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NORTH CAROLINA

IN THE GENERAL COURTS OF JUSTICE

DUPLIN COUNTY

SUPERIOR COURT DIVISION

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**ADMINISTRATIVE ORDER FOR THE RESUMPTION  
OF JURY TRIALS**

The undersigned Senior Resident Superior Court Judge and resident superior court judge enter this Administrative Order governing Court operations for the management of the resumption of jury trials in Duplin County. This Administrative Order is in addition to all previous Orders.

The following protocols will be followed to best conduct jury trials safely beginning November 2, 2020 for the jurors, court officials, parties, witnesses and the public.

**I. Jurors (Protocols, Screening, and Selection):**

1. Safety measures have already been implemented that will continue in place as we resume jury trials. These precautions include:
  - o No persons shall be allowed into the courthouse if they are symptomatic of COVID -19.
  - o Face coverings are mandatory for persons entering the building and all court personnel while in public areas. If, because of medical reasons, a juror cannot wear a face covering, that juror will be deferred to a later term of court. The juror will not be required to produce medical documentation to establish their inability to serve.
  - o All persons entering the courthouse will submit to touchless electronic scanning to determine body temperature. Local county and court officials will determine protocols for those exhibiting above normal temperatures.
  - o Warning signs are posted at the entrance pursuant to Chief Justice Cheryl Beasley's Directive 2 which mandates that no person who has likely been exposed to COVID-19 should enter the courthouse. A person who has likely been exposed to COVID-19 is one who:  
(1) Has travelled internationally within the preceding 14 days; (2) Is experiencing fever, cough or shortness of breath; (3) Has been

directed to quarantine, isolate or self-monitor; (4) Has a known exposure to COVID-19; (5) Has been diagnosed with COVID-19; and (6) Resides with or has been in close contact with any person in the above mentioned categories.

- o Hand sanitizer dispensers are placed in all public access areas and areas where court business is to be conducted.
  - o Public areas are marked to indicate appropriate social distancing spacing (six feet) in all public areas and seating.
  - o Courtroom bailiffs and other security personnel will continue to actively monitor persons in the courthouse to ensure compliance with requirements for face coverings and social distancing and to watch individuals for any signs or symptoms that could be indicative of COVID-19.
  - o Periodic cleaning of areas open to the public will continue to take place throughout the day.
2. From a review of the history of recent responses by jurors to issued summons for jury duty, the court concludes that the ratio of jurors who appear for jury service compared to jurors summoned is approximately 1:3.
  3. A letter to prospective jurors will accompany the jury summons advising them of the precautions that have been taken to provide for their health and safety during their service. The letter will include the phone number of the jury clerk that will allow the juror to call for deferment information and to contact the court system should an exigent circumstance arise. A jury service deferral request form will be included with instructions on where and how to send it to the jury clerk.
  4. Prior to being sworn, all jurors who reported will be required to fill out a COVID 19 screening document which will be used to assist the court in protecting the health and safety of jurors during their jury services. Responses will be used solely for the purpose of determining whether a juror can safely serve. Responses to the questions are not public record and will be sealed by the court. The juror's health confidentiality rights will be honored.
  5. The screening documents will be collected by the bailiff and reviewed by the presiding judge to determine if any action needs to be taken regarding any of the jurors.
  6. The jurors will also fill out a background questionnaire which will be used by the attorneys in selecting a jury in the cases called for trial. At the conclusion of the jury selection process, those questionnaires will be collected and maintained by the clerk. The prospective jurors will also provide their email addresses and phone numbers to assist the clerk in contacting them for later scheduling issues. Pens or pencils which have



been cleaned will be provided to jurors if they do not have one of their own. A legal pad will be provided to them to assist in answering the screening devices and questionnaire, and if selected to sit on a case will allow them to take notes.

