

FILED

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

23<sup>rd</sup> JUDICIAL DISTRICT

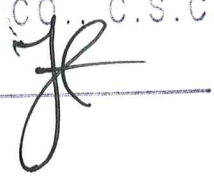
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SUPERIOR COURT DIVISION

FILE NO. 20 R \_\_\_\_\_

ASHE CO., C.S.C.

IN RE:

BY 

JURY TRIAL RESUMPTION )  
PLAN FOR ALLEGHANY, )  
ASHE, WILKES and )  
YADKIN COUNTIES )

ADMINISTRATIVE ORDER

This plan is in response to the Chief Justice’s Emergency Directive 22 which requires the Senior Resident Superior Court Judge to craft a plan for the resumption of jury trials in his or her judicial district.

A. Prior to promulgating and implementing this plan for resumption of jury trials, the undersigned has consulted with Emergency Special Superior Court Judge, the Honorable Richard L. Doughton, the Chief District Court Judge, the Honorable David V. Byrd, the Clerks of Court, the Honorable Pam Barlow, the Honorable Susie Gambill, the Honorable Regina Billings, the Honorable Beth Holcomb, the District Attorney, the Honorable Tom Horner, the Sheriffs, Sheriff Chris Shew, Sheriff Ricky Oliver, Sheriff Phil Howell, Sheriff Bryan Maines, the Public Health Directors, Rachel Willard, Jennifer Greene, and members of the 23<sup>rd</sup> Judicial District Bar. The undersigned has sought collaboration, advice, input and recommendations from these and other various individuals regarding resumption of jury trials in the 23<sup>rd</sup> Judicial District. To all the individuals who have assisted in this process you have my sincere thanks.

**B. Confirmation of Facility compliance with Chief Justice Cheri Beasley’s Emergency Order.**

1. Pursuant to Emergency Directive 12 of Chief Justice’s Order dated May 21, 2020 the Senior Resident Superior Court Judge is serving as the COVID-19 Coordinator.
2. Pursuant to Emergency Directive 12 of the Chief Justice’s Order dated May 21, 2020 the Senior Resident Superior Court Judge for the 23<sup>rd</sup> Judicial District has ensured that the Courthouses and Alternate Facilities:

- a. Are (or will be with Alternate Facilities) marked for social distancing with intervals of 6 feet in all areas where the public is expected to congregate;
- b. The maximum allowable occupancy of each courtroom is established such that persons must sit or stand with 6 feet intervals observing social distancing.
- c. The maximum occupancy for each courtroom is posted at the entrance to each courtroom.
- d. Hand sanitizer is available at the entrance of each courthouse and the entry to each courtroom.
- e. All areas accessed by the public are cleaned periodically each day.
- f. Face coverings shall be worn all times inside the courthouse except as may be directed by the presiding judge.

C. ***Prior to any Trial Session.*** The Senior Resident shall confer with the District Attorney's Office and each Clerk of Superior Court in the Judicial District at least 35 days in advance of any trial session to determine the number of jurors to be summoned for each session. The jurors shall be sent a summons for jury service via USPS first class mail. The jurors will be given an opportunity to present to the Clerk, a District Court Judge or the Senior Resident Superior Court Judge any reason why they believe they should not serve. A notice will be provided with the summonses to potential jurors stating that precautions have been taken in accordance with the guidelines for the Judicial Branch of North Carolina and the CDC to reduce the risk of transmission of COVID-19. Said notice will provide that potential jurors should not enter the courthouses or alternate facilities if they are experiencing any symptoms related to COVID-19, have been directed to quarantine or have known exposure or been diagnosed with COVID-19. Excuses may be sent by email, fax or mail to the Clerk of Superior Court prior to the beginning of the trial session. The summons will instruct the jurors the day, time and place they need to appear.

D. ***First Day of the Trial Session.*** Each person shall be required to wear a face mask unless the Court orders otherwise. Upon entry into the courthouse or alternate facility, each person's temperature shall be taken. If the temperature is 100 degrees or above the person will be turned away. In the event a juror does not have a face mask, one will be provided by the Clerk or Bailiff. Hand sanitizer shall be available at the entrance to each courthouse or alternate facility and within each courtroom. The Clerk shall set up a place to check in the jurors adhering to social distancing guidelines. The jurors will be notified where they need to have a seat. All seating will be specifically marked providing for at least 6-foot intervals between all individuals. Due to the size of the jury venire, alternate facilities will be used for the first day of the trial session as follows:

Alleghany County. Jury trials will be able to take place in the courtroom in Alleghany County except for the gathering of the venire on the first day of Court. The jurors can be instructed and sworn at the alternate facility. Alleghany



jurors will meet at Sparta Elementary School Auditorium if available. The School Auditorium is large enough to socially distance all jurors. The Clerk, through random selection, would place the jurors in groups of 12 to 15 people (to be determined by the presiding judge). The groups will be numbered and they will be given a time and date to report to the courthouse or a time to call in for further instructions so that we can maintain social distancing and allow the attorneys an opportunity to pick a jury. This manner would be similar to what happens in many capital cases throughout this state. The address to Sparta Elementary is 450 N. Main St., Sparta, NC, 28675. In the event the Auditorium is not available, the jurors will meet at the Higgins Center in Sparta. The Higgins Center is large enough to socially distance all jurors. The address to the Higgins Center is 1545 US Highway 21 North, Sparta, NC 28675. In the event the Higgins Center is utilized, the jury selection procedure will be the same as outlined above.

