

STATE OF NORTH CAROLINA
COUNTY OF HAYWOOD

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HAYWOOD COUNTY, C.S.C.
IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 20 R 262

IN RE:)
)
JURY TRIAL RESUMPTION PLAN)
FOR HAYWOOD COUNTY)
_____)

ADMINISTRATIVE ORDER

On March 13, 2020 Chief Justice Cheri Beasley announced measures on behalf of the Judicial Branch to minimize the spread of COVID-19 among members of the public. On July 16, 2020 Chief Justice ordered, *inter alia*, that all Jury Trial Sessions be postponed until the end of September 2020. Chief Justice Beasley likewise ordered that each Senior Resident Superior Court Judge, in consultation with other local officials, craft a plan for the resumption of jury trials in his or her judicial district.

**A. CONFIRMATION OF FACILITY COMPLIANCE WITH CHIEF JUSTICE
CHERI BEASLEY’S EMERGENCY ORDER**

1. That pursuant to Emergency Directive 11 of Chief Justice’s Order dated May 21, 2020 the Senior Resident Superior Court Judge is serving as the COVID-19 Coordinator.
2. That pursuant to Emergency Directive 12 of Chief Justice’s Order dated May 21, 2020 the Senior Resident Superior Court Judge for Judicial District 30B has ensured that the Haywood County Justice & Administration Center:
 - a. Is visibly marked in intervals between six to
 - b. ten feet in every direction in all areas where the public is expected to congregate or wait in line;
 - c. The maximum allowable occupancy of each courtroom is established such that persons who must sit or stand in such space may observe social distancing of between six (6) feet minimum and ten (10) feet maximum in every direction;
 - d. The established maximum occupancy is prominently posted at the entrances to each courtroom;
 - e. Hand sanitizer is available at the entry and exit of the facility and at all high touch areas of the facility;
 - f. All areas accessed by the public are cleaned daily with high touch areas cleaned periodically throughout the day pursuant to my Order dated May 22, 2020; and
 - g. Face coverings shall be worn at all times inside the courthouse.
3. That pursuant to Emergency Directive 13 of Chief Justice’s Order dated May 21, 2020 the Senior Resident Superior Court Judge/COVID-19 Coordinator for Judicial District 30B has:

- a. Prior to publication and distribution, reviewed each calendar, both individually and collectively with other sessions of court, to ensure that the calendars 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
- b. That all judicial branch personnel assigned to a courtroom for more than ten (10) minutes will have a facemask made available prior to the session of court.

B. SUMMONING AND EXCUSING JURORS

4. Pursuant to the prior Jury Order of the undersigned dated June 19, 2020 for all Jury Trial Sessions ordered by the Senior Resident Superior Court Judge or Chief District Court Judge, the Clerk of Superior Court will summon separate panels of fifty (50) potential jurors for each day (Monday, Tuesday and Wednesday) of the Jury Trial Session. This procedure shall, however, be conducted in accordance with specific instructions from the presiding Superior or District Court Judge. For purposes of explanation and illumination, for example, a panel of fifty (50) potential jurors will be summoned for Monday of the Jury Trial Session, a separate panel of fifty (50) potential jurors will be summoned for Tuesday of the Jury Trial Session, and a separate panel of fifty (50) potential jurors will be summoned for Wednesday of the Jury Trial Session. If a jury is selected on Monday the Tuesday panel shall be instructed not to report. The same procedures will be used on Wednesday if a jury is selected on Tuesday.
5. The Clerk of Superior Court will update the applicable jury system phone line to give specific instructions and updates to potential jurors who have been summoned for a particular day during the Jury Trial Session.
6. Jury summonses will be updated to provide that potential jurors may make request to the Clerk of Superior Court in writing, by fax, by email, or by phone to be excused or deferred from jury service.
7. Potential jurors will not appear in person before a District Court Judge to be excused or deferred from jury service as authorized under N.C. Gen. Stat. §9-6(b) due to the public health concerns over COVID-19.
8. The screening process contemplated by N.C. Gen. Stat. §9-6(b) is considered by our courts to not be a part of trial and merely an early selection for service examination. *State v. McCarver*, 341 NC 364 (1995), cert denied, 517 U.S. 1110 (1996).

The North Carolina Supreme Court has declined to extend the right of a defendant to be present at this early stage of jury screening. *Id.*

By requiring all jurors to appear at the trial session there is no prejudice to defendant since defendant is able to examine and be heard regarding all excuses by the court. And the reason for suspension of District Court pretrial screening pursuant to N.C. Gen. Stat. §9-6(b) is not for reasons of corrupt intent, discrimination, irregularities, or any form of prejudice to either the defendant or state. Further, the sole reason is need to reduce crowd

size in court, maintain social distancing and affirmatively address the public health concerns so as to protect the jurors health, and the health of their family and loved ones, due to COVID-19.

