20-R-163

STATE OF NORTH CAROLINA
CATAWBA COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
JUDICIAL DISTRICT 25B

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BY AMC

ADMINISTRATIVE ORDER FOR SUPERIOR COURT IN CATAWBA COUNTY IN RESPONSE TO COVID-19 FOR RESUMING COURT OPERATIONS BEGINNING JUNE 1, 2020

IN ORDER TO IMPLEMENT THE UPDATED ORDER OF THE CHIEF JUSTICE OF THE NORTH CAROLINA SUPREME COURT ENTERED MAY 21, 2020, THE FOLLOWING PROCEDURES WILL BE IMPLEMENTED FOR CRIMINAL AND CIVIL SUPERIOR COURT BEGINNING JUNE 1, 2020. THIS ORDER SHALL APPLY ONLY TO SUPERIOR COURT IN CATAWBA COUNTY.

1. No Jurys will be available for criminal or civil trials for any term of Superior Court until after July 31st, 2020.

2. The Catawba County Manager, or his designee, shall ensure that all areas of the Catawba County Justice Center where the public is expected to congregate or wait in line be marked with tape or other visible markers such that intervals of at least six feet are maintained.

3. The maximum allowable occupancy of the audience area of each courtroom for the Catawba County Justice Center is as follows:

Courtrooms 1 and 4 – 28
Courtrooms 2 and 3 – 36
Courtroom 5 – 11
Courtrooms 6, 7 and 8 – 18
Courtroom 9 – 24
Courtroom 10 - 28

The Catawba County Manager, or his designee, shall ensure that the maximum occupancy as established by this paragraph is prominently posted at the entrance to each courtroom. The above numbers do not include those persons necessary to conduct the business of the court and located within the well of each courtroom, but each of those persons should also maintain a social distance of at least six feet. The audience section of each courtroom shall be marked with tape or other visible markers such that social distancing of at least six feet is maintained.

4. The Catawba County Manager, or his designee, shall further ensure (1) that hand sanitizer is, at a minimum, available at the entry and exit of the Catawba County Justice Center and, preferably, at all high touch areas of the facility including doorways, service counters, stairwells and elevators, and (2) that all areas accessed by the public are cleaned daily with high touch areas cleaned periodically throughout each day the courthouse is open. High

touch areas include, but are not limited to, doorknobs, water fountains, handrails, elevator walls and buttons, bathroom faucets and dispensers, and reception desks or counters.

5. Beginning with the June 1, 2020 session of Criminal Superior Court, the following protocols shall be followed:

a. There will be no traditional calendar call where all defendants and attorneys are required to appear. Each case on the printed calendar shall be scheduled for hearing in 15 minute time slots developed by the District Attorney's office in coordination with Defense counsel or *pro se* defendants as hereinafter set forth. Such time slot schedule, if practical, should be sent via email to the court, clerk's office, bailiffs, defense bar, probation officers, and any others necessary during the week prior to the session of court.

b. Non-custody and custody defendant's cases will be heard in time slot increments for plea or other disposition. Cases should not be scheduled for a particular time slot for the purpose of status updates or for the purpose of determining possible resolutions. Cases should be set for time slots only where there is a proposed resolution or particular motion to be heard and the case is being set for the purpose of consummating that resolution or hearing that motion.

c. Where there is an agreed upon continuance, neither the defendant nor his counsel will be required to appear.

d. When there is an agreed upon plea or resolution, all paperwork necessary to consummate the plea shall be completed and signed outside of court and prior to the scheduled time slot. There will be no plea negotiations nor conferences with defendants once the time slot begins. All such conversations and negotiations should be made outside of court and prior to the case being called for hearing.

e. Not guilty pleas can be entered by counsel for a defendant and without the defendant's presence if the defendant has signed a statement in which he or she has (1) waived his right to formal arraignment, (2) waived his right to be present for the arraignment, (3) consented to his attorney entering a plea of not guilty on his behalf and (4) requested a trial date. In the absence of such a signed statement, the defendant must appear in person in court.

f. Each session shall be opened on the first day of the session for the disposition of first appearances or bond hearings, the appointment of counsel for indigent defendants, probation hearings, probable cause hearings, and other matters necessary to preserve the right to due process of law or where the defendant is in custody provided the presiding Judge determines that the proceeding can be

conducted under conditions that protect the health and safety of all participants. The courtroom bailiffs shall ensure that the number people entering the courtroom does not exceed the maximum number allowed pursuant to this order. The bailiffs shall establish and coordinate a waiting area outside the courtroom for those persons who are present for court but not allowed inside the courtroom pursuant to this order.