Ashe County. Jury trials will be able to take place in the courtroom in Ashe County except for the gathering of the venire on the first day of Court. The jurors can be instructed and sworn at the alternate facility. The jurors will meet at the Ashe Civic Center on the first day of the trial session. The Civic Center is large enough to socially distance all jurors. The Clerk, through random selection, will place the jurors in groups of 12 to 15 people (to be determined by the presiding judge). The same procedure will be followed as set forth hereinabove by allowing no more than two groups in the courtroom at one time during jury selection to maintain social distancing. The address to the Ashe Civic Center is 962 Mount Jefferson Road, West Jefferson, NC 28694.

Wilkes County. Jury trials will be able to take place in the courtroom in Wilkes County except for the gathering of the venire on the first day of Court. The jurors can be instructed and sworn at the alternate facility. The jurors will meet at the Wilkes County Agricultural Center. The Center is large enough to socially distance all jurors. The Clerk, through random selection, would place the jurors in groups of 12 to 15 people (to be determined by the presiding judge). The groups will be numbered and they will be given a time and date to report to the courthouse or a time to call in for further instructions so that we can maintain social distancing and allow the attorneys an opportunity to pick a jury. The address to the Wilkes County Agricultural Center is 416 Executive Drive, Wilkesboro, NC 28697.

Yadkin County. Jury trials will be able to take place in the courtroom in Yadkin County except for the gathering of the venire on the first day of Court. The jurors can be instructed and sworn at the alternate facility. The jurors will meet at the Yadkin County Agricultural and Educational Building. The Agricultural Building is large enough to socially distance all jurors. The groups will be numbered and they will be given a time and date to report to the courthouse or a time to call in for further instructions so that we can maintain social distancing and allow the attorneys an

opportunity to pick a jury. The address to the Yadkin County Agricultural and Educational Building is 2051 Agricultural Way, Yadkinville, NC 27055. All the above listed alternate facilities are with-in the respective county seats.

- E. ***Transition from Alternate Facility to Courthouse.*** Once the jurors have been instructed, sworn and placed into groups of no more than 15 jurors (at the alternate facility) they will report to the courthouse as instructed. Upon entering the courthouse all individuals will be subject to a temperature scan and hand sanitizer will be available. Jurors will be directed by the clerk and/or bailiff either to the courtroom where the trial will be conducted or to an open courtroom for staging purposes. All courtrooms will be clearly marked as to the maximum number of individuals allowed in the audience. Bailiffs will direct where jurors will sit in the designated and marked seats to ensure social distancing of at least 6-foot intervals between individuals. The beginning of each day during the trial session, a Health Screening Questionnaire (approved by AOC) will be completed by all jurors, court personnel, attorneys, witnesses, and parties for COVID-19 exposure or infection. The Presiding Superior Court Judge will review the answers to the Health Screening Questions. If necessary, the Presiding Judge will consult with the Public Health Director. The screening questions and answers will be retained during the trial by the clerk to be kept in an envelope sealed and placed under an order not to be opened except by order of a Superior Court Judge. Upon completion of the trial session all retained screening questions and answers shall be destroyed.
- F. ***Voir dire of the jurors.*** Jurors will be brought into the trial courtroom in groups of no more than 15 jurors at a time. Hand sanitizer will be stationed outside of each courtroom with a sign indicating that all individuals shall use the sanitizer upon entry into the courtroom. Just as there was a random selection to place the jurors in groups, there will be a random selection by the clerk of jurors in the courtroom for purposes of conducting voir dire. Once the number of the venire in the trial courtroom gets to three (3) remaining jurors, the next group of jurors will be brought into the courtroom. At all times while in the courtroom, the jurors will continue to wear masks and socially distance at least 6-foot intervals. Once the jury is impaneled, they will be given juror stickers if available (juror badges will be given if stickers are unavailable).
- G. ***During the Trial.***
1. The Jury will be seated in the public seating section and will be socially distanced with at least six feet intervals. Witnesses may be directed to wear a face shield (instead of a face mask) so jurors can see the face of the witness while testifying. Court will be open to the public with limited, dedicated seating identified for spectators.
  2. Upon consulting with the Public Health Director in Alleghany county, the jury deliberation room in the Alleghany Courthouse is large enough to socially distance all impaneled jurors. In Ashe, Wilkes and Yadkin counties, small courtrooms will be



provided so they may inform the Clerk or Court if they have been exposed or are suffering any symptoms of COVID-19. The courtrooms and the jury deliberation room will be cleaned periodically throughout the day and thoroughly cleaned each evening after court. Should a juror, defendant, attorney, witness, judge, or other courtroom personnel become symptomatic, tests positive for COVID-19, or has a known exposure to someone who has tested positive for COVID-19 during a trial, the Court shall immediately pause the trial and confer with the local Health Director. If necessary, the presiding judge will declare a mistrial pursuant to 15A-1063. The Court will only proceed with the trial after following the recommendations of the Public Health Director.

- H. The undersigned Senior Resident Superior Court Judge (and COVID-19 Coordinator) for the 23<sup>rd</sup> Judicial District by signature attached hereto confirms that each of the courthouses and alternate facilities as listed herein are in compliance with each of the Chief Justice's emergency orders in response to the COVID-19 outbreak.
- I. This Administrative Order shall become effective on the date the Chief Justice allows jury trials to resume.

This the 28 day of September, 2020.



Michael D. Duncan  
Senior Resident Superior Court Judge  
23<sup>rd</sup> Judicial District