

IN THE SUPERIOR COURT OF COWETA COUNTY  
STATE OF GEORGIA

## **GUIDE FOR RESUMING JURY TRIALS**

### **I. INTRODUCTION**

- On March 14, 2020, the Georgia Supreme Court issued an order declaring a judicial emergency in response to the global coronavirus pandemic. Of the many consequences of this order, one was the halting of any jury trials until either the pandemic subsided, or in the event of a prolonged pandemic, safe guidelines for resuming jury trials could be developed and implemented. On August 11, 2020, in the fifth order extending the declaration of a judicial emergency, the Georgia Supreme Court recognized that the “broad prohibition [on all jury proceedings] cannot last too much longer, even if the pandemic continues, because the judicial system, and the criminal justice system in particular, must have some capacity to resolve cases by indictment and trial.” On October 10, 2020, in its seventh order extending the declaration of a judicial emergency, the Georgia Supreme Court lifted its ban on jury trials, while requiring each court to develop and submit for approval by the Administrative Office of the Courts, guidelines for safely resuming jury trials.
- Accordingly, the Court describes the following recommended measures to safely resume jury trials amid the present pandemic. In this way, the court system can move forward towards the pursuit of justice in its many cases, while taking these extraordinary precautions to protect the health, safety, and constitutional protections of all participants in the judicial system, including jurors, litigants, witnesses, judges, court personnel, and the public. These

measures will be implemented by the Court to the maximum extent practical but are not meant to supplant any law, statute, rule or authority of the presiding judge to conduct court.

## **II. SUMMONING THE JURORS**

- The juror summons should inform the public as to the COVID-19 safety precautions our county is implementing to protect the health and safety of jurors and all persons in the courthouse.
- In order to reduce the duration of jury selection, the juror summons may include a questionnaire concerning general biographical questions or other questions as may be necessary. Jurors should complete this questionnaire prior to their day of service.

## **III. JUROR CHECK-IN**

### **UPON ARRIVAL TO THE COURTHOUSE**

- The juror summons may provide staggered reporting times for jurors.
- Jurors will not enter the courthouse until directed by either their summons or by other means specified by their summons, such as through a mobile check-in for jurors with access to a smart phone. Jurors without a smartphone may check-in in person in the courthouse.
- Every effort will be made to allow for virtual check-in through a web-based mobile check-in system that permits prospective jurors to remain in their vehicles in the parking lot upon the virtual registration of their attendance. Signs have been erected outside of the courthouse which display the link and QR (Quick Response) code that jurors use to register their presence.

- Any and all persons entering the courthouse must pass a temperature check in addition to the COVID-19 screening questions provided by the Centers for Disease Control and Prevention (CDC).
- The presiding trial judge shall be notified of any trial participant turned away for COVID-19 exposure reasons. ~~\*Copied from Simpson's order~~

## **JURY ASSEMBLY ROOM**

- Upon checking in and passing through security, only as many jurors as can safely socially distance in accordance with CDC guidelines will be permitted at a time to be admitted into the jury assembly room. As is further described in the section below concerning the jury selection process, one panel of jurors at a time will rotate in and out of the jury assembly room for the jury selection process. Jurors who successfully check in, but are waiting to be admitted to the jury assembly room may wait outside the courthouse at any nearby location, subject to be called back to immediately report when room opens up in the jury assembly room.
- Seating in the jury assembly room will be placed or marked at least 6 feet apart to maintain proper social distancing.
- A bailiff will take each juror's completed questionnaire and make one copy for the judge and two copies for each of the parties.

## **ADDITIONAL SAFETY MEASURES IN PLACE FOR JURORS**

- The county should create a detailed cleaning plan to ensure safety for public use. ~~\*Copied from Simpson's order, used "should" instead of "will"~~
- All persons entering the courthouse are required to wear a mask or face shield at all times, unless permitted otherwise by a judge.
- Ground markers should be placed six feet apart from one another along the path leading to the courthouse entrance, directing jurors to socially distance.

- Seating in any rooms occupied by jurors will be placed or marked at a distance of at least six feet apart from one another.
- Attorneys should remain at least six feet away from jurors during jury selection and at other times when addressing the jury.
- The use of stairs will be encouraged.
- The court may seek the employment of additional court bailiffs or other court personnel to assist in implementing these guidelines, to help usher jurors to their next location in the courthouse, and to provide a more immediate resource to address the needs or concerns of jurors.
- Jury deliberation rooms and jury room bathrooms will be cleaned and sanitized at the conclusion of court each day (or as often as necessary).
- Jury deliberation rooms and jury room bathrooms are equipped with disinfectant wipes and/or hand sanitizer.
- Any pens provided to jurors should be wiped down with sanitizing agents first.
- Any notebook or paper provided to a juror should be new, and previously unused.
- Disposable juror badges (stickers) should be utilized over re-usable name badges.

