

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

JUDICIAL DISTRICT 30A

SUPERIOR AND DISTRICT COURT DIVISIONS

JURY TRIAL RESUMPTION PLAN FOR CHEROKEE COUNTY

WHEREAS, on March 10, 2020, the Governor of the State of North Carolina declared a State of Emergency and has issued a series of executive orders and extensions thereof to coordinate both the response and protective measures he deemed necessary to prevent the spread of COVID-19;

WHEREAS, beginning on March 13, 2020, the Chief Justice of the North Carolina Supreme Court has issued a series of Emergency Directives for the court system aimed at keeping North Carolina Courts open for essential business while protecting the health and safety of court personnel and the public;

WHEREAS, the Senior Resident Superior Court Judge and the Chief District Court Judge have reviewed and continue to review the Chief Justice's Emergency Directives and the minimum requirements established by the Judicial Branch COVID-19 Task Force for the resumption of jury trials;

WHEREAS, prior to the adoption of this Jury Trial Resumption Plan, input from all stakeholders (as defined by the Task Force and the Chief Justice's Directive) was considered and it was concluded that if it is required that jury trials are to proceed that this local plan is reasonable, follows all current and appropriate standards for the health and safety of all participants and follows all current specific guidelines provided by the Chief Justice;

WHEREAS, in order to implement the requirements of the Chief Justice's Emergency Directives the following plan is entered as the Jury Trial Resumption Plan for the 30A Judicial District;

JURY TRIAL RESUMPTION PLAN FOR CHEROKEE COUNTY FOR JURY TRIALS BEGINNING AFTER OCTOBER 31, 2020

1. On or after the date specified by the Chief Justice as the earliest date allowed for the resumption of jury trials, and upon confirmation of readiness after consultation with the Clerk of Superior Court and the COVID-19 coordinator, civil jury trials may be calendared in District and Superior court in consultation with the COVID-19 coordinator.

2. Counsel in civil matters are encouraged to consider bench trials or six-person juries to reduce the number of people in the courtroom as well as the amount of time required by jury selection.
3. On or after the date specified by the Chief Justice as the earliest date allowed for the resumption of jury trials, and upon confirmation of readiness after consultation with the Clerk of Superior Court and the COVID-19 coordinator, criminal jury trials may be calendared for trial subject to the recommendations of the Judicial Branch COVID-19 Task Force set forth in the NCAOC COVID-19 Field Guidance.
4. Upon the approval of the calendaring of jury trials as set forth above, at least thirty (30) days prior to any sessions of Superior or District court requiring a jury, the Clerk of Superior Court or designee shall prepare a randomized list from the jury list of enough panels for the number of jurors required for the session of court as well as any consideration given for additional jurors to be selected to replace grand jury members who are rotating off. Each panel shall contain a number equal to a historically based estimate of the number of jurors who normally appear, so that a panel does not exceed the maximum capacity.
5. Based upon these historic figures and the seating capacity the panels randomly selected for Cherokee County panels shall consist of **200** randomly selected jurors.
6. The Clerk will summon two (2) separate randomized panels of jurors for each term of court, unless otherwise instructed by the Senior Resident Superior Court Judge or Chief District Court Judge. Panel 1 shall be scheduled for the first day of the court session, Panel 2 for second day of the court session. The daily panels will be placed on telephone standby and instructed to call after 5:30 p.m. on the day before they are to report for instructions on when to report or call back.
7. The size and number of the jury panels will be modified if the number of jurors seeking COVID-19 based excuses or deferrals for jury service are considerable or the historically based estimates used to establish the panel sizes fail to materialize.
8. To minimize the number of persons at the courthouse, the in-person hearing of jury excuses by District Court Judges pursuant to N.C.G.S. 9-6(b) is suspended. Jurors who feel uncomfortable or concerned about serving due to their health status or other reason related to the COVID-19 pandemic may request a deferral. ~~Jurors written requests may be sent via mail, fax, or email and must be received within five (5) business days before the date upon which they are to appear in accordance with N.C.G.S. 9-6.1. All written excuses and other excuses not ruled upon prior to the beginning of the term will be ruled upon by the presiding trial judge.~~
9. In ruling upon requests for deferrals and excuses, judges shall grant deferrals or excuses during the pandemic liberally taking into account the CDC guidance with regard to high risk individuals, persons who live with or act as caregivers for persons who are high risk and essential workers in the health and service industries and persons who have recently traveled, provided that due consideration is given to fair cross section challenges and diversity. Show causes shall not be issued

on failures to appear during the months of November and December. Jurors who fail to appear during these months shall instead be given the opportunity to serve at a term after December 31, 2020.

