



PANDEMIC JURY TRIAL PLAN FOR BELL-FORSYTH JUDICIAL CIRCUIT

OCTOBER 28, 2020

COMMITTEE MEMBERS:

Chief Judge Jeffrey S. Bagley, Superior Court, Chair
Hon. David L. Dickinson, Superior Court
Hon. Philip C. Smith, Superior Court
Hon. T. Russell McClelland, State Court
Hon. Leslie Abernathy-Maddox, State Court
Penny Penn, District Attorney
Sandra Partridge, Chief Assistant District Attorney
William A. Finch, Solicitor General
Greg Allen, Clerk of Courts
Robin Rooks, Circuit Court Administrator
Norman Cuadra, Defense Attorney
Melissa Banker, Defense Bar President
Ron Freeman, Forsyth County Sheriff
Dr. Zachary Taylor, Director District 2 Public Health
Connie Brooker, Indigent Defense Administrator

By Administrative Order entered July 7, 2020, Chief Judge Jeffrey S. Bagley established and appointed a COVID-19 Jury Committee to assist the courts with conducting jury trials. The Committee was charged with seeking to ensure the health and safety of all persons involved in the court system, while protecting constitutional and statutory rights for defendants, witnesses, and victims. The Committee was expanded with additional appointments by Order entered July 20, 2020.

The Bell-Forsyth Judicial Circuit is committed to resuming jury trials. Upon review of the guidelines for resuming jury trials and other relevant material listed in the Appendix of the Sixth Order, and upon consideration of the facilities available for use in Forsyth County and the circumstances particular to the county, the Jury Committee has developed the present plan for the resumption of jury trials.

A. Empaneling Jurors

A written questionnaire will be sent with the summons to identify high risk populations and symptomatic persons so that they can be excused or deferred in advance to eliminate the requirement of their ever appearing at the courthouse. Consider that jurors in the COVID-19 “high risk” category based on a valid note from a treating physician be given strong consideration for excusal from jury service for hardship. This should be done prior to having to appear in person. All persons will have their temperature checked before entering the buildings. The large county commissioners’ meeting room which can accommodate up to 50 persons with social distancing will be used to assemble. Everyone is required to wear masks. The large courtroom, which can accommodate up to 26 persons, will also be used for holding and empaneling. Jurors will be questioned in panels of no more than 12 in staggered sets with thorough cleaning between each panel. Courtrooms will be cleaned between each panel and every evening after court.

At least three bailiffs will be scheduled to provide support in all of the procedures outlined.

At least three Sheriff’s deputies will provide security and support in all of the procedures outlined.

B. Courtroom Configuration

It was determined that the conventional courtrooms in the Forsyth County Courthouse will not be suitable due to the conventional jury box not being capable of providing appropriate social distancing. The Jury Assembly Room located on the first floor was identified as a

room which could accommodate social distancing. The Public Health Department has been consulted to determine appropriate safety requirements. An architect was commissioned to design a temporary courtroom which could accommodate social distancing. Forsyth County Department of Facilities has been consulted to determine what HVAC modifications may be made in the courthouse. That has been accomplished. This design will include plexiglass between juror's chairs.

C. Access to the Forsyth County Administrative Building and Forsyth County Courthouse

Anyone coming to the Forsyth County Administrative Building and the Forsyth County Courthouse to attend any court proceeding will be required to submit to a screening at the entrance to both buildings. The screening will include questions as to whether the person is experiencing fever, shortness of breath, persistent cough or sore throat, or any other symptoms of respiratory infections. The visitor will also be asked questions concerning their travel and possible exposure to COVID-19 within the last fourteen days. Each person entering the building will also have their temperature taken electronically. Should concerns be raised as a result of this screening, the Court will be immediately notified, and a decision made as to whether the person will be allowed in the building.

With regard to court personnel, isolation of any person with known or suspected COVID-19 and quarantine of any person with COVID-19 exposure likely to result in an infection is required. When there is reason to believe that anyone who works or has visited Jury Assembly in the County Administration Building or the Forsyth County Courthouse has been exposed to COVID-19, the Public Health Department shall be notified and notification of persons who may have been exposed shall occur as directed by the Public Health Department.

