

IN THE SUPERIOR COURT OF ELBERT COUNTY
STATE OF GEORGIA

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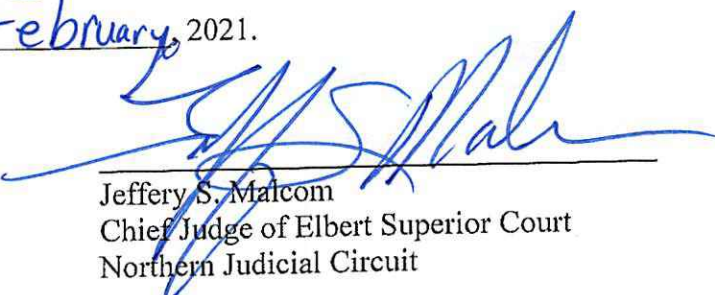
**IN RE: ORDER ADOPTING COUNTY
PLAN FOR RESUMING JURY TRIALS**

ORDER ADOPTING ELBERT COUNTY PLAN FOR RESUMING JURY TRIALS

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 Statewid Judicial Emergency pursuant to O.C.G.A. §38-3-61. That Order has been extended eleven (11) times, with modifications, by Orders issued on April 6th, May 11th, June 12th, July 10th, August 11th, September 10th, October 10th, November 9th, December 9, January 8, 2021, and February 7, 2021. Pursuant to the Chief Justice's Sixth Order Extending Declaration of Statewide Judicial Emergency and the Guidance for Local Committees on Resuming Jury Trials, a committee of judicial system participants was formed to develop a detailed and locally tailored plan to resume jury trials in Elbert County The plan was completed and adopted by a majority of the committee members on January 20, 2021.

After review of the plan and consulting with the District Attorney D. Parks White, the plan is hereby adopted in full. The Court reserves the right to amend or rescind this Order approving said plan, based on additional information received. A copy of this Order will be filed with the Administrative Office of the Courts. The Clerk of Superior Court is hereby directed to place a copy of this Order in the Minutes and Final Records of the County.

SO ORDERED, this 9th day of February, 2021.



Jeffery S. Malcom
Chief Judge of Elbert Superior Court
Northern Judicial Circuit

NORTHERN JUDICIAL CIRCUIT

ELBERT COUNTY GUIDE FOR RESUMING JURY TRIALS

February 8, 2021

COMMITTEE MEMBERS:

- **R. Chris Phelps, Judge of Superior Court – Committee Chair**
- **D. Parks White, District Attorney**
- **Amanda Grantham, Chief Public Defender**
- **Leigh Starrett, Clerk of Superior Court**
- **Melvin Andrews, Elbert County Sheriff**
- **James Webb, Elbert County State Court Solicitor**
- **Scott Franklin, Elbert County Courthouse Security**
- **Matt Easom, Esq., Attorney Appointment**
- **Dan McAvoy, M.D., Medical Director The Medical Center of Elberton**
- **Chuck Almond, Elbert County Coroner, EMS Director**
- **Dr. Stephen Goggans, Georgia Department of Health**

The members of the Elbert County Covid-19 Jury Committee established by the Judges of the Northern Judicial Circuit Superior Court pursuant to a Statewide Judicial Emergency Order issued by the Honorable Harold Melton, Chief Justice of the Georgia Supreme Court, have convened, inspected and considered the available facilities and infrastructure, consulted with the medical and/or public health officials who are members of the Committee and consistent with the Order of the Chief Justice and the Guidelines promulgated by the Judicial

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Covid-19 Task Force, having endeavored to develop a plan for resuming jury trials which ensures the health, safety and constitutional protections of all participants in the judicial system, including jurors and potential jurors, litigants, witnesses, lawyers, judges, court personnel and the public, hereby submits the following plan for resumption of jury trials in Elbert County.

The Committee met as a whole on September 30 2020, and reviewed potential scenarios for the conduct of jury trials, including off-site locations. Various members of the Committee subsequently communicated by telephone and by e-mail. The Committee met again on January 20, 2021, reviewed the various discussions and options, and adopted the plan set forth herein for resumption of jury trials in Elbert County. The Chief Judge of each court that conducts jury trials will decide whether to fully adopt or amend the portions of the committee's recommended plan that are applicable to their court and will then incorporate a final jury trial plan into the Court's written operating guidelines for in-person proceedings.