9. Requests for excusal or deferral arising on the day a potential juror is told to appear will be heard by the Superior or District Court Judge in court on the day the potential juror appears for service. However, notwithstanding the suspension of District Court screening pursuant to N.C. Gen. Stat. §9-6(b) and excuses being heard by the presiding judge in that session of court, the Clerk may use his discretion and excuse or defer any juror if just cause is shown unless otherwise ordered by the presiding judge.
10. Orientation video will no longer be shown to jurors on the day they report. Jury summonses will be updated to provide that a valid excuse for excusal or deferral from jury service exists for potential jurors who wish to be excused or deferred due to the COVID-19 outbreak.
11. The Clerk will ensure that the revised jury summonses will include the link to the Jury Orientation Video allowing potential jurors to watch the video prior to “in-person” orientation.
12. A notice will be provided with summonses to potential jurors stating that precautions have been taken in accordance with guidelines from the Judicial Branch of North Carolina and the Centers for Disease Control and Prevention to reduce the risk of transmission of COVID-19. Said notice will be updated to reflect the most recent guidelines and the jury orientation process will be conducted in accordance with said guidelines, including any social distancing guidelines then in effect jurors may, if they wish, bring their own notepad and pens for the purpose of notetaking. In addition, said notice will provide that potential jurors should not enter the courthouse if the potential juror:
 - a. Is experiencing fever, cough, shortness of breath or new loss of taste or smell;
 - b. Has been directed to quarantine, isolate, or self-monitor;
 - c. Has a known exposure to COVID-19;
 - d. Has been diagnosed with COVID-19; or
 - e. Resides with or has been in close contact with any person in the abovementioned categories.
13. The Court in its inherent authority finally orders that the citizens of Haywood County shall be duly summoned for potential service as Grand Jurors or as Trial Jurors for the criminal and civil sessions of Haywood County on any date necessary for the proper administration of justice.

C. CONDUCTING VOIR DIRE WITH SOCIAL DISTANCING

14. The court will conduct voir dire in Jury Assembly Room, Courtrooms 2B or Courtroom 3A with all summoned jurors spaced between six and ten feet apart in the public seating section of courtrooms. Jurors will wear face coverings at all times.

15. Potential jurors may be asked to complete questionnaires prior to their scheduled day of service and as part of the questions provided the option of raising health concerns related to age or medical condition.
16. The Jury Assembly Room, Courtroom 2B, Courtroom 3A or Courtroom 3B may be used for the jury break and deliberation room. Proper social distancing will be observed during breaks and deliberation.

D. CONDUCTING TRIALS WITH SOCIAL DISTANCING IN THE COURTROOM FOR ALL COURT PARTICIPANTS, INCLUDING THE JURY, AND IN THE DELIBERATION ROOM

17. Jury selection and trials will be held in either the Jury Assembly Room, Courtroom 2B or Courtroom 3A of the Justice Center.
18. The jury will be seated in the public seating section and will be spaced between six and ten feet apart.
19. Witnesses will wear either a clear cloth face covering or a clear face shield so jurors can see the face of the witness while they testify. Proper distance will be observed when the witness is wearing a face shield only. When not wearing a clear face shield the witness will wear a cloth face covering.
20. The attorneys will face toward each other across the courtroom with the jury to their side. Further, the witness will be oriented facing the jury seated in the audience with the attorneys to their sides.
21. Questioning by counsel may be in a seated position as allowed by Rule 12 of the General Rules of Practice for the Superior and District Court or from a standing position if necessitated by the orientation of the judge and discretion from the judge.
22. Court will be open to the public with limited, dedicated seating identified for spectators. One seat will also be open and dedicated for the press.
23. Exhibits published to the jury will be either presented electronically or collectively. No paper exhibits will be distributed to the jury.
24. The jury will be instructed that the court will not provide pens and notebooks. However, if a juror wishes to take notes they may bring their own pen and notebook.
25. Bench conferences lasting more than five minutes will be conducted in the jury deliberation room unrecorded. The court will then summarize the bench conference on the record.
26. Restrooms located in the jury assembly room and jury deliberation rooms on both the 2nd and 3rd floors will be reserved for jurors only.