10. On the Friday before the jury trial session, all parties involved in the trial (i.e. prosecutor, defendants' counsel, judge, clerk, defendant etc.) shall meet at the location for jury selection and jury trials where they will perform a walkthrough of the lay out for the jury trial session where any concerns may be addressed.
11. Upon arrival for jury service, jurors shall be seated six (6) feet apart in all directions in the courtroom during orientation and jury selection. Immediately upon entering the courthouse, all jurors shall complete written questionnaires which will be tailored to the circumstances of the charges to be tried and developed in advance of the trial by the attorneys and the presiding judge. The attorneys will review the completed questionnaires and consult with the presiding judge as to which jurors, if any, should be excused or deferred based on the information in the questionnaires, and such jurors shall be excused immediately. The questionnaire in this matter will be drafted by the Superior Court Judge.
12. During the in-courtroom orientation, the presiding judge may either orally or in writing include mention to the jury of the safeguards and precautions that have been undertaken to provide a safe place for jurors.
13. Jury selection will take place at the Cherokee County Courthouse.
14. Jury voir dire shall be conducted as follows:
 - (A) Twelve (12) jurors shall be randomly selected from the panel and will be seated six (6) feet apart in all directions and questioned by the court and the attorneys for the State/Plaintiff(s) and the Defendant(s).
 - (B) During jury selection, all seats will be sanitized before the next juror is seated.
 - (C) Selected jurors shall execute and receive a copy of the Juror Responsibility Form attached hereto as **Exhibit "A"**.
 - (D) Counsel shall remain seated at counsel table during juror examination.
15. Prior to the jury reporting for the trial, the courtroom tables and seating will be reconfigured so that the State/Plaintiff and Defense tables are situated in such a manner that the attorneys and the parties/defendant will be able to view the witness stand, the jurors, and the presiding judge.
16. All court personnel, jurors, attorneys, parties and spectators shall wear masks while in the courtroom and in the courthouse common areas. If any individual fails to bring a mask, a mask will be provided.
17. All jurors, court personnel, attorneys, witnesses, parties and spectators shall be screened daily for COVID-19 by requiring each to complete the Daily Juror COVID-19 Screening Document attached

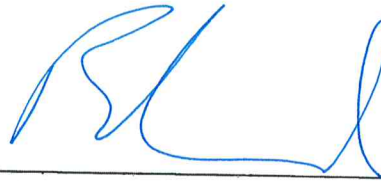
hereto as **Exhibit "B"**. These screening sheets shall be collected, reviewed by the judge, and placed in a sealed envelope.

18. If a juror, defendant, attorney, witness, judge, or other courtroom personnel becomes symptomatic, tests positive with COVID-19 or has a known exposure to someone who tested positive for COVID-19 during the trial, the COVID-19 Coordinator in that county will be notified immediately. The COVID-19 Coordinator in consultation with the presiding judge and the County Health Director and in accordance with the directives of the Chief Justice and CDC guidelines shall determine the appropriate action to be taken to ensure the health and safety of all individuals involved in the trial.
19. Witnesses called to the plexiglass witness stand, shall be allowed to remove their masks from their nose and mouth during their testimony. The witness stand, plexiglass, and microphone will be sanitized before the next witness takes the stand.
20. Trial jurors shall be empaneled by affirmation and shall be seated in the courtroom at proper social distancing and at locations which maximize to the fullest extent possible their view of the witness stand, the attorneys, the parties/defendant, and the judge as well as maximizing their ability to hear the witness, the attorneys, and the judge.
21. Spectators shall be seated socially distanced in the remaining seating in the courtroom, although no spectator shall be seated closer than ten (10) feet to any juror. If insufficient seats are not available in the courtroom, arrangements may be made to allow spectators to listen to an audio broadcast of the trial by any means approved by the presiding judge and if such space is available.
22. Opening and closing arguments of counsel shall take place at the bar, with or without a podium, with the jury seated in the courtroom. Provided plexiglass is installed at the location established for opening and closing arguments, counsel shall be allowed to remove their masks from their nose and mouth during the opening and closing arguments. The plexiglass and podium (if used) shall be sanitized between arguments. At all times during arguments, counsel shall remain six (6) feet from all other persons in the courtroom.
23. Attorneys/parties are required to prepare and provide marked original exhibits to be used at trial and provide copies of the marked exhibits to opposing counsel, the judge, the court reporter prior to the beginning of trial, and to each witness (that will testify regarding the exhibit) prior to the witness taking the stand. The witness will take his copies to the stand to avoid the unnecessary passing of documents.
24. Exhibits published to the jury shall be published electronically whenever possible. If exhibits cannot be published electronically, they shall be published in a manner acceptable to the presiding judge that protects the health and safety of the jurors. This shall include at a minimum that each juror be provided their own copies to eliminate the passing of a single exhibit between jurors. If multiple copies are not possible, jurors shall sanitize their hands and wear gloves provided by the county prior to handling the exhibit and shall properly remove and dispose of the gloves and sanitize their