I. LOCATION OF FACILITIES FOR JURY ASSEMBLY, VOIR DIRE AND JURY TRIALS

Jury Assembly, Voir Dire and Jury Trials shall take place at the Elbert County Georgia Government Complex, 45 Forest Avenue, Elberton, Georgia. The facility is owned and operated by the Elbert County Board of Commissioners. Jury assembly will be had in the regular juror gathering room, and in three (3) other rooms in the government complex which will each accommodate a minimum of twelve (12) jurors. It will therefore be possible to accommodate a minimum of seventy-five (75) jurors for purposes of voir dire. Trials will occur in the Courtroom.

II. GENERAL PUBLIC HEALTH AND SAFETY GUIDELINES

The following guidelines shall be in force at all times during jury assembly, voir dire, and trial:

A. Sanitization Procedures

All common areas of the facility, including the courtroom, jury gathering rooms,

hallways, and bathrooms 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. Courtrooms shall be cleaned daily by cleaning staff before and after 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.

B. Face-Covering Requirements

All visitors and court personnel, including jurors, litigants, witnesses, attorneys, security officers, bailiffs and the public are required to wear face-coverings to enter the jury gathering rooms and the courtroom, and they must remain in proper position over nose and mouth, unless instructed by the judge to remove them. All courthouse deputies, bailiffs, and other staff will remain vigilant and politely ask anybody in other areas seen without a mask to put a mask on. Any jurors that arrive without a mask will be provided one at the checkpoint.

Jurors will be provided a mask for use during the proceedings, if they do not have their own. "Gators" and bandanas are not acceptable face-coverings for use by those who are present in the courtroom or a facility being used as a courtroom.

In order to ensure that a witness's face can be clearly seen, witnesses may be allowed to testify from behind a plexi-glass shield or while wearing a face-shield. If "clear masks" are available, such masks may be worn by the witnesses. If sufficient quantity of the clear-masks are available, such masks may be worn by the attorneys during their closing argument.

C. Social-Distancing Protocol

The seating for all visitors, participants, court personnel, and the public shall be arranged such that they are located at least six (6) feet from all other persons, unless modified by the presiding judge, and except for jurors as provided above. The Court will provide breaks as may be necessary to allow the attorneys to meet privately with their clients in the rooms available in the Courthouse which will allow them to have confidential discussions while

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socially-distancing. If available, the attorneys and litigants shall be provided with headsets which will allow them to speak privately with their clients while seated at distance at counsel table. Also, the presiding judge may allow attorney/staff/litigants to communicate via text message/email or other form of electronic device.

D. Posting Notice at the Entrance of the Facility

A conspicuous written notice shall be posted at the entrance to the Facility at any time when it is being used as a judicial facility. The notice shall state that persons who are currently experiencing the symptoms of Covid-19, have experienced such symptoms within 14 days prior, have been exposed to Covid-19, or have tested positive for the virus, are not permitted to enter the facility. The notice shall further provide that any such persons who have necessary business involving the proceedings shall contact the Clerk of Court or the Court for direction as to how they participate by virtual means (or how they may be otherwise accommodated).

E. Notification of Stakeholders that a Courthouse visitor of Courthouse personnel have tested positive for the Coronavirus

Each judge, elected official, or other public official with an office in a courthouse shall notify the County Manager or Administrator and Chief Judge of any instance where they are notified that an employee working in the courthouse or courthouse visitor has been diagnosed with Covid-19, is awaiting the results of Covid-19 testing, or has reported to the supervising official that they are experiencing symptoms of Covid-19. The Chief Judge or County Manager or Administrator shall then immediately notify the other officials or department heads with offices in the facility, so that they can determine whether any of their employees have had contact with the other employee which would put them at risk of contracting the virus.

Current Department of Public Health Guidelines do not require the isolation or quarantine of court personnel who have been exposed to the virus as they are considered as essential or critical workers. Those guidelines require, instead, that such exposed workers must mask, distance and monitor their temperature and symptoms. However, because of the danger posed to the public and other employees working in a court facility, in the event that a judge, public

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official, officer or supervisor becomes aware that an employee has been exposed to the virus within the meaning of the CDC/DPH guidelines, that employee SHALL NOT enter the court facility nor shall they have any other court personnel until their supervisor has consulted with the Chief Judge and Public Health officials to assess the extent of their exposure and the potential risk that they may pose to the public and other employees.

F. Miscellaneous Provisions

Hand Sanitizer shall be available at each counsel table, in the jury room, in the restrooms, and at the entrance to the jury gathering room(s), and to the courtroom. The temperature of all persons entering the jury gathering room(s) shall be checked and anyone who has a temperature of 100 degrees Fahrenheit or greater shall not be permitted to enter.

