

JURY TRIAL RESUMPTION PLAN FOR MACON 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 approval of this 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 is adopted as the Jury Trial Resumption Plan for Macon County, as part of the Jury Trial Resumption Plan for Judicial District 30A.

**JURY TRIAL RESUMPTION PLAN FOR MACON COUNTY
FOR JURY TRIALS BEGINNING AFTER OCTOBER 15, 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 for 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. The Macon County Covid-19 coordinator having determined, pursuant to Emergency Directive 16, that there is inadequate space in the court facility to convene socially distanced jury trials, the Smoky Mountain Center For The Performing Arts (SMC), located at 1028 Georgia Road, Franklin, N.C., has been designated the alternate site for convening jury trials.
5. The audience area at SMC seats 1,500 people, allowing more-than-adequate space to bring in and socially distance a jury pool.

6. The stage area at SMC is 49 feet wide by 45 feet deep, providing ample space for court personnel, attorneys, the parties, a witness and up to 14 jurors to participate while socially distanced.
7. There are rooms in the backstage area that will be used for judge's chambers, space for the district attorney, and for the jury during brief recesses. Also, there are two rooms available for attorneys to meet privately with a client during the trial.
8. There is a large room adjacent to SMC that provides adequate space for a jury to deliberate while socially distanced.
9. After inspection, the county sheriff is satisfied that security needs can be met at this facility.
10. 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 summon jurors, the number summoned to be determined by the type of session and trial.
11. 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 no later than 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.
12. 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 person who are high risk and to 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 October through December. Jurors who fail to appear during these months shall instead be given the opportunity to serve at a term after December 31, 2020.
13. 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 trial where they will perform a walkthrough of the lay out for the jury trial session where any concerns may be addressed.
14. Upon arrival for jury service jurors shall be seated six feet apart in all directions in the theater auditorium during orientation and jury selection.
15. All jurors shall also 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. At a minimum, the questionnaires should cover these areas:
 - a. Age;
 - b. Employment (present or from which retired), or disabled, or unemployed, homemaker, etc.
 - c. Name of spouse and spouse's employment;
 - d. Address;

- e. Appointments or other firm time commitments that would make jury service impossible, even if that could have been made a part of a request for excusal or deferral at the earlier time; Health concerns not related to Covid-19, such as being unable to sit for long periods, hearing or vision problems, cognitive concerns;
 - f. Firm religious convictions that would be violated by "sitting in judgment" on a fellow citizen;
 - g. Whether they or any member of their family:
 - i. Worked in either attorney's firm or otherwise had business relations with such attorney;
 - ii. Is related by blood or marriage to an attorney (including staff who will be present during the trial), or the defendant, or a witness, or any court personnel.
 - h. Any other reason at all that would make it inappropriate to sit as a juror on the case to be tried.
16. SMC employees will facilitate showing the juror orientation video to members of the jury pool.
 17. During the in-courtroom orientation the presiding judge, at the judge's discretion, 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.
 18. 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. The presiding judge may order anyone to remove his or her mask if the judge deems that necessary for a fair trial and a full "hearing".
 19. Trial jurors shall be empaneled by affirmation and shall be seated on the theater stage 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.
 20. Spectators shall be seated socially distanced in the auditorium. If enough seats are not available in the auditorium, 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.
 21. The witness stand and any microphone will be sanitized after each witness finishes testimony.
 22. 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, and 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.
 23. 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 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.
 24. 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

25. Jurors shall be instructed to bring their own pencils or pens. If pencils or pens need to be provided to jurors by the court, they will be either new pens or properly sanitized pens prior to a juror's use.
26. If jurors are permitted to take notes during their jury service, they shall be given a plastic zip lock bag upon which they will place their name to store their notebook and pencil/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. If counsel uses the room(s) for consulting privately and confidentially with their client during trial, social distancing shall be maintained attorney and client during any such meetings. The meeting room will sanitize the rooms used for this purpose at the beginning of each day and after such meetings.
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. Jury deliberation will take place in a large room in a building adjacent to SMC.
30. All jurors, court personnel, attorneys, witnesses, parties and spectators shall be screened daily for COVID-19 by requiring each to complete the Screening Sheet attached hereto as Exhibit A. In addition, those counties that are equipped with instruments shall take the temperature of all individuals entering the courthouse. These screening sheets shall be collected, reviewed by the judge and placed in a sealed envelope.
31. 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.
32. The Board of Commissioners for the County, being responsible for providing court facilities, has approved of the use of non-courthouse facilities for jury trials during the pandemic, and in accordance with this Plan. The County has consulted with its insurance provider, and has determined that all jurors, court personnel, participants and spectators will be covered for all losses just as if the trials were being conducted at or on the premises of or associated with the courthouse. Written leases of non-courthouse facilities, and insurance documentation, will be finalized prior to the beginning of any occupation of the premises for court purposes.

This the 30th day of September, 2020



Honorable William H. Coward

Senior Resident Superior Court Judge

Judicial District 30A

Honorable Richard K. Walker

Chief District Court

30th Judicial District

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Senior Resident Superior Court Judge

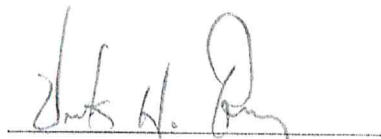
Judicial District 30A



Honorable Richard K. Walker

Chief District Court

30th Judicial District



Victor H. Perry
Macon County Clerk of Superior Court
COVID -19 Coordinator



Ashley H. Welch
District Attorney
43rd Prosecutorial District

Kathy McGaha
Macon County Health Director

Robert Holland
Macon County Sheriff

Criminal Defense Attorney

James P. Tate
Chairman, Macon County Board of
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Kathy McGaha 9/30/20

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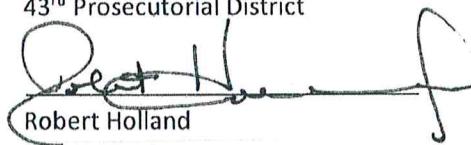
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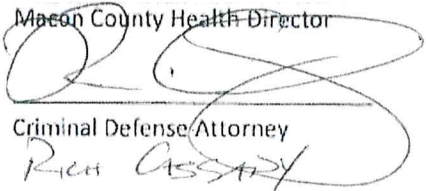


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COVID-19 SCREENING AFFIRMATION

I am a _____ (juror, bailiff, clerk, attorney, judge, witness, spectator) in the above referenced trial.

Initials

_____ 1. I have **not** travelled internationally within the preceding 14 days.

_____ 2. I am **not** currently experiencing fever, cough, or shortness of breath.

_____ 3. I have **not** been directed to quarantine, isolate, or self-monitor or COVID-19.

_____ 4. I have **not** been exposed to COVID-19.

_____ 5. I have **not** been diagnosis with COVID-19.

_____ 6. I do **not** reside with nor to my knowledge have I been in close contact with any person in any of the abovementioned categories.

This the ____ day of _____. 20____.

"I affirm, under the penalties of perjury, that the foregoing representations are true."

(Signed) _____

(Print) _____