7. Based on the probable numerical response to the jury summons and considering the criminal superior courtroom's capacity, 75 jurors will be summoned to appear at 8:30 a.m. on Monday of the term of court, 75 will be summoned for 2:00 p.m. on Monday of the term of court, and 50 jurors will be summoned for 8:30 a.m. on Tuesday of the term of court. The first group of the jury pool will be required to call in on the designated phone number listed on the summons after 5 p.m. the Friday before the term of court. They will be given prerecorded instructions as to when they need to report or when they need to call back for further instructions. The Monday afternoon panel will also call Friday after 5 p.m. and, if not given a different time to report, they will be told to report as summoned or be advised to call back for further instructions. Those summoned for Tuesday morning will call after 5 p.m. on Friday, and, if they are not given a definite time to report, will be asked to call again after 5 p.m. on Monday.
8. Jurors are encouraged to call or contact the jury clerk in the office of the Clerk of Superior Court at the phone number on their summons prior to their reporting date and time to request excusal or deferment. The jury clerk will initially screen those requests. The clerk will apply Center of Disease Control guidelines that identify high risk criteria to those requesting excusal or deferment. Those jurors who are in those high-risk groups and request excusal or deferment will be granted their request. Any questions about jury service deferment or excusal will be referred, if necessary, to a district court judge.
9. Jurors, who are advised to report, will report to the superior courtroom where they will be provided orientation on jury service. They will initially enter the courthouse through the entrance on the west side of the courthouse. If they show their jury summons to security, they will be allowed to bring in their cell phones, water, snacks and reading material. Every effort will be made to expedite and ease their admission to the courthouse. They will be directed to the superior court courtroom on the second floor by appropriate signage.
10. All jurors will be required to wear facial covering and will be required to use hand sanitizing products upon entering the courtroom. If they do not have facial covering, they will be provided with one. The courtroom will be cleaned before the arrival of the first jurors. The jurors called into the "jury box" will be appropriately spaced and will be assigned to clearly marked seats. The first three rows on the east side



of the courtroom will be left vacant to accommodate the proper spacing of those jurors who are called into the "jury box" when the first case for trial is called.

11. Jurors will be affirmed rather than sworn.
12. By Friday before the jury term of court, the State will identify and publish the cases ready for trial and the order of trial. As soon as possible before the week of trial, defense counsel will be notified of the order of trial. If there is any question about whether the defendant will appear, the district attorney and presiding judge shall be notified in advance. If there are motions that need to be heard before jury selection, the presiding judge shall be notified in advance to determine scheduling. There will not be a calendar call on Monday for those on the trial calendar.
13. In selecting cases for trial, the district attorney will consider: (1) the extent to which a jury trial of the case can be safely conducted for the health of all participants; (2) the readiness of the case for trial, as determined by counsel for each party; (3) the age of the case; (4) whether or not the defendant remains in custody pending trial; (5) the complexity, number of parties and expected length of trial; (6) the consent, or lack thereof, of the defendant and defense counsel to proceed to trial at that time; and (7) the need during the trial for bench conferences and voir dire of issues raised during the trial that would subject the jury to extended periods of time outside of the courtroom.
14. By Monday morning the first case for jury trial will already have been identified, and the attorneys and the defendant must be in place to begin selecting a jury as soon as the jury panel is ready.
15. The seating arrangement chart in the courtroom for jurors will be provided to the attorneys prior to trial, and they will be shown the new configuration of the courtroom that will allow for appropriate social distancing for parties, attorneys, witnesses and jurors.
16. The district attorney will call the first case for trial, and the courtroom clerk will randomly select and announce the names of the first twelve jurors. They will take their designated seats which have been marked to ensure proper social distancing.
17. Jurors will be allowed to bring their cellphones, beverages, snacks and personal reading materials into the courtroom. They are encouraged to bring a pen with them into the courtroom. If they request a pen or pencil, one will be provided to them. A writing pad will be provided to assist them in filling out the COVID-19 screening document, a juror questionnaire and a document that gives to the courtroom clerk their email address and phone number should any scheduling issues arise.



18. It has been determined that in the spectator area, after appropriate social distancing, there is seating capacity for 24 jurors. If more jurors report than there is seating, they will be escorted to the second-floor library. If there are more jurors than can be safely seated in the courtroom or the library, the jury clerk at random will select an appropriate number of jurors to be temporarily excused. They will be advised when they need to call the court back for further instructions.
19. Each juror will be provided stick on patches to identify them as jurors.
20. During opening remarks by the court, jurors should be advised again of the health precautions taken by the county and the court. They will also be advised whom they need to speak if they have a question. They will be provided a telephone number in the clerk's office to call if their status changes after their court appearance. Jury selection will proceed in the same manner as prior to the pandemic. Counsel will receive copies of the jury questionnaires prior to the beginning of jury selection. After a jury has been selected, those questionnaires will be collected and maintained by the clerk. After the term the questionnaires will be sealed and not opened except upon further order of the court.
21. If there are not 12 jurors available to begin jury selection, the state will be required to question those jurors who are present and available. After the state has completed questioning those jurors, the defendant will be required to question those same jurors. The state will not be required to exercise any peremptory challenges until it has had an opportunity to question 12 jurors. If the defense completes the questioning of the first set of jurors numbering less than 12, then the court will recess until the next panel of jurors has reported and completed orientation.
22. Jurors from succeeding panels will not be called into the jury "box" until the previous panel has been exhausted.
23. Prior to being empaneled, if there are a number of jurors who have been accepted by both the state and the defendant, those jurors, if not needed before court recesses, will be excused and advised, after proper instruction, when they will be required to return. Jury selection will continue until 12 jurors and at least one alternate have been selected.
24. If a second, or subsequent jury trial is commenced during that term of court, the presiding judge will determine which jurors will be required to report.

