

STATE OF NORTH CAROLINA  
NEW HANOVER COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
20 R 409

FILED  
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NEW HANOVER CO., C.S.C.  
BY mak

## ADMINISTRATIVE ORDER FOR JURY MANAGEMENT AND TRIALS

In accordance with the emergency directives of the Chief Justice of the North Carolina Supreme Court, in the exercise of the court's discretion and its inherent authority to protect the health, safety and welfare of the participants in our legal system, and balancing the constitutional rights of the defendant under the North Carolina and United States Constitution, the following rules shall govern the trial by jury of all civil and criminal cases in the District and Superior Courts of New Hanover County:

### Basic Health and Safety Requirements

1. All persons who enter the courthouse shall wear a facial covering or mask until directed by the presiding judge to remove it. A facial covering or mask means a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears or is simply wrapped around the lower face. Face coverings shall be available at the security station upon entering the courthouse for any juror, witness or other participant who does not have an adequate face covering.
2. No persons shall be permitted to wear any clothing or personal protective equipment that includes any political statement, controversial or inciteful remark, design or insignia.
3. All persons entering the courtroom shall maintain safe social distancing.
4. Attorneys are responsible for providing masks and face coverings to their clients and all others who enter the courtroom who are accompanying the attorney's client.
5. Hand sanitizer should be used by all persons entering the courthouse, after each visit to the restroom and after every recess.
6. Each court facility to be used for court operations is in compliance with each of the Chief Justice's emergency orders in response to the COVID-19 outbreak.
7. All court personnel, bailiffs, attorneys, witnesses, jurors and other court participants are directed to check their own temperature and assess symptoms prior to reporting to court.

A TRUE COPY  
CLERK OF SUPERIOR COURT  
NEW HANOVER COUNTY  
BY: MaryAnn T. Kelly  
Asst. Clerk of Superior Court

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8. A list of symptoms of COVID can be found at the Center for Disease Control website and the North Carolina Department of Health and Human Services website. If any court personnel, bailiffs, attorneys, witnesses, jurors or other court participants are symptomatic but have not tested positive for COVID, they shall:
  - a. If serving as a juror, notify the clerk of superior court at the number provided on your jury summons immediately and do not report until otherwise notified to do so by the court.
  - b. If you are a witness or party to the case, notify your attorney or the attorney who would be calling you as a witness before appearing in court. Attorneys are responsible for making sure their client and any witnesses they intend to call are aware of the requirement to self-assess before reporting to court. Do not come to the courtroom until instructed to do so.
  - c. If you are an attorney or bailiff, notify the court and opposing counsel and do not appear in court unless instructed to do so. If there is any question about counsel's ability to appear, a WebEx video conference shall be set up by the presiding judge.
  
9. Close contact with persons who are symptomatic or tested positive for COVID:
  - a. "Close contact" is defined by the CDC as contact less than six feet for greater than fifteen (15) minutes starting from 48 hours before illness onset.
  - b. If you are notified by the Health Department or are otherwise made aware of close contact with an infected individual, you should stay home, maintain social distancing, and self-monitor until 14 days from the date of last exposure. Local health officials recommend testing at day six. Health officials have determined that it may take that length of time for the disease to build up sufficiently to be detected by the current testing process.
  - c. Jurors should notify the Clerk of Superior Court as soon as possible in the event they are required to stay at home. Witnesses and parties should notify their attorney and bailiffs and attorneys shall notify the presiding judge as soon as possible.
  - d. In no event should a person falling into this category report to the courtroom unless otherwise approved to do so by the presiding judge.

**Jurors:**

10. The letter from the court and questionnaire attached to this order as Exhibit A will be mailed to all potential jurors with the jury summons explaining the precautions cautions taken in accordance with the Judicial Branch of North Carolina and the CDC guidelines for the

prevention of COVID-19. The jury summons provides a link to the Jury Orientation Video allowing potential jurors to watch the video prior to reporting for jury duty. Potential jurors are directed in the letter to return the questionnaire by the date noted in the jury letter.

11. All prospective jurors who return the questionnaire and indicate that they reside with or have been in contact with someone who has tested positive for COVID-19 within the past two weeks, have been directed to quarantine, isolate or self-monitor at home by any doctor or health care provider, who fall into the high risk groups identified by the Center for Disease Control or who provides care for a person in that category will be deferred.
12. Jurors who report to the clerk up to the Monday morning before trial is scheduled to begin will be deferred if they report a change since return of their questionnaire that would place them in a category eligible for deferment. Those jurors will not be required to come to the courthouse to avoid the possibility of disease spread.
13. Seventy-five (75) jurors will be summoned to appear at 9:00 a.m. on Monday and Wednesday morning of the term of court. Jurors will be required to call in on the designated phone number on the summons after 5 p.m. the Friday before the term of court begins. They will be given instructions as to when they will need to report or when they need to call back. Depending on the type of cases scheduled for trial, additional jurors may be summoned for Tuesday morning.
14. The jury waiting room and Courtroom 400 will be used for the jury pool. Jurors will be instructed when they call in to report to the jury waiting room or Courtroom 400 for orientation. Every effort will be made to expedite their admission to the courthouse. If jurors have not completed a questionnaire, they will be given one to complete and will provide their phone number and email address to the jury clerk.
15. The seating arrangement in the courtroom for jurors will be provided to the attorneys prior to trial as well as the configuration of the courtroom to ensure appropriate social distancing.
16. The district attorney will call the first case for trial, and the courtroom clerk will randomly select and announce the names of the first twelve jurors. By conference call, those names will be broadcast to the jury waiting room and Courtroom 400. Those jurors will be escorted from the jury waiting room or Courtroom 400 into the courtroom and directed to their designated seats.
17. The courtroom will be set up so that the jurors will be seated in the gallery. Sixteen (16) seats will be marked to accommodate twelve (12) jurors and four (4) alternates. The counsel tables will be positioned so that the parties will face either other. The witness will be seated in the witness box. The court reporter will be positioned in front of the judge's bench.

18. During jury selection, as jurors are excused, the seats will be cleaned before the next juror takes the seat.
19. Once a juror has been accepted by the State and the Defendant, that juror will be permitted to leave. The clerk will ensure that the juror has provided a phone number and email