D. Precautions to be Taken

Plans are to perform rapid COVID-19 testing each morning of the trial for the defense attorney and the defendant. In the alternative, the defense attorney and defendant may use headsets that permit private conversations while maintaining social distancing. Jurors who are exposed to COVID-19 or who are experiencing symptoms of COVID-19 are to notify a designated point of contact and not to report to the courthouse. Limited seating is available for spectators. Spectators will also be able to view court proceedings in a separate courtroom.

E. Attorneys in the Courtroom

Attorney and client contact may be determined by attorney's and client's preferences for strict social distancing. Mask removal may be permitted temporarily only while at the counsel table. Exhibit

Attorneys may use paper notes to exchange communications. The Court will permit the use of electronic devices such as tablets or laptops for the attorney and client to send text messages to each other. The "last resort" protocol for attorneys requiring strict compliance with social distancing is to use a designated conference room.

Lawyers must maintain social distancing but may move about the courtroom at the discretion of the trial judge.

Counsel must examine witnesses from the counsel table or podium and must not approach the witness without leave of the Court.

F. Trial Procedure

The normal procedures for conducting jury trials will be modified to some extent. The presiding judge, court personnel and litigating parties shall be mindful and considerate of the anxiousness of potential jurors who are kept waiting. Every effort shall be made to begin jury trials promptly at the time designated. If unexpected delays are encountered, jurors should be allowed to leave the courtroom and return at a designated time, rather than kept in the juror area.

Counsel tables will be arranged so that so that the jury can see and hear the witness.

Plexiglass shall be installed around the witness stand so that witnesses can remove facial coverings while testifying.

Counsel shall remain at the lectern when questioning witnesses but may otherwise move through the courtroom in the appropriately marked and designated areas to introduce evidence.

Opening statements and closing arguments shall be conducted from the lectern, or from an area designated for counsel to stand. Counsel shall not approach the jury or venture outside the designated area. These areas will be appropriately marked in advance of any jury trial proceeding.

Should there be any discussion outside the presence of the jury, the jury will proceed to the jury deliberation courtroom that will be marked appropriately according to social distancing standards that will accommodate 12 jury members and juror alternates only. In lieu of this procedure, the presiding judge may exercise discretion to meet outside the courtroom with counsel and the court reporter, in socially distanced manner, for any “bench conference.”

Face covering for personal health protection shall be worn at all times by all persons in the courtroom and throughout the courthouse, unless otherwise provided in this plan. This includes counsel, parties, and witnesses. Every effort will be made to provide counsel, parties, and witness with transparent masks to assist in identification. Witnesses will testify behind plexiglass without face masks or wear face shields rather than masks, so their demeanor can be evaluated. Members of the public attending the proceedings are required to wear masks at all times while in the Forsyth County Courthouse.

Exhibits and other paperwork will be handled by as few persons as possible.

The court reporter shall have a designated table that faces both the witness and counsel tables in a manner that will enable observation of both at the same time.

G. Jurors Selected for a Jury Trial

1. Jury Deliberations

Trial jurors will deliberate in an empty courtroom so that social distancing can be observed during jury deliberations. Guidance will be provided for the use of elevators for jurors arriving, entering, and leaving the courthouse. Security cameras in the courtroom will be disabled during the deliberations. The court will instruct jurors to maintain physical distancing and to keep masks on. The court will instruct the foreperson to ensure jurors comply with physical distancing and mask covering requirements and to report to the bailiff if any juror refuses to comply with these instructions.

During deliberations, jurors will be encouraged to take socially distanced turns reviewing exhibits placed on a table rather than handing around exhibits. Jurors will be provided with a supply of single use notebooks and pens. Pens and juror notebooks will be disposed of after every trial.

Alcohol-based hand sanitizer will be readily available in the deliberation room for juror use.

