial Emergency on March 14, 2020. The declarations by Governor Kemp and Chief Justice Melton have both been modified and extended since filing and remain in effect presently.

At this time, the counties comprising the Waycross Judicial Circuit are experiencing a surge in COVID-19 cases. We are receiving regular reports that court and/or courthouse personnel have tested positive for COVID-19 or had exposures to persons who are positive. Two Superior Court clerks and various personnel have tested positive . One Probate Judge and staff member are positive for COVID-19. In another county, a COVID-19 screener was positive for COVID-19. Two courthouse maintenance workers are positive in one county. One attorney and one legal assistant are positive. Additionally, there are scores of COVID-19 test results pending. One Superior Court Judge and one Chief Magistrate/Probate Judge have been diagnosed with COVID-19. The Chief Magistrate/Probate Judge's staff has been exposed and now is in isolation, the office is closed. One county has a positive security screener which led to extensive exposures of the security and bailiff staffs, which in turn led to two weeks of quarantine and thereby crippling judicial functions. One sheriff's office housed a COVID-19 inmate inside the sheriff's office which led to court being canceled. There also exist exposure events within the various courthouses which involve exposure to co-workers who are/were positive. Moreover, there are other non-work related exposure events occurring in the daily lives of the various court related personnel that also pose potential dangers. The judges of the Waycross Judicial Circuit

conclude that there is community spread or surges of COVID-19 cases in five of the six counties comprising the Waycross Judicial Circuit. There are incidences of COVID-19 in four of the six courthouses in the circuit.

In addition to the foregoing, Chief Justice Harold D. Melton has circulated a draft of his Fifth Order Extending Declaration of Statewide Judicial Emergency. The draft order shall ripen on August 11, 2020 and is anticipated that it will become effective that date in substantially the same form as it exist presently. The draft order, as well as the Fourth Order Extending Declaration of Statewide Judicial Emergency, dated July 10, 2020 authorize a Chief Judge to declare a judicial emergency in order to add to the restrictions imposed by His Honor's statewide judicial emergency orders.

Based on the facts and circumstances stated above involving COVID-19, it is the Court's intent to restrict all persons from entering the courthouses in the Waycross Judicial Circuit unless they are wearing a face mask. Also the Court may order various Courts and court related offices to engage in protective quarantines, whereby certain employees stay home and safe, and are thus able to rotate in for staff who are isolated or quarantined pursuant to paragraph IV B(2) of the Chief Justice's draft order. Both of these provisions are more restrictive than the Chief Justice's Order and therefore require an emergency declaration by this Court.

The Court finds that both restrictions are constitutional in that open and safe courts involve a compelling government interest. Moreover, each restriction imposes a minimal intrusion on personal freedom and liberty of those visiting or working in courthouses. The use of a face mask is now required to enter many businesses, doctor's offices and several states are requiring the use of face masks. Protective quarantine will involve voluntary participation by various personnel, if it is employed, and would require counties to pay participating employees. The governmental interest in open courts is compelling and protective quarantines, if employed, would be the last tool the court will have to deploy to keep clerk's offices, superior courts, and lower courts open. The Court finds that the use of face masks and protective quarantines are minimal intrusions and that they are reasonable and rationally related to a compelling governmental interest.

These steps are required by the local conditions existing in various counties in the

Waycross Judicial Circuit. These steps are intended to ensure that courthouses remain open and accessible to carry out essential judicial functions.

In addition to the facts stated above, the Ware County Courthouse has had the following known COVID-19 events:

The Clerk of Court was positive and symptomatic;

Two clerk's office staff were positive and symptomatic;

One deputy clerk was sick;

Two maintenance workers were positive and sick;

The Probate Judge was positive and sick and some his staff were positive.

Paragraph IV B(2) of Chief Justice Melton's draft order required the ill Ware County Deputy Clerk to be isolated and the rest of the exposed staff (all staff) to go into quarantine as of Monday morning, July 12, 2020.

Based on the foregoing facts and circumstances, I ordered the Ware County Clerk's office to close Friday, July 10, 2020 at 12:00 p.m. until further order of the Court. The Court reopened the Ware County Clerk's office July 24, 2020.