hands after handling the exhibits. Trash cans and sanitizers shall be available in the courtroom for this purpose.

25. If juror notebooks are used for the publishing of exhibits, they shall be in a binder or plastic folder that can be easily cleaned with a disinfecting wipe. The court will provide instructions to the jury as to how they are to be left, safely gathered, and stored to prevent cross-contamination.
 26. If jurors are permitted to take notes during their jury service, the court will provide to the jurors new or sanitized pens as well as a plastic zip lock bag upon which they will place their name to store their notebook and pen. The court will provide instructions as to how they are to be left, safely gathered, and stored to prevent cross-contamination and maintain confidentiality.
 27. Counsel shall remain seated at counsel table during witness examination and social distancing shall be complied with at counsel tables.
 28. No one will be allowed to approach the bench, the clerk of court, or the court reporter without the prior permission of the court.
 29. If counsel needs to consult privately and confidentially with their clients during the trial, the regular jury room in each courthouse will be made available for that purpose and social distancing shall be maintained by counsel and their clients during any such meetings. This area will be sanitized before and after such meetings.
 30. Bench conferences shall be discouraged. If conferences need to be conducted, the jury may be excused and allowed to leave the facility and given a definite time in which to return. Conferences may take place in the courtroom during the jury's absence. If issues requiring a bench conference or hearing can be foreseen by counsel, the court will schedule those to be heard in the courtroom prior to the time the court requires the jury to appear to avoid unnecessary delay in the trial.
 31. Jury deliberations shall take place in the **Cherokee County Multi-Purpose Room #343** which has adequate spacing to comply with the CDC guidelines.
 32. Once the jury has reached a verdict, court will reopen, and the court will proceed with the taking of the verdict.
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33. Except as are specifically modified herein, all prior Administrative Orders relative to Superior and District Courts in Judicial District 30A remain in full force and effect.
 34. This Jury Trial Resumption Plan shall remain in full force and effect until modified or revoked.

This the 30th day of September, 2020.



The Honorable William H. Coward
Senior Resident Superior Court Judge
Judicial District 30A

The Honorable Richard K. Walker
Chief District Court Judge
Judicial District 30A



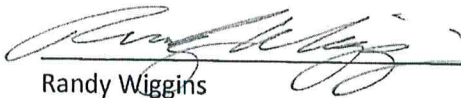
Roger D. Gibson
Cherokee County Clerk of Superior Court
COVID-19 Coordinator

Ashley H. Welch
District Attorney
30th Prosecutorial District

Rich Cassady
Criminal Defense Attorney

Derrick Palmer
Sheriff, Cherokee County

Roy Dickey
Chairman, Cherokee County Commissioners

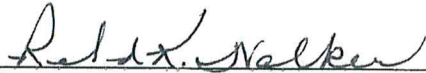


Randy Wiggins
County Manager, Cherokee County

David Badger
Director, Cherokee County Health Department

This the 29th day of September, 2020.

The Honorable William H. Coward
Senior Resident Superior Court Judge
Judicial District 30A


The Honorable Richard K. Walker
Chief District Court Judge
Judicial District 30A

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Cherokee County Clerk of Superior Court
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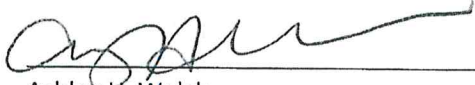
David Badger
Director, Cherokee County Health Department

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Judicial District 30A

The Honorable Richard K. Walker
Chief District Court Judge
Judicial District 30A

Roger D. Gibson
Cherokee County Clerk of Superior Court
COVID-19 Coordinator


Ashley H. Welch
District Attorney
43rd 30th Prosecutorial District

Rich Cassady
Criminal Defense Attorney

Derrick Palmer
Sheriff, Cherokee County

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Chairman, Cherokee County Commissioners

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David Badger
Director, Cherokee County Health Department

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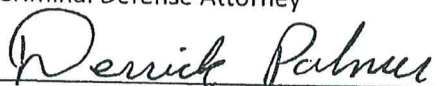
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David Badger
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This the _____ day of September, 2020.