Crucial to the health and safety provisions of the plan are specific guidelines set forth below which provide:

- For the excusal of any prospective jurors who are considered to be "vulnerable" to serious complications from the Covid-19 virus;
 - For inquiry into whether a prospective juror is experiencing any of the symptoms of Covid-19 or has been exposed to the virus;
 - For the notification of stakeholders when courthouse personnel or visitors to the facility have tested positive for the virus; and
- For the procedure to be followed when a juror, litigant, attorney or other participant present during the proceedings experiences possible Covid-19 symptoms or has an exposure to the virus during the trial.

I. SPECIFIC PROCEDURES FOR THE SUMMONING, SELECTION, AND EMPANELLING OF JURORS AND TRIAL

A. Summons

When jurors are initially summoned, whether for grand jury or trial jury, the Clerk will mail:

- A Summons directing jurors to report to the jury gathering room at 45 Forest Avenue, Elberton, Georgia with staggered report times. It will also provide a contact person to call with health-related questions or concerns.

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- A Covid-19 letter from the Court, that expresses how much they are appreciated, and assures them that the court understands their concerns for safety.
- A Covid-19 Insert highlighting the steps taken by the courts to ensure their health and safety. A modified excusal request form that temporarily waives the requirement that it be notarized before submission.
- A Covid-19 Questionnaire that includes their contact information (name, address, cell phone number, and email) and a series of questions to determine whether they are in a category of persons identified by the CDC as being at an increased risk for severe illness from Covid-19.
- A questionnaire to be developed cooperatively by the District Attorney and the Defense Bar, including the Public Defender, that requests information generally asked by attorneys when selecting a jury. In civil cases, the attorneys may agree on the form of a questionnaire to be provided to the jurors at the time that they are summoned.

A. Excusals and/or Deferrals

Prior to jurors reporting on the date of their service, the Court and Clerk's Office will work cooperatively to determine whether any prospective juror should be excused or have their service deferred due to medical concerns. The Clerk shall be authorized to excuse any prospective juror who:

- Meets the statutory criteria for excusal or deferral;
- Is considered to be "vulnerable" for complications from the Coronavirus;
- Reports that they are experiencing any of the symptoms of the Coronavirus;
- Reports that they have tested positive for the virus or have experienced the symptoms of the virus within 14 days prior to the report date.

Prospective jurors will be provided a contact number and shall be instructed to call 48 hours in advance of the appearance date to determine when and if they are to appear and to confirm that they are not experiencing any symptoms of Covid-19 and have not been exposed to the virus. In the event that the juror reports that within 14 days prior to the date they would be required to report they have experienced the symptoms of Covid-19, have received a positive test for the virus or have been exposed to the virus and certifies such fact in a manner proscribed by the Clerk, they shall be excused.

Any questions concerning an excusal or deferral shall be addressed by the Clerk to the presiding judge.

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A. Check-In

On the morning of service, jurors will encounter the following safety precautions:

- Staggered Reporting Times – Because of the potential bottleneck at security and Check-in, juror summons will include staggered report times. Jurors reporting more than five (5) minutes before their summoned time will not be checked in and directed to wait outside until their report time arrives.
- Health Screenings – Everyone entering the jury gathering room will be screened for illness and Covid-19 exposure. Any prospective juror prohibited from entering on the date of their will be instructed to fill out an information form that includes their name, address, phone number, and juror number. The form will be given to the clerk so that service can be deferred.
 - o If any juror reports having been diagnosed with Covid-19 in the previous 14 days, or in contact over the previous 14 days with someone who has been diagnosed with Covid-19, or that they are concerned they may have been exposed or infected, they will not be permitted to enter.
 - o If any juror reports having experienced a persistent cough, difficulty breathing or fever above 100.4 degrees within the previous three (3) days, they will not be permitted to enter.

A. Jury Selection

Jury Selection (voir dire) will take place in panels of 12 persons, with only one panel present in the Courtroom at the same time.