## **II. Attorneys, Court Personnel, Witnesses and Parties**

1. Prior to the convening of court, the attorneys, court personnel and parties will fill out a screening document each day to determine possible exposure to COVID 19 and its possible effect on the health and safety of all persons appearing in court. Each attorney is required to get all of their witnesses to fill out the COVID 19 screening device before they come into the courtroom and before being called as a witness.
2. All of the screening documents will be presented to the presiding judge before court is convened. The presiding judge will review the documents to determine if any remedial action is necessary. If action is necessary, the presiding judge will confer with the bailiffs, attorneys, and courtroom clerks to discuss the options available. If necessary, the judge can call upon the Duplin County reaction team, which has already been identified, to convene by conference call. Contact with the county public health director, a member of the reaction team, may be necessary before making a decision.
3. The courtroom clerk shall maintain in the courtroom the names, phone numbers and email addresses for the members of the county reaction team.

### **III. Courtroom Trial Protocols:**

1. The courtroom has been reconfigured to accommodate social distancing requirements. Counsel will be able to position himself/ herself anywhere around the counsel table to best conduct jury voir dire. Counsel will be required to sit behind the counsel table or at the end of the table to question witnesses.
2. A podium will be positioned in the middle of the courtroom, properly social distanced, from which counsel will be required to deliver opening and closing statements.
3. Counsel cannot approach the bench, the clerk, the court reporter or a witness without permission from the court.
4. During each recess the defendant will be given an opportunity to consult with his attorney. That opportunity will be recorded on the record after each recess.
5. A county employee from housekeeping will be present in the courtroom to assist the court and the jurors to maintain the safety and condition of the courtroom and the facilities used by jurors. Hand sanitizing resources will be made available for all court personnel. All persons who enter the courtroom will be required to use the hand sanitizer.



6. Witnesses, if not sequestered, will be allowed to sit in the courtroom if there is sufficient seating capacity that allows for appropriate social distancing.
7. It is recommended that bench conferences be held only when clearly necessary. Should a bench conference that is short in duration be necessary, the judge, along with the attorneys, will retire to the judge's chambers, and the jury will remain in the courtroom. If a bench conference of longer duration is necessary, the court will grant the jurors a recess and will conduct the conference in the courtroom. The jurors will be instructed as to the length and where to report once the conference has concluded. If the conference is conducted in chambers, there will not be complete recordation, but a summary of the issues discussed will be summarized for the record if requested by either counsel.

#### **IV. Recesses:**

1. During a recess up to three jurors will be permitted to use the traditional jury room whose entrance runs off of the jury box. Jurors can leave the courthouse and remain outside during a recess and will return when notified by the bailiffs. The areas outside of the courtroom, the hallways and areas outside of the courthouse will also be available. Additional spaces will be identified daily based upon their availability. Those possible areas are identified as a second-floor courtroom (audience capacity of 18), a first-floor courtroom (audience capacity of 17) and the second floor library. Those areas will be clearly marked to ensure appropriate social distancing.
2. After a court's recess at midday or overnight, the jury will return to a location identified by the court and described above in paragraph 1 above, based upon its availability. A bailiff will be responsible to advise the court the number of jurors present before they will be returned to the courtroom. When instructed by the court, the bailiffs will escort the jurors back to the courtroom and their assigned seating.
3. The traditional jury room and any other locations where the jurors will gather will be stocked with disinfectant wipes, hand sanitizer, facial tissues and soap for hand washing. The court will try to provide to those jurors who are selected to hear a case individual size containers of hand sanitizer.

#### **V. Evidence:**

1. If a party desires to publish any documentary evidence to the jurors, it will be shown on a flat screen or through individual copies provided to



each juror. It is recommended that all documents to be offered in a trial be copied and presented to the jury after opening statements in an individualized folder or notebook to be distributed by a gloved deputy. To maintain the confidence of the jurors as to their safety, the jurors will be advised how those documents were copied and brought into the court. The jury will be instructed not to look at or examine the numbered exhibits before that document has been admitted and appropriation instructions of the court have been given.

