



# STATE COURT OF COBB COUNTY

## Reopening Guide for Resuming Jury Trials

### *PHASE 1 – Two Trials; PHASE 2 – Three Trials*

#### **INTRODUCTION**

On March 14, 2020, in response to the COVID-19 pandemic, the Honorable Harold D. Melton, as the Chief Justice of the Supreme Court of Georgia, issued an Order Declaring Statewide Judicial Emergency pursuant to OCGA § 38-3-61. That Order has been extended until on or about October 10, 2020.

Justice Melton explained in the last extension order that this broad prohibition cannot continue, even if the pandemic continues, because our judicial system and the criminal justice system must have some capacity to resolve cases by trial.

Justice Melton’s order directs each county to establish a local committee of judicial system participants to develop detailed guidelines for the resumption of jury trials in the county utilizing the safe jury trial guidelines being developed by the Task Force. It is anticipated the next extension order, which will be issued on or about October 10, will authorize superior and state courts, in their discretion, to resume jury trials consistent with the Georgia Court Reopening Guide and any more specific local public health guidance.

The Chief Judge of each superior court was directed to convene for each county in his or her circuit a local committee of judicial system participants to develop a plan for safely resuming jury trials in the county, as further specified in the “Guidance for Local Committees on Resuming Jury Trials” included in the Appendix to the order.

Consistent with Justice Melton’s order and at the direction of the Chief Judge of the Superior and State Court of the Cobb Judicial Circuit, the State Court of Cobb County’s plan to resume jury trials on a limited basis is outlined below. Priority will initially be given to the resumption of criminal jury trials over civil issues.

## **OBJECTIVE**

The State Court of Cobb County is comprised of twelve judges divided into two divisions. There are seven judges in Division One (which handle misdemeanor criminal as well as civil matters) and five judges in Division Two (which handle primarily traffic-related criminal misdemeanors).

- **Phase 1** – Two jury trials per week
  - Division One (hereinafter “D1”): 1 criminal jury trial
  - Division Two (hereinafter “D2”): 1 criminal jury trial
  
- **Phase 2** – Three jury trials per week
  - D1: 2 jury trials (1 criminal and 1 civil)
  - D2: 1 criminal jury trial

## **COURTROOM UTILIZATION (12 COURTROOMS)**

### Division One

The D1 trial judge will conduct the trial in his/her courtroom (with some exceptions) in both Phase 1 and Phase 2. A maximum of two D1 jury trials will occur until circumstances safely permit other trials.

- **Phase 1** – Each D1 judge will have 1 week of criminal jury trials  
The D1 judge’s trial week is the first week of their criminal calendar

Jury Deliberations – the Jury Assembly Room will be utilized for **ALL** D1 judges

- **Phase 2** – Each D1 judge will have 1 week for civil and 1 week for criminal jury trials  
The D1 judge’s trial week will be the first week of their civil calendar and the first week of their criminal calendar

Jury Deliberation – the Jury Assembly Room, as well as another designated D1 courtroom. Each D1 judge will give up their courtroom to act as a jury deliberation room the **third week of their criminal jury trial rotation.**

### Division Two

The D2 trial judge will conduct the trial in his/her courtroom in both Phase 1 and Phase 2. The other D2 judges will absorb or handle any pleas for the trial judge and the judge that has lost his/her courtroom for jury deliberations.

- **Phase 1 and Phase 2** – Each D2 judge will have 1 week of criminal jury trials pursuant to the five-judge rotation.

Jury Deliberations

- Courtroom 2A (Cases to be heard in Courtroom 2A will be absorbed by other Division II courtrooms if needed for jury deliberations)

## **JURY MANAGEMENT**

### **Summoning Jurors**

Summonses will be sent out at least 25 days prior to reporting day for staggered report times. Summonses will be mailed accordingly and provide for additional deferment requests related to COVID-19. As with any other jury week, if extra jurors are summonsed and it is determined all are not needed, those jurors will be dismissed accordingly. Jurors will receive information of their dismissal on call-in recording/website the night before expected report date. An insert will be included that outlines COVID-19 related safety protocols.