B. Trial

Trials shall be conducted in the Courtroom of the Elbert County Government Complex. The Courtroom has been “reconstructed” to comply with COVID-19 protocols. Jurors will be seated along the wall of the Courtroom (opposite the existing jury box) and along the rail of the Bar, such that the jury will be in an “L” configuration. Chairs for jurors will be approximately four (4) feet apart. However, each juror will be protected by a sheet of plexiglass that runs out 4 feet and up 8 feet, and which is installed between each juror. The Committee is advised that this provides better protection than social distancing. The witness will have a sheet of plexiglass

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between the witness and the jury. The jury will be seated beneath two air ventilators. Counsel tables will be on the other side of the Courtroom, with one table in front of the existing jury box, and the other table in the existing jury box. A platform is being erected in the existing jury box for the counsel table to be even with the floor. By process of the reconfiguration of the Bar area, all participants in the trial will be protected either by plexiglass or by social distancing, and protocol for masks will apply as herein set forth.

1. General Protocols

- a) The protocols set forth above relating to social-distancing, face-coverings and sanitization will apply at all times during the trial.
- b) The judge will provide jurors with a point of contact if potentially exposed to Covid-19 or experiencing symptoms of Covid-19. Jurors reporting exposure to Covid-19 or experiencing symptoms. Any juror who does not pass the temperature check or Covid screening questions will be instructed to return to their vehicle outside of the facility and the Clerk will speak with them by phone with instructions as to how they should proceed after speaking with the judge if necessary.
- c) Jurors selected to serve shall be instructed to contact the Clerk if they learn that they were exposed to the virus prior to or during the trial or if they experience Covid-19 symptoms. Such jurors will be excused and instructed not to report and to contact the Health Department. If available, rapid testing will be made available to those jurors. The remaining jurors will be notified of the event without naming the excused juror and they will also be offered the opportunity to have a rapid test. In the event that there is a concern as to whether any other jurors should be excused or whether another participant may have to be isolated or quarantined requiring a continuance or mistrial, the Court and the attorneys will consult with the District Health Director or their designee prior to making a decision.

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1. Evidence Presentation and Examination of Witnesses

Courtroom evidence should be displayed to the jurors in a digital format whenever possible, making use of large television monitors.

Attorneys will present their case from the podium and will seek permission from the Court before moving freely about the courtroom.

Otherwise, they will remain at counsel table and the podium. Attorneys will be provided wipes and will be responsible for wiping down the podium, and anything else they touched, before returning to their table. They will also be asked to wipe down their table at the end of the day.

The bailiff will have a supply table with extra disposable masks, hand sanitizer, paper towels, gloves, tissues, juror pads and pencils, bottled water, and disinfecting spray. Jurors should utilize with their own items, so as to prevent sharing.

Jurors will be assigned a seat by the bailiffs and should use the same seating area for the duration of the trial.

Jurors will be permitted to leave at lunchtime and return, or the judge may decide to bring in a meal.

2. Timing of Resumption of Jury Trials

The court anticipates criminal jury trials to commence in Elbert County after March 9. Subject to a change in the public health situation in the community, the Committee believes that with the implementation of these guidelines jury trials can safely commence as scheduled.

As set forth in the most recent prior Statewide Declaration of Judicial Emergency issued by the Chief Justice, priority will be given to the trial of criminal cases, specifically those where the Defendant is in custody. Civil cases, particularly pending condemnation cases, may be scheduled as "back-up" to the criminal trial calendar.

Priority will be given to cases which can be tried in one week or less. Longer trials will, to the extent possible, be scheduled for a later and specific date.

The timing of trials may necessarily be affected by the public health circumstances existing at the time that proceedings are scheduled. In the event that there is any question as to whether trials may safely take place, the judges of the affected court will consult with the District Health Director before making the decision as to whether scheduled trials should be reset.

3. Protection of Constitutional and Statutory Rights for Litigants, Witnesses, Victims and Observers

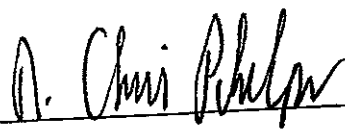
In the event that the courtroom seating capacity is insufficient to accommodate all those persons who wish to attend, priority for courtroom seating in criminal cases shall be given to the victim or victim's family and the family of the Defendant and then to the public on a first-come, first-served basis. 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 facility or in 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.

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4. Public Notification of Public Health Precautions Taken by the Court

In addition to the provisions set forth above, the Chief Judge will issue a press release outlining the terms of the plan to media outlets in the Circuit, including local radio stations, newspapers, and internet new providers. Additionally, the judges and other available Committee members will participate in community education opportunities such as speaking to community organizations and the like.

**Submitted for approval by the Chief Judge of the Northern Judicial Circuit
on this the 9th day of February, 2021.**



R. Chris Phelps, Judge

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