2. Counsel for the State shall prepare and mark any documents about which a witness will be examined and place them in a folder which will be placed on the ledge in front of the witness prior to calling that witness to testify. Any document or object that is introduced into evidence will be placed on the court reporter's desk after the witness has finished testifying.
3. Defense counsel shall prepare and mark any documents, not already admitted, about which a state's witness will be cross-examined and place them in a folder on the ledge in front of the witness after direct examination and before cross examination.
4. The requirements of paragraphs one through three above will also apply when the defendant is putting on evidence.
5. No item of evidence will be passed from juror to juror for examination. If a physical exhibit needs to be shown to the jury, the bailiff will retain possession of the item and display it to the jury. Displaying an item on a table and letting the jurors pass by and look at it without touching it, is available as an alternative in the discretion of the court.
6. It is encouraged that evidence capable of being displayed on a flat screen be published in that manner. Any such exhibit will be required to be shown to opposing counsel prior to it being displayed to the jury.
7. If in-court identification of an individual is an issue in the case, counsel shall advise the court through a motion to suppress identification or motion in limine. This motion must be filed and served on opposing counsel prior to the term of court set for the jury trial of the case.
8. Each witness will be affirmed.
9. All witnesses will remove their face covering while testifying.

## **VI. Jury Deliberations:**

1. After the jury has been given instructions by the court at the end of the testimony and arguments, the jurors will be escorted by the bailiffs to the location to be used as a jury room to conduct their deliberations. All entrances and exits to that deliberation room will be controlled by the bailiffs during deliberations.



2. While the jury is deliberating, if possible, the seats used by the jurors during the trial will remain unoccupied until a verdict is reached. If that is not possible, before the jury is returned to the courtroom, the seats previously used by those jurors will be cleaned by housekeeping.
3. Any questions raised by the jurors or requests for further instructions will be reduced to writing and delivered by the bailiffs to the courtroom for the court's consideration.
4. If the court needs to further instruct the jury, the jury will be escorted by the bailiffs back into the courtroom. The jurors will return to the seats they occupied during the trial. Efforts will be made to clean those seats prior to their return. During deliberations prior to the return of the verdict, the jury will be escorted to the courtroom before any midday or end of day recesses to receive the court's instructions.

#### **VII. Basic Health and Safety Requirements:**

1. The court has ordered that all persons who enter the superior court courtroom shall wear a facial covering or a mask. The presiding judge will address any juror who refuses to wear a facial covering or a mask.
2. Attorneys are responsible for providing masks and face covering to their clients and all those who enter the courtroom who are witnesses for that party or accompanying the attorney's client.
3. All those entering the courthouse may be subjected to temperature checks.
4. Hand sanitizers will be available to the jurors every time they enter the courtroom after a recess.
5. All attorneys, witnesses, parties and court personnel who enter the courtroom after a recess shall use hand sanitizer before court resumes. A witness, when first called to the witness stand, will be required to use a hand sanitizer.
6. Only one juror will use the elevator at one time in order to adhere to social distance mandates. After a recess the touch surfaces of the elevator and the hand railings on the stairs will be cleaned.
7. During a lunch recess, the entire courtroom will be deep cleaned by county personnel. A similar cleaning will be conducted before the court reconvenes the next morning.

8. To avoid contact with common touch surfaces, a door to the rear of the courtroom will be left open for the public. When possible, doors through which jurors have to pass will be left open or held open. Handrails on the stairs will be cleaned after every recess.

9. When jurors are entering or exiting the courthouse, the bailiffs shall escort the jurors and require all others to clear an open path in the common areas.

### **VII. Civil Jury Trials**

It is anticipated that there will not be a civil jury trial before January 4, 2021. The rules and protocols established above will apply also to civil jury trials with the presiding judge determining which cases will be tried and the order of those cases. The presiding judge will conduct a conference call with the attorneys prior to the week of the trial to plan a schedule for pre-trial motions and jury selection.

### **VIII. Review**

1. The undersigned recognize that there are exigent circumstances will arise without notice that were not dealt with in this plan. Such circumstances may require changes in this plan in order to keep the court operating, if possible, after taking into consideration the health and safety of court officials, the jurors and the public. This plan defers to the sound discretion of the presiding judge and court officials to modify or alter these plans when necessary.
2. This plan before going into effect was reviewed and approved by the Duplin County Clerk of Superior Court, a representative from the Duplin County Public Health Department, the sheriff or his designee, the district attorney or his designee, a senior member of the Duplin County Bar, and the chief district court judge or her designee. A full opportunity to suggest changes, modifications and comments were provided.
3. The undersigned confirm that the plan for the resumption of jury trials and this court facility is in compliance with the Chief Justice's emergency orders entered in response to the COVID 19 outbreak.

This the 11<sup>th</sup> day of October, 2020.

  
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Senior Resident Superior Court Judge

  
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Resident Superior Court Judge