2. Juror Breaks

Jurors will be instructed to use an alcohol-based hand sanitizer before and after eating lunch. Jurors may leave the courtroom and go directly outside the courthouse when the judge advises that a break of 30 minutes or longer will be taken.

Jurors must practice social distancing and minimize talking while taking their break. Jurors are permitted to remove their mask outside as long as they are not speaking but remain at least six feet apart from any other person. Jurors are discouraged from roaming to other floors inside the courthouse.

3. Bathroom Breaks

Jurors will access the bathroom one at a time, using hand sanitizer when entering and exiting. The contracted professional cleaning resource will clean bathrooms twice daily.

If a juror needs a bathroom break during deliberations, they will knock on the door to alert the bailiff, and the bailiff will escort the juror to and from the restroom, adhering to six feet physical distancing requirements. Jurors will be advised that they cannot deliberate unless all individuals are present.

H. Health or Safety Breach

The judge will immediately excuse and advise any juror who becomes symptomatic while at the courthouse to seek medical attention. The areas used by the symptomatic juror must be promptly disinfected by the court's contracted cleaning resource.

In the event of a positive COVID-19 diagnosis of a juror, defendant, attorney, witness, court personnel, or judge, the presiding judge will inform jurors that a positive COVID-19 has been reported and that this information has been provided to the Director of the Regional Public Health Department.

If it is determined by the Public Health Department that certain individuals involved in any jury trial proceeding was considered a close contact, the Public Health Department will directly contact those individuals.

Once notified of a possible COVID-19 exposure, the judge will take appropriate action including, but not limited to, a review of the legal options for the trial with the attorneys and conduct individual voir dire with each juror to determine their ability to fairly and impartially continue with the trial.

At the commencement of all jury trials, contact tracing information will be collected from all those in attendance for use by the Public Health Department if an exposure event occurs. The Public Health Department shall delineate what information the Court will collect to assist with contact tracing.

I. Constitutional Rights to be Observed

Public attendance at jury trials will be permitted if possible consistent with social distancing requirements. If there is not sufficient room available for persons wishing to view the proceedings, the trial shall be made available through audio visual livestreaming to another courtroom.

J. Cleaning

All court facility sanitization procedures shall be provided and maintained by the appropriate personnel in coordination with the Office of Court Administration and Forsyth County Facilities Department. Sanitization of all touch surfaces and assembly areas shall be cleaned each morning before court opens and again during the lunch recess.

The witness stand will be cleaned between each witness by the bailiffs. Bailiffs will also be responsible for the sanitization of the podium and microphones

K. Inherent Power

Nothing in this proposed plan shall be construed to limit the inherent power of the court. Each assigned judge may direct and control their respective cases and those persons before them in their courtroom as they deem necessary for the administration of justice. It is the goal of the Bell-Forsyth Circuit to operate in a manner which instills public trust and confidence in the court system.

This plan will remain in effect as long as the Judicial Emergency Order exists. The length and degree of restriction may also depend on what is deemed necessary in the Bell-Forsyth Judicial Circuit and allowed by statute (See O.C.G.A. §§ 38-3-61 and 38-3-62.)

This plan may be amended as need arises, or as information regarding COVID-19 protocol changes.

COVID-19 SPECIFIC JURY INSTRUCTIONS

As you know from jury selection, specific procedures have been put in place to ensure the safety of all the participants in the trial process and to address health-related concerns resulting from COVID-19. The court's intent in implementing these safety procedures is to ensure that the defendant receives a fair trial and to ensure that you and other participants in the trial are protected from the spread of COVID-19. All safety measures in place are consistent with recommendations from the Centers for Disease Control and the Georgia Department of Public Health.

As you will see during the trial, all jurors, court staff, and attorneys will be required to wear facial coverings and will be required to maintain six feet of physical distancing from any other participants in the trial. This means that I will be wearing a facial covering, the clerk of court, bailiffs, and the lawyers will wear facial coverings. If you have any difficulty hearing or understanding me, the clerk, the bailiffs, or the lawyers during the trial as a result of these precautions, please let me know right away so I can address the issue. It is essential that you be able to clearly see and hear everything that happens during the trial.