27. Alternate sites for jury trials, should the need arise, shall be at the Historic Haywood County Courthouse, the Folkmoot Center, the gymnasium at Tuscola High School or Colonial Theater in Canton, NC. Trial procedures for these ancillary sites shall be entered by separate order of the Court and shall be approved by the Chief Justice of the North Carolina Supreme Court.

E. DAILY SCREENING OF JURORS, COURT PERSONNEL, ATTORNEYS, WITNESSES, AND PARTIES FOR COVID-19 EXPOSURE OR INFECTION

28. All persons entering the courthouse will be screened by a county staff member, agent or designee. This screening will ask the following questions of jurors, court personnel, attorneys, witnesses and parties to court proceedings regarding known exposures and current health status as follows:
- a. Are you experiencing fever, cough, or shortness of breath?
 - b. Are you experiencing a loss of taste or smell?
 - c. Have you been directed to quarantine, isolate, or self-monitor?
 - d. Have you had a known exposure to COVID-19?
 - e. Have you been diagnosed with COVID-19?
 - f. Do you reside with or have you been in close contact with any person in the above mentioned categories?
29. Individuals selected and seated as jurors in a trial are required to report by phone each morning between 8:30 AM – 9:00 AM of the trial to confirm that the juror is not experiencing any symptoms consistent with COVID-19. Each juror shall inform the clerk of a self-reported temperature of 100.4 or greater. If a juror reports such symptoms or a temperature of 100.4 or greater, the juror shall be instructed they are not allowed entry into the courthouse. If a juror reports COVID-19 symptoms or a temperature of 100.4 or greater, the clerk will notify the presiding judge and the other jurors.

F. FACE COVERINGS AVAILABLE FOR JURORS, COURT PERSONNEL, ATTORNEYS, WITNESSES AND PARTIES

30. All court personnel have been provided with a mask.
31. Masks are available for jurors, attorneys, witnesses and parties.
32. Face shields or clear masks will be provided to witnesses to wear during testimony so jurors may see the faces of witnesses.

G. RESPONSE IN THE EVENT A JUROR, DEFENDANT, ATTORNEY, WITNESS, JUDGE, OR OTHER COURTROOM PERSONNEL BECOMES SYMPTOMATIC, TESTS POSITIVE FOR COVID-19, OR HAS A KNOWN EXPOSURE TO SOMEONE WHO HAS TESTED POSITIVE FOR COVID-19 DURING THE TRIAL

i. During Trial

33. In the event of a positive COVID-19 diagnosis of a juror, defendant, attorney, witness, courtroom personnel or judge, the presiding judge will declare a mistrial pursuant to N.C. Gen. Stat. § 15A-1063.
34. The presiding judge will inform the jurors that a positive COVID-19 case has been reported and this information has been provided to the Haywood County Public Health Department. You may hear from them if you were considered a close contact.
35. The court will contact the Haywood County Public Health Department and ask for assistance including, but not limited to, contact tracing.
36. At the commencement of all jury sessions contact tracing information will be collected of all those in attendance at jury trials for use by the public health department if an exposure event occurs. The Public Health Department shall delineate what information the Court will collect to assist with contact tracing.

ii. After Conclusion of Trial

37. The court will contact the Haywood County Public Health Department and ask for assistance including, but not limited to, contact tracing.
38. At the commencement of all jury sessions contact tracing information will be collected of all those in attendance at jury trials for use by the public health department if an exposure event occurs. The Public Health Department shall delineate what information the Court will collect to assist with contact tracing.

This Administrative Order shall become effective after the date on which Chief Justice Cheri Beasley's Emergency Directive 10 expires.

This Administrative Order is in addition to all previous orders.

Signed this the 25th day of August, 2020.

B. B. Letts

Hon. Bradley B. Letts
Senior Resident Superior Court Judge
Judicial District 30B

/s/ Richard K. Walker

Hon. Richard K. Walker
Chief District Court Judge
30th Judicial District

/s/ C.J. Hunter Plemmons

C.J. Hunter Plemmons
Haywood County Clerk of Superior Court

/s/ Ashley H. Welch

Ashley H. Welch
District Attorney
43rd Prosecutorial District

/s/ David Brown

David Brown, Esq.
Criminal Defense Attorney

/s/ Greg Christopher

Greg Christopher
Haywood County Sheriff

/s/ Patrick Johnson, RN-C

Patrick Johnson, RN-C, MPA
Haywood County Public Health Director

/s/ Mark Jaben, MD

Dr. Mark Jaben
Medical Director
Haywood County Public Health

/s/ Bryant Morehead

Bryant Morehead
Haywood County Manager