#### **IV. JURY SELECTION PROCESS**

- From the jury assembly room, when called by the judge, one panel of jurors at a time will be escorted by a bailiff to the courtroom for jury selection.
- Thereafter, additional jurors whom have already been pre-qualified and have checked in but were awaiting outside the courthouse will be contacted and directed to enter the courthouse.

- These additional jurors shall enter the courthouse, pass the security and screening checkpoint, and be brought by a bailiff to the jury assembly room to be seated in the seats that had just been vacated by the previous panel.
- The panel of jurors who were brought from the jury assembly room to the courtroom for the jury selection process should be seated in a manner as directed by the trial judge which utilizes either plexiglass or 6 feet of social distancing to safely seat the jurors.
- Judges may excuse each panel of juror after being questioned. Any excused jurors will call in later that evening to find out if they were selected for the jury and to receive instructions for reporting the following morning.
- Unless otherwise directed by a judge, any panels of jurors still physically present in the courthouse should not be brought back into the courtroom while the lawyers exercise their strikes. *See Martin v. State*, 205 Ga. App. 591 (1992); cert. denied. (“We reject defendant’s argument that the trial court erred in refusing his request to have the prospective jurors present during the striking of the jury. The record shows the defendant was afforded ample opportunity to question and observe each juror during voir dire and the requirements of OCGA §15-12-163 were met.”).<sup>2</sup>
- Judges should seek to seat a minimum of two or more alternate jurors for trial.
- Jurors selected for trial should sit in the same assigned seating each day.

## V. **TRIAL PROCEDURES**

### **GENERAL CONSIDERATIONS**

- In an effort to streamline trials and minimize any delays, the use of pretrial conferences ahead of the trial week. At these conferences the lawyers would attempt to address as many pretrial issues as possible, including addressing any motions in limine and witness planning.

- Lawyers are encouraged to familiarize themselves with courtroom technology ahead of trial.
- To ensure public access to courtroom proceedings while minimizing the physical presence of spectators in the courtroom, courts are encouraged to utilize video streaming, including local video streaming to a video monitor outside of the courtroom or in a separate courtroom not being used, which the public has access to.
- Judges, court staff, bailiffs, lawyers, parties, defendants, and jurors are encouraged to wear masks during the trial when not speaking.
- At the judge's discretion, witnesses may testify without wearing a mask.
- A clear, plexiglass barrier may be installed around the witness stand in every courtroom being utilized for trials.

## **PRESENTATION OF EVIDENCE**

- When possible, lawyers are encouraged to present evidence in a digital manner.
- Where authenticity of evidence is not genuinely in dispute, lawyers are encouraged to work together to stipulate to the evidence's authenticity if doing so would minimize the number of witnesses needed to be called at trial.

## **BENCH CONFERENCES**

- It will be difficult to usher the jury in and out of the courtroom for routine arguments that normally happen outside of their presence. Accordingly, bench conferences between the judge and lawyers are encouraged.
- A defendant has a right to present at a bench conference. However, that right may be waived. Judges are encouraged to have a discussion on the record, before the start of trial, to see if the defendant will waive their right to be present for bench conferences. In the event a defendant will not waive this

right, the judge must put on the record the content of each bench conference after it takes place.

- If requested by the judge, given the close proximity of bench conferences, the parties approaching the bench should wear a mask while speaking with the judge.

### **BREAKS, RECESSES, AND DELIBERATIONS – JURY ROOMS**

- When escorting the jury out of the courtroom for any purpose (for a break, recess, deliberations, etc.), judges should use the largest available room in the courthouse to ensure jurors are safely seated at least six feet apart from one another.
- Jurors should be provided with single use notebooks and sanitized pens.
- Jurors may be provided with disposable gloves for handling physical evidence during deliberations
- Bailiffs may have a supply table, which will contain extra disposable masks, hand sanitizer, paper towels, gloves, juror pads and pencils, bottled water, and disinfecting spray.
- Any returning juror who does not pass the temperature check or COVID screening questions at the security checkpoint will be brought to the trial judge's attention immediately. The juror should remain isolated while awaiting for further instructions from the judge after consulting with the lawyers.