6. Each scheduled session of civil Superior Court beginning June 1st, 2020 as scheduled on the Master Calendar shall continue to be held, however, there will be no calendar call or opening of court in any courtroom. These sessions shall be held for the purpose of hearing motions only as hereinafter prescribed. All cases set for trial for any civil session of Superior Court through July 31st, 2020 that have not been previously continued are hereby continued.

7. Motions in civil Superior Court shall be heard either by in person hearings OR by video teleconference scheduled in specific date and time slots by the Trial Court Coordinator after consultation with each party or attorney. Attorneys and parties are strongly encouraged to have their matter heard remotely via video teleconference. Parties must notify the Trial Court Coordinator, Ms. Judy Sherrill by email at Judy.H.Sherrill@nccourts.org at least five (5) days prior to the first day of the applicable session of court as to whether they wish to have their motion heard live in the courtroom or by video teleconference. Unless special circumstances are present, motions shall be scheduled by Ms. Sherrill on the first day of the session of court. Parties who agree to a video conference shall be advised of the date, time and procedure for the same via email. The email sent by Ms. Sherrill to join the video conference motion hearing will be the only notice of hearing sent to parties. Parties who wish to have their motion heard in person in the courtroom will be notified by Ms. Sherrill of the date and time to appear. Notwithstanding the use of video conferencing, proper courtroom decorum as outlined in Rule 12 of the General Rules of Practice for the Superior and District Courts is required. However, business casual shall be the appropriate dress for counsel appearing via video conference.

8. To the extent that this order conflicts with the order of the Chief Justice of the North Carolina Supreme Court entered on May 21, 2020, the order of the Chief Justice shall apply. Said Order is attached hereto and incorporated herein by reference. This order supersedes the Administrative Order entered April 6, 2020 and shall remain in effect until further order of the Court.

This the 28 day of May, 2020.

Nathaniel J. Poovey
Senior Resident Superior Court Judge

ORDER OF THE CHIEF JUSTICE
OF THE SUPREME COURT OF NORTH CAROLINA

Since 13 March 2020, in response to the COVID-19 global pandemic, I have issued a series of emergency directives necessary to ensure the continuation of critical court system functions while limiting the number of face-to-face interactions and the gathering of large groups in courthouses.

In that time, Governor Roy Cooper has issued emergency executive orders limiting public gatherings, closing public schools, restricting the operation of non-essential businesses, and encouraging the use of social distancing in keeping with current public health guidelines.

Adherence to social distancing and other public health guidance cannot be achieved with traditional, routine operation of the district and superior courts of this State. High-volume sessions of court, heavy dockets, and jury trials require the public to gather in county courthouses and courtrooms in close proximity for extended periods of time in numbers greater than currently allowed by the Governor's orders.

North Carolina's courts are a critical governmental function and, as such, are exempt from executive orders that limit large gatherings. Even so, crowded sessions of court are not in keeping with current public health guidance and must be avoided.

It is critical to the continued operation of our court system that the public and our court personnel have confidence that appropriate precautionary measures have been taken to protect public health in their local court facilities.

It is also critical to the functioning of our state government that the Judicial Branch continue carrying out its constitutional functions. Continued operation of the court system in light of the current pandemic requires a careful balancing of the needs of public safety, the rule of law, and our collective public health.

Therefore, additional emergency directives are now necessary to reduce the risk of infection and ensure the continuing operation of essential court functions.

Accordingly, I hereby determine and declare under N.C.G.S. § 7A-39(b)(2) that catastrophic conditions resulting from the COVID-19 outbreak have existed and continue to exist in all counties of this state.

Emergency Directive 9

No session of court may be scheduled if doing so would result in members of the public sitting or standing in close proximity and/or for extended periods of time in contravention of current public health guidance

Judicial officials should continue to make use of remote hearing technology to the greatest extent possible to limit in-person appearances.

All judicial officials should minimize large gatherings and face-to-face interactions between court personnel and the public to the greatest extent possible.

Emergency Directive 10

No jury trials shall be convened in the district or superior courts of this State for the next thirty (30) days.

Although this emergency directive will expire in 30 days pursuant to N.C.G.S. § 7A-39(b)(2), it is my intention to extend this directive through at least the end of July and judicial officials are directed to plan accordingly.