Many deadlines imposed on litigants have been tolled, suspended, extended or relieved by Chief Justice Melton's March 14, 2020 Order and the extensions thereof. However, most such deadlines were reimposed effective July 14, 2020. The Charlton County, Georgia Probate/Magistrate Court is closed as of 12:00 p.m. August 4, 2020 due to COVID-19. Various litigants could be harmed by not being able to access the Charlton County Probate/Magistrate Court. Therefore, all deadlines and other time schedules and filing requirements (referred to collectively as "deadlines") imposed on litigants by statutes, rules, regulations or court orders in civil or criminal cases and administrative actions are suspended, tolled, extended or relieved until the Charlton County Probate/Magistrate offices are reopened by this Court. All deadlines imposed herein shall be reimposed at 11:59 p.m. on the day before this Court reopens the Charlton County Probate/Magistrate office. This order will apply to Probate and Magistrate Court litigants and deadlines. The Magistrate and Probate Courts shall reopen at 9:00 a.m. on August 19, 2020, unless otherwise directed by this Court.

In cases where a judgment, order, or decree has been entered by any court pursuant to the

consent of all parties thereto, or any acknowledgment of service, waiver of service consent to trial consent to judgment, waiver of right to trial, waiver or surrender of any right(s), singularly or any combination thereof, indicating consent to judgment, a waiver of all tolling provision of this Court's emergency orders is effectuated. Any such judgment, order, or decree shall be valid, in compliance with this Court's orders, and shall be a final order on the date that any such order, judgment, or decree was filed of record.

During the pendency of the COVID-10 pandemic, there has not been any official channel for reporting COVID-19 related cases, incidents, or exposure to the Superior Court Judges. Worse still there, even now, as of this writing, exist no mandatory reporting requirement of COVID-19 cases, incidents, or exposures to the Superior Court Judges. However, pursuant to Chief Justice Melton's July 12, 2020 Order, there are provisions which affirmatively mandate that the Superior Court judges police COVID-19 cases, suspected cases and exposures likely to result in infections. The Superior Court judges will now have to isolate persons with known or suspected COVID-19 and quarantine persons with COVID-19 exposures likely to result in infection.

Heretofore, the judges knowledge of COVID-19 activity and courthouse penetration has been haphazard at best, based on the courthouse "grapevine", rumor, and supposition. This will not suffice as a means to inform judges charged with such a heavy burden.

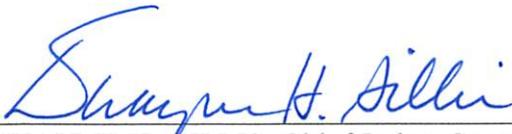
Each person's medical history and condition is a private matter protected by Georgia law and HIPPA. This protection applies to known or suspected COVID-19 cases and to COVID-19 exposures. However, to an extent that persons voluntarily share such information "who work in a court facility" (IV B(2) of the July 12, 2020 order) with other persons "who work in a court facility" the person receiving such information shall immediately report the same to their supervisor who in turn shall immediately report it to any one of the Superior Court judges. This order does not require or compel one to self report his/her own medical condition or private information to anyone, nor does it require one to violate the HIPPA or privacy rights of another person. It merely requires persons "who work in a court facility" to share any information legally acquired with the Superior Court judges in order that they may comply with the Chief Justice Melton's July 12, 2020 order.

The Chief Justice's Emergency Orders, as well as the forthcoming August 11, 2020 Order, contain provisions requiring each court to set forth, develop, and implement health and safety guidelines. The Waycross Judicial Circuit has done so. However, Emergency Orders by the Supreme Court and this Court expire every thirty (30) days by law. Therefore all health and safety orders and guidelines issued by this Court shall survive the duration of the Emergency Order pursuant to which there were enacted. All COVID-19 related health and safety guidelines and orders shall be effective until further order of this Court.

This order's closure and tolling provisions of Charlton County Probate and Magistrate Court are effective immediately. This Order extends this Court's July 10, 2020 Order effective August 9, 2020 at 11:59 p.m. until September 8, 2020 at 11:59 p.m.

This order shall be served upon the Chief Justice of the Georgia Supreme Court, Chief Judge of the Georgia Court of Appeals and the respective clerks thereof; all judges and clerks in the Waycross Judicial Circuit; all lawyers and litigants if possible; and the pertinent newspapers in the circuit. All clerks are ordered to post this order conspicuously in their respective courthouses.

SO ORDERED, this 5 day of August, 2020, at 3:55 p.m. in Douglas, Coffee County Georgia.



DWAYNE H. GILLIS, Chief Judge, Superior Court
Waycross Judicial Circuit