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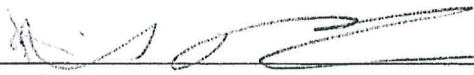
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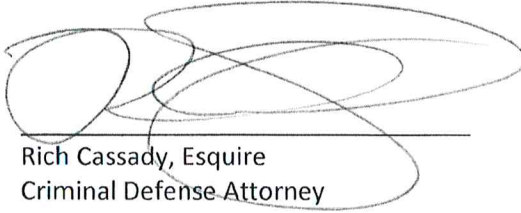

Randy Wiggins
County Manager, Cherokee County


David Badger
Director, Cherokee County Health Department

Roger Gibson
Cherokee County Clerk of Superior Court
COVID -19 Coordinator

Ashley H. Welch
District Attorney
43rd Prosecutorial District

Derrick Palmer
Cherokee County Sheriff



Rich Cassady, Esquire
Criminal Defense Attorney

CB McKinnon
Chairman, Cherokee County Commissioners

David Badger
Cherokee County Health Director

EXHIBIT "A"

JUROR RESPONSIBILITIES

As a selected juror, I understand that I have these duties and responsibilities:

1. I will serve for the duration of the case. During the trial of this case, I will pay attention to the evidence and I will base my verdicts solely on the evidence as presented in court and on the law as instructed by the presiding judge.
2. I will not talk with any fellow juror about the case until instructed by the judge. I understand that the only place this case may be talked about is in the jury room, and then only after the jury has begun deliberations, after hearing all of the evidence, closing arguments by the attorneys and instructions on the law from the Judge.
3. I will not talk about this case with anyone else or allow anyone else to talk with me or say anything in my presence about this case, until the case has concluded. If anyone communicates or attempts to communicate with me or in my presence about this case, I will notify the presiding Judge of that fact immediately.
4. I will not form an opinion about the case, nor will I express to anyone any opinion about the case, until the presiding Judge has instructed the jury to begin its deliberations.
5. I will not read, watch, or listen to any media accounts of the jury selection or the trial.
6. I will not go to the scene where the events of this trial are alleged to have taken place, nor will I attempt to personally investigate any aspect of the case in any source whatsoever.
7. In the event anyone seeks to talk to me about the case, I will not share the nature of the conversation with any of my fellow jurors, but I will bring that matter to the attention of the judge or the bailiff as soon as possible.
8. If at any time during my jury service I have a personal emergency, begin experiencing any COVID-19 symptoms while at home or in the court facility, test positive for COVID-19, have a known exposure to someone who has tested positive for COVID-19, or have a concern about my health or safety due to a lack of safety measures or because guidelines are not being followed (e.g. social distancing is not being practiced, face masks are not being worn properly or where required, or there is a lack of hand sanitizer available) I will bring that to the attention of the judge, clerk, or bailiff immediately.

JUROR'S SIGNATURE: _____

PRINTED NAME OF JUROR: _____

TELEPHONE: _____(HOME) _____(CELL) _____(OFFICE)

EXHIBIT "B"



DAILY JUROR COVID-19 SCREENING DOCUMENT

The purpose of this screening document is to assist the Court in protecting the health and safety of jurors throughout jury service. Responses will be used solely for the purpose of determining whether a juror can serve.

Note to Court: It is recommended that the Court order this document sealed in order to protect juror confidentiality.

Note to Clerk: Sealed documents shall be filed with the minutes of the court.

Juror Name (as it appears on the Juror Summons) _____

Date completed _____

1. Are you currently experiencing COVID-19 symptoms? ☐ YES ☐ NO

Since you last appeared at the courthouse:

2. Have you been diagnosed with/tested positive for COVID-19? ☐ YES ☐ NO
3. Have you been exposed to COVID-19? ☐ YES ☐ NO
4. Have you been directed to quarantine? ☐ YES ☐ NO
5. Has anyone in your household tested positive for COVID-19 or been directed to quarantine?
☐ YES ☐ NO
6. Have you been in close contact with anyone who has tested positive for COVID-19 or have you been notified by your county health department that you were or might have been in close contact with someone who tested positive for COVID-19? ☐ YES ☐ NO
7. Have you been tested for COVID-19 and are awaiting the test results? ☐ YES ☐ NO

I certify, under penalty of perjury, that I am the person named on the juror summons, and the information provided is true and accurate to the best of my knowledge.

Juror Signature