

STATE OF NORTH CAROLINA  
JUDICIAL DISTRICT 30A

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR AND DISTRICT COURT DIVISIONS

### **JURY TRIAL RESUMPTION PLAN FOR CLAY COUNTY**

**WHEREAS**, on March 10, 2020 the Governor of the State of North Carolina declared a State of Emergency and 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 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 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, 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 Jury Trial Resumption Plan is approved for Clay County;

### **JURY TRIAL RESUMPTION PLAN FOR CLAY COUNTY FOR JURY TRIALS BEGINNING AFTER SEPTEMBER 30, 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. 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 Clay County panels shall consist of 150 randomly selected jurors.

6. Jury summonses will be updated to provide the location and address of the location for jury selection as well as contain necessary language pertaining to COVID-19 measures.
7. 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. Jury summonses will be updated to provide potential jurors the opportunity to request an excuse or deferral from jury service due to COVID-19 to the Clerk of Superior Court in writing, by fax or mail 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.
8. 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.
9. Jury selection will take place at the alternate location which is located at 333 Ball Park Drive in Hayesville. Jury selection shall take place in the Clay County Recreation Gym as long as conditions permit due to this facility not having air conditioning.
10. Reference is made here to the separate order of Judge Coward concerning objections counsel may have concerning re-arrangement of courtroom facilities (and questionnaires), which is attached hereto. Upon arrival for jury service at the Clay County Recreational Gym, jurors shall be seated six feet apart in all directions in the courtroom during orientation and jury selection. Immediately upon entering the Clay County Recreational Gym, all jurors shall complete written questionnaires, in accordance with the separate order of Judge Coward on this subject.
11. The Board of Commissioners for Clay County approves the use of non-courthouse facilities (the Clay County Recreational Center Gym) for jury selection during the pandemic, and in accordance with this plan. However, at such time that the Clay County Recreational Gym can no longer be used for jury selection (Note: The Recreational Gym does not have air conditioning), then other arrangements will have to be made. The County has consulted its liability insurance carrier and has been advised that both the Courthouse and the Clay County Recreational Gym are County-owned facilities and therefore, whether the jurors, court personnel, participants and spectators are in the court or non-court facilities, the loss coverage in accordance with the terms of the insurance policy is the same.
12. Following jury orientation, the presiding judge shall at his/her discretion either orally or in writing inform the jury of the safeguards and precautions that have been undertaken to provide a safe place for jurors.
13. Jury voir dire shall be conducted as follows:
  - (A) Jurors shall be randomly selected from the panel and will be seated six feet apart in all directions in designated jury seating and questioned by the court and by the attorneys for the State/Plaintiff(s) and the Defendant(s).
  - (B) Jurors selected will remain until all jurors are selected. At the time of their release, selected jurors shall execute and receive a copy of the Juror Responsibility Form attached hereto as Exhibit A.
  - (C) This process will continue until the full jury, including any alternates, has been selected.

(D) Counsel shall remain seated at counsel table during juror examination.

14. Once a jury has been selected the trial will resume at the Clay County Courthouse in the main Courtroom. 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 to the fullest extent possible.
15. All court personnel, jurors, attorneys, parties, spectators and witnesses 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.
16. Witnesses when testifying will wear a clear face shield provided by the court so jurors can see the face of the witness while they testify and while social distancing guidelines are being observed. Plexiglass will be placed at the witness table to assist if face shield is found to not be suitable with social distancing guidelines strictly being observed. A table will be used with plexiglass and a microphone at the witness stand which will be sanitized before the next witness takes the stand. If a microphone stand is used it shall be permanently fixed to the floor, or otherwise rendered incapable of being converted into a weapon. Lapel microphones are encouraged.
17. 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.
18. Spectators shall be seated socially distanced in the remaining seating in the courtroom, although no spectator shall be seated closer than ten 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.
19. 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 opening and closing arguments. The 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.
20. 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 (who 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. However, this requirement does not apply to impeachment documents.
21. 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.
22. 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 presiding judge will provide

instructions to the jury as to how they are to be left, safely gathered and stored to prevent cross-contamination