Emergency Directive 11

Each senior resident superior court judge shall, for each facility in his or her district, serve as or designate a COVID-19 Coordinator. In districts with more than one court facility, the same coordinator may be designated for multiple facilities. The name of the COVID-19 Coordinator for each facility shall be submitted no later than 5:00 p.m. on Tuesday, 26 May 2020 to the Administrative Office of the Courts.

The COVID-19 Task Force is directed to develop additional guidelines and best practices for the conduct of in-person court proceedings in compliance with current public health guidance.

Emergency Directive 12

Each senior resident superior court judge shall for each facility in his or her district, ensure that:

1. intervals of at least six feet in every direction are marked with tape or other visible markers in all areas where the public is expected to congregate or wait in line;
2. the maximum allowable occupancy of each courtroom or meeting space is established such that all persons who must sit or stand in such space may observe social distancing of at least six feet in every direction;
3. the established maximum occupancy is prominently posted at the entrances to each courtroom or meeting space;

4. hand sanitizer is, at a minimum, available at the entry and exit of the facility and, preferably, at all high touch areas of the facility including doorways, service counters, stairwells and elevators; and
5. all areas accessed by the public are cleaned daily with high touch areas cleaned periodically throughout the day (high touch areas include, but are not limited to doorknobs, water fountains, handrails, elevator walls and buttons, bathroom faucets and dispensers, and reception desks or counters).

Emergency Directive 13

Before any court calendar is published or distributed, the COVID-19 Coordinator must ensure that:

1. each session of court, either individually or when considered collectively with other planned sessions of court, will not result in members of the public sitting or standing in close proximity and/or for extended periods of time in contravention of current public health guidance; and
2. all judicial branch personnel assigned to a courtroom for more than thirty minutes will have a facemask made available prior to the session of court.

For sessions of court for which calendars have already been distributed, the COVID-19 Coordinator must make such assurances before the session of court begins.

Emergency Directive 14

Clerks of superior court are directed to ensure that filings may be submitted during normal business hours and that access to public records is provided.

The clerk may, at his or her discretion, require that filings be submitted using a secure drop box to limit face-to-face interactions between staff and the public. The clerk may, at his or her discretion, require that access to public records be by appointment only and may limit the hours during which such access is available.

Emergency Directive 15

To further minimize foot traffic in the courthouses, attorneys and litigants are encouraged to submit filings by mail to the greatest extent possible. Beginning 1 June 2020, pleadings and other documents delivered by the United States Postal Service to the clerk of superior court shall be deemed timely filed if received within five (5) business days of the date the filing is due.

Emergency Directive 16

Each COVID-19 Coordinator is directed to determine whether there is adequate space in the court facility to convene a jury trial in keeping with current public health guidance. In making this determination, the COVID-19 Coordinator should take into account the need for the venire to observe social distancing, as well as for jurors to be socially distanced in the courtroom and any deliberation room. The COVID-19 Coordinator is encouraged to consult with the local public health director, or their designee, in making this determination where possible.

If local court facilities are determined to be inadequate to convene socially distanced jury trials, the senior resident superior court judge is directed to identify, no later than 1 July 2020, other appropriate facilities where trials may be safely convened beginning in August and continuing during the pendency of this emergency.

If the alternate facility is located outside the county seat, information about the alternate proposed facility shall, pursuant to N.C.G.S. §§ 7A-42(i) and 7A-130, be submitted to the Administrative Office of the Courts for approval and, in the case of the superior court division, to the Chief Justice for approval as well.

The COVID-19 Task Force is directed to develop recommended best practices and minimum requirements for the convening of jury trials and to submit those recommendations to the Chief Justice and to the Administrative Office of the Courts no later than 30 June 2020.

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Expiration of this Emergency Order and Guidance to Judicial System Stakeholders

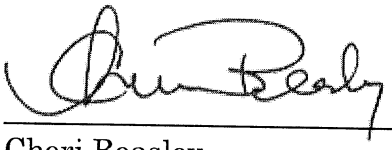
Pursuant to N.C.G.S. § 7A-39(b)(2), the emergency directives contained in this order expire on 20 June 2020.

These emergency directives are crucial to ensuring that our court system continues to administer justice while protecting the health and safety of court officials, court personnel, and the public.

All court officials are encouraged to liberally grant additional relief and accommodations to parties, witnesses, attorneys, and others with business before the courts.

Additional information about the Judicial Branch's response to the COVID-19 outbreak is available at https://www.nccourts.gov/covid-19.

Issued this the 21st day of May, 2020.



Cheri Beasley
Chief Justice
Supreme Court of North Carolina