The defendant and his/her attorney are permitted to sit close to each other and to briefly remove their masks from time to time to allow for proper communication, which is guaranteed by the Sixth Amendment to the Constitution. You must not consider the fact that the defendant and defense attorney remove their masks, or that they are permitted to sit together, as any evidence in this trial. Likewise, must not consider the fact that the State prosecutors remove their masks, as any evidence in this trial. As I will remind you throughout the trial, the only evidence you may consider is the testimony presented during the trial and the exhibits introduced into evidence.

The witnesses who testify will be required to wear a court-provided clear face covering during their testimony so that you may observe their demeanor in a protected manner. All witness testimony procedures have been approved by health experts consulting with the Court. At all times during the witness testimony, the witness will remain at the required social distance from all jurors.

When you use the restrooms, you will be required to use hand sanitizer before entering and after you use the restroom. The restrooms will be professionally cleaned daily. In addition, the

courtroom will be professionally cleaned at the end of every day and will not be used for any other proceedings except this trial.

Your temperature will be taken every time you enter the courthouse. If there are any issues that arise as a result of the health screening, you will receive further instructions.

If you are experiencing any COVID-19 related symptoms or have been exposed to a family member or any close contact who has been either diagnosed or exposed to COVID-19, is your duty to inform the court.

You are instructed to give your full attention to the testimony and to assess the evidence according to the law that I will provide to you throughout the trial despite the fact that we have taken these measures to address COVID-19. If at any time you have concerns about your ability to pay careful attention to the opening statements, testimony, and closing arguments, do not hesitate to inform the bailiff.

Courthouse Preparations Checklist

- The courtroom and adjacent areas to be used by trial participants (e.g., jury deliberation room, restrooms, and conference rooms) have been rigorously evaluated for optimizing air quality. Adjustments to HVAC systems have been completed in accordance with the information contained in this jury trial plan.
- Cleaning services scheduled to be performed in the courtroom and restrooms during the lunch recess and after court recesses for the day.
- The witness box will be cleaned by bailiffs between witnesses.
- No other hearings will be held in the same courtroom where the trial will be held during the time of the trial.
- The court facility (including jury trial courtroom) is marked for seating and movement for proper six-foot physical distancing at all times before, during, and after the trial.
- COVID-19 safety-related signage is properly posted throughout the facility.
- Additional masks for witnesses, jurors, and others who require one are on hand.
- Hand sanitizer and sanitizing wipes effective against the virus that causes COVID-19 are available throughout the courtroom and near restrooms.
- At least 30 pens and name tags are available for and provided to jurors.
- Jury seating in the gallery is appropriately marked to maintain social distancing.
- Staff, bailiffs, and other court personnel are fully trained in their respective roles during jury trials. Protocols and procedures are fully understood.

COVID-19 QUESTIONNAIRE

Dear Prospective Juror:

In light of the developing situation regarding COVID-19, you are required to answer the questions below on a daily basis. The purpose of this questionnaire is to aid the Court in maintaining the health and safety of the jurors throughout the remainder of this trial. Please truthfully answer the questions below, and do not discuss the contents of your questionnaire.

Sincerely,
Chief Judge Jeffrey S. Bagley, Superior Court
Bell-Forsyth Judicial Circuit

1. Have you been out of the country within the last thirty (30) days? If so, please provide details.

2. Have you been in contact recently with anyone who has tested positive for COVID-19?

3. Do you have any symptoms of COVID-19? If so, what symptoms?

4. Do you consider yourself to be in a “high risk” category for COVID-19? If so, please describe the “high risk.”

5. Do you live or work with anyone in a vulnerable population for COVID-19? If so, please describe?

6. If you answered yes to question 4, do you have, or can you provide the court with a physician's note that explains your "high risk" category? Do you wish to be excused from jury service because of your "high risk" category? Yes No

SIGNATURE

(PRINT NAME)

Juror Summons #