### **Confirming Attendance Online**

Jurors will be instructed to confirm their jury attendance on State Court's website. Once they click on the "Confirm Your Attendance" link, an online questionnaire will prompt them to complete a form that includes juror information, questions related to COVID-19, and statutory qualification questions. Once the questionnaire is submitted, jurors will receive an auto-reply reminding them if they have any COVID-19 concerns prior to their report date for jury duty to contact Jury Administration before appearing in State Court. Jurors may be deferred based on COVID-19 concerns but it will also be made clear that deferment does not mean excusal. The confirmation forms received will assist Jury Administration to maintain a more precise count of jurors expected to report. Note: Jurors who do not have internet access or a device to confirm online and/or watch video(s) will be instructed to call Jury Administration for assistance over the phone. Jury Administration will reiterate the importance of calling or checking the website the night before their report date (as already stated on the summons) to make sure their particular juror number must report as scheduled.

### **The Night Before Reporting**

Jurors are asked on their summons to check the recording/website the night before reporting. According to the number of jurors completing the online confirmation, **some jurors may be dismissed**; others will be asked to report as summoned

### **Juror Check-In**

Reporting time window will be expanded to stagger arrival times of jurors to get through security and juror check-in. All jurors would remain in designated area, socially distanced and encouraged to remain seated until called to be escorted to a courtroom.

**Phase 1 – 36 jurors needed** for two criminal trials (18 jurors for each trial). 20 jurors will be socially distanced in the Jury Administration Room and approximately 45 will be socially distanced in the 4<sup>th</sup> floor lobby area.

**Phase 2 – 69 jurors needed** for one civil trial (33) and two criminal trials (36, which is 18 each). 20 jurors will be socially distanced in the Jury Assembly Room and approximately 45 will be socially distanced in the 4<sup>th</sup> floor lobby area, empty courtrooms on 4<sup>th</sup> floor, or on the 3<sup>rd</sup> floor lobby for overflow.

### **Why 33 for civil and 18 for criminal?**

For **civil cases**, the hope is a jury of 12 will presumably be obtained from the first 24 jurors. 6 additional jurors will be included to permit 2 potential alternates due to COVID-19 concerns. The 3 additional jurors will be to account for strikes for cause bringing each panel to 33 jurors.

For **criminal cases**, it is hoped that a 6-person jury will be picked from the first 12 jurors; 3 additional jurors for an alternate and 3 jurors for strikes for cause.

The total number of jurors in each panel can be changed or adjusted pursuant to notice to the Jury Administrator from the trial judge.

### **Jurors in Courtroom**

When requested by the trial judge, Jury Administration will prepare the judge's list of jurors accordingly. Jury Administration will escort jurors to the appropriate courtroom. The trial judge will be responsible for swearing in/qualifying the jurors and asking the statutory questions. This will alleviate the need for jurors to assemble multiple times.

**Phase 1** – two courtrooms each needing 18 jurors. Jurors will be able to socially distance in courtrooms for voir dire for criminal trials, 12 in gallery and 6 in the jury box and chairs adjacent to jury box.

**Phase 2** – three courtrooms, one needing 33 jurors and other two needing 18. The addition of civil trials will necessitate 33 jurors being divided into two groups (16/17) and sent to the courtroom by group. Up to 18 jurors can social distance in courtrooms for voir dire for criminal trials, 12 in gallery and 6 in jury box and chairs adjacent to jury box.

### **COURTHOUSE SCREENING AND HEALTH SAFETY MEASURES**

- Temperature Screening – All individuals entering the State Court building must first pass a temperature screening. Anyone with a temperature of 100.4 or higher will not be allowed to enter. As with all visitors to the courthouse, any person with a temperature reading above the threshold will be given a five-minute cool-down period and will be re-tested before being excused. Potential jurors with a temperature of 100.4 or higher must provide their name and contact information to the employee overseeing the thermal scanning equipment.
- Masks – Visitors are required to wear masks while in the State Court building. Masks must be in proper position and cover the individual's nose and mouth, unless instructed by a Judge to remove it. Courthouse Deputies, Bailiffs, and other staff will remain vigilant and politely ask anyone in the courthouse seen without a mask to put it back on or adjust it to cover their nose and mouth.
- Social Distancing – Social distancing signage are already in place based on CDC recommendations and will be reviewed once more before January 2021.
- A sanitizing station will be available in each courtroom and jury deliberation room with a supply of disposable masks, sanitizing wipes or sanitizing spray, and hand sanitizer.
- Physical Barriers – Plexiglass shields are installed at the juror check-in desk and throughout each courtroom.

