

**IN THE SUPERIOR COURT OF HABERSHAM COUNTY
STATE OF GEORGIA**

In Re: Jury Trial Guidance *
Date: June 18, 2021 *

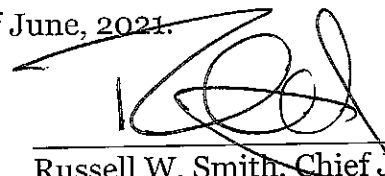
ORDER

The Superior Court Judges of the Mountain Judicial Circuit established a Covid-19 Jury Committee for Habersham County pursuant to the Order of the Chief Justice of the Georgia Supreme Court. The Committee met, inspected the available facilities, and has unanimously approved the attached Revised Plan for Resuming Jury Trial Operations dated June 18, 2021.

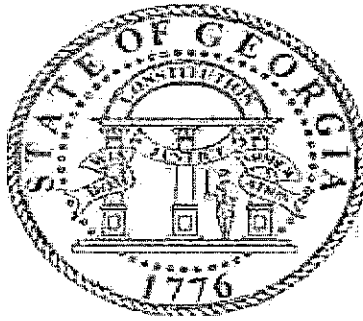
In accordance with the Declaration of Statewide Judicial Emergency issued by the Chief Justice of the Georgia Supreme Court and the Guidelines for Local Committees on Resuming Jury Trials, the attached Plan for Resuming Jury Trial Proceedings having been unanimously approved by the Local Committee, this Court adopts the Plan as the official guidance in the above-referenced County with regard to jury trials.

In accordance with the Chief Justice's Statewide Declaration of Judicial Emergency, a copy of this order shall be sent to the Administrative Office of the Courts at <https://guidelines.gov/covid-19-court-operating-guidelines/> for posting in conjunction with the previously filed operating guidelines

SO ORDERED this 18th day of June, 2021.



Russell W. Smith, Chief Judge
Superior Courts
Mountain Judicial Circuit



MOUNTAIN JUDICIAL CIRCUIT

HABERSHAM COUNTY GUIDE FOR RESUMING JURY TRIALS

As Revised June 18, 2021

COMMITTEE MEMBERS:

- B. Chan Caudell, Judge of Superior Court – Committee Chair
- M. Steven Campbell, Chief Judge of State Court
- George Christian, District Attorney
- Drew Powell, Chief Public Defender
- William R. Oliver, Solicitor of Habersham State Court
- Henry Simmons, State Court Public Defender
- David Wall, Clerk of Superior Court
- Joey Terrell, Habersham County Sheriff
- Zachary Taylor, M.D., Acting Director, Georgia Department of Public Health, District 2
- Phil Sutton, Habersham County Manager
- Matthew S. Cathey, Attorney, Cathey & Strain
- P. Gerald Cody, Attorney, McDonald & Cody
- David Bray, M.D.

The members of the Habersham County Covid-19 Jury Committee established by the Judges of the Mountain 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 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.

The Committee met as a whole on several occasions and communicated regularly regarding the subject of the report by email. This revised report was adopted by email consent of all committee members prior to the date hereof. 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 **Habersham County Courthouse**.

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 courtrooms, hallways, bathrooms and elevators 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 after or before court is held. also be followed.

B. Face-Covering Requirements

Pursuant to the current recommendations of the CDC, persons who are fully vaccinated shall not be required to wear a face-covering. Persons who are not vaccinated are strongly encouraged to wear a face-covering during court proceedings, however, the judges will not inquire as to a person's vaccination status.

Under any circumstances, as informed by prior experience trying cases during the pandemic, in order to facilitate communication, allow the identification of the jurors by the attorneys or parties, and to allow the jurors to observe the facial expressions of the witnesses, , face-coverings may be removed:

- By the attorneys and the judge when questioning a witness or addressing the jury;
- By the jurors during voir dire and jury selection as directed by the judge;
- By the foreperson of the jury when reading the verdict;
- By the witnesses when testifying; and
- As otherwise permitted by the Court.

C. Social-Distancing Protocol

The seating for court personnel and participants shall be arranged such that they are located at least three (3) feet from all other persons. Seating for visitors and the public shall be arranged such that they are located at least six (6) feet from all other persons. Provided they remain properly masked, Counsel may sit closer to their clients in order to communicate as necessary. 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 socially-distancing.

D. Posting of Notice at the Entrance to the Facility

A conspicuous written notice shall be posted at the entrance to the Courthouse. 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/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 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 contact with 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 facility. The temperature of all persons entering the facility 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 the 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.

III. 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 Civic Center, with staggered report times. It will also provide a contact person to call with health-related questions or concerns.
- A COVID-19 letter from the Court, signed by all the Judges, that expresses how much they are appreciated, 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.

B. 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 been exposed to the virus; or
- Reports that they have tested positive for the virus or have experienced the symptoms of the virus within 14 days prior to the date they are scheduled to report.

Prospective jurors will be provided a contact number and shall be instructed to call within 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.

C. 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 minutes before their summoned time will not be checked in and directed to wait outside until their report time arrives.

Trial

1. General Protocols

- a) The protocols set forth above relating to social-distancing 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 to 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 any 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.

2. 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 approaching a witness. Otherwise, they will remain at counsel table and the podium.

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 keep up 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.

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.

Additionally, with notice and approval of the court, family members, friends or interested members of the public may designate someone present in the courtroom to broadcast the proceedings to them by phone or video.