23. 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.
24. 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.
25. Counsel shall remain seated at counsel table during witness examination and social distancing shall fully be complied with at counsel tables.
26. No one will be allowed to approach the bench, the clerk of court or the court reporter without the prior permission of the court.
27. If counsel needs to consult privately and confidentially with his/her 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 his/her clients during any such meetings. This area will be sanitized before and after such meetings.
28. Bench conferences shall be discouraged. If conferences need to be conducted, the jury may be excused and allowed to leave the courtroom 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. Reference is again made to Judge Coward's separate order concerning pre-trial motions
29. Jury deliberations shall take place in the Multipurpose Room with all jurors seated socially distanced.
30. Once the jury has reached a verdict, the court will proceed with the taking of the verdict in the courtroom.
31. 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 B. These screening sheets shall be collected, reviewed by the judge and placed in a sealed envelope.
32. If a juror, defendant, plaintiff, any 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.
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.

This the 30<sup>th</sup> day of September 2020.



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Honorable William H. Coward

Senior Resident Superior Court Judge

Judicial District 30A

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Honorable Richard K. Walker

Chief District Court

30<sup>th</sup> Judicial District

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J. Timothy Barrett

Clay County Clerk of Superior Court

COVID -19 Coordinator

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Ashley H. Welch

District Attorney

43<sup>rd</sup> Prosecutorial District

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Bobby Deese

Clay County Sheriff

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James V. Parker, Jr.

Criminal Defense Attorney

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Dr. Rob Peck

Chairman, Clay County Commissioners

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Debbie Mauney

Clay County Manager &

Interim Health Director

This the \_\_\_\_ day of September 2020.

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Senior Resident Superior Court Judge

Judicial District 30A



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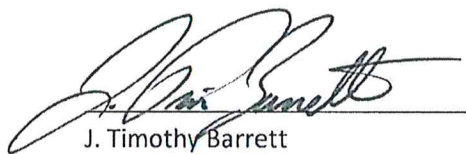
This the 30<sup>th</sup> day of September 2020.

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Senior Resident Superior Court Judge

Judicial District 30A



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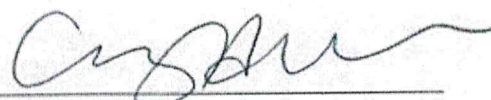
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Senior Resident Superior Court Judge  
Judicial District 30A

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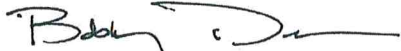
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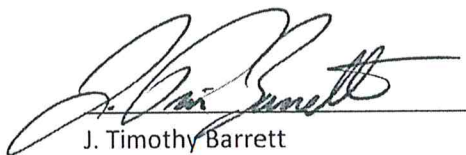
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Judicial District 30A



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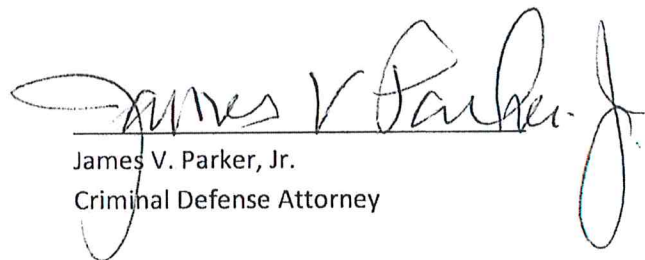
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EXHIBIT "A"

STATE OF NORTH CAROLINA  
COUNTY OF CLAY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE#: \_\_\_\_\_

STATE OF NORTH CAROLINA

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VS

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\_\_\_\_\_  
Defendant

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**JUROR RESPONSIBILITIES**

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As a juror selected in in the captioned case, 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 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 manner whatsoever.

EXHIBIT "A"

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 presiding Judge or the bailiff as soon as possible.
8. If at any time during my juror 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, have a concern about my health or safety measures or observe guidelines not being followed, I will bring that to the attention of the judge, clerk or bailiff immediately.

**Juror's signature:** \_\_\_\_\_

**Printed name of juror:** \_\_\_\_\_

# 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) \_\_\_\_\_