- Touchless Scanning – There will be one check-in station where jurors will scan their summons to record their attendance. Following check-in, jurors will be directed to their seat.
- Disposable Badges – Each juror will receive a disposable badge for use while on site each day.
- Courthouse HVAC Modifications –A Needlepoint Bipolar Ionization system, known as NPBI, has been installed to purify the building’s air and eliminate airborne particulates, odors, and pathogens.
- Nightly Deep Cleaning – Property Management will sanitize the trial courtroom and the jury deliberation rooms each night.
- Safety Video – The above-mentioned safety precautions will be highlighted in a video that jurors can view following their confirmation e-mail from Jury Administration. An insert provided with the jury summons will provide a QR code link to play this video.
- Stairwells are clearly marked as up stairwells and down stairwells.
- Elevators are limited to two persons at a time. There are three elevators available for four floors.
- Direction from the CDC and DPH will be monitored closely and necessary changes implemented in accordance with changes.

## **TRIAL PROCEDURES**

- Judges should require a mandatory pre-trial conference with all lawyers that will be participating in a trial. At a minimum, said conference should take place the week before trial to make sure both sides are clear on all the changes that COVID-19 has necessitated. At this conference, the Judge should try to handle as many pre-trial issues as possible, so jurors are not delayed in reporting to the courtroom on the morning of trial. It is also important to make sure both sides are familiar with the technology, especially the digital presentation of evidence. Judges, court staff, bailiffs, lawyers, and jurors will all wear masks during the trial when not speaking.
- Judges may remove and permit others to remove masks while speaking if a safe distance of six feet or more may be maintained.
- Returning jurors who do not pass the temperature check or COVID-19 screening questions will be brought to the Judge’s attention immediately.
- Conference rooms in public lobby will be utilized for witness sequestration.

## **TRANSPARENCY AND PUBLIC ACCESS TO TRIALS**

Jury trials will be live-streamed to a public viewing area.

## **COURTROOM LAYOUT**

Will vary depending upon each Judge as well as the size and architecture of each courtroom. Generally:

- For voir dire AND for seating during the trial, 6 jurors will be placed in the audience of the courtroom and/or the jury box maintaining social distancing.
- Care should be taken to accommodate those jurors with hearing or vision impairments and they should be placed in the closest proximity to the witness stand.
- Courtroom audio-visual technology will be employed so witnesses may be seen and heard from all areas of the courtroom. Jurors will be instructed to notify the Judge if they are having any difficulty hearing or seeing.

- Visitor seating will be prohibited in the courtroom if social distance cannot be maintained. Otherwise the trial will be live-streamed in a public area.

## **PRESENTATION OF EVIDENCE**

- Courtroom evidence should be displayed to the jurors in a digital manner when possible. The Court will order the use of Citrix ShareFile for viewing PDF's, photos, and other similar file formats that are easy to display. There will be certain items that cannot be displayed in a digital format; attorneys are directed to seek guidance from the Court in such cases and be prepared to distribute gloves before passing around any tangible evidence in the courtroom. There are also likely going to be pieces of evidence that are not easily viewable in the evidence platform described above. For example, videos that require propriety software and codecs to play the file. Lawyers are directed to submit those items (and their required files to be played) on a USB drive to the courtroom clerk after it is admitted.
- The witness stand and chair will be wiped down by a bailiff after each witness finishes their testimony and before the next witness is called.
- Attorneys will present their case from the lectern. Attorneys will seek permission from the Court before moving freely about the courtroom. Otherwise, they will remain at counsel table and the lectern. Attorneys will be provided wipes and will be responsible for wiping down the lectern and anything else they touched before returning to their table.

## **DELIBERATIONS, RECESSES, BREAKS, AND MEALS**

- Jurors will deliberate in a closed courtroom or the jury assembly room where they can be spaced six feet apart.
- At the juror's assigned space, which will remain the same throughout deliberation, the juror will be provided with personal supplies to use to include hand sanitizer, tissues, water bottles, notepads, and writing implements.
- Jurors will be allowed to leave the building during designated meal breaks to prevent mask fatigue.
- Jurors with dietary restrictions, or those who prefer to bring their lunch and any non-alcoholic drinks, may stay in the courthouse but must also bring a personal size cooler bag if items must be refrigerated.
- Any food ordered for jury deliberations shall comply with the following protocol:
  - Paper menus will be used with instructions to the jurors to mark their order on the menu.
  - Court staff will use fresh gloves when disbursing food and individual cans of soda or bottled water.
- Bailiffs will be stationed outside of each door to the jury room and shall keep the area secure during deliberations.
- Bailiffs will escort jurors to the closest restrooms as needed.
- Doors will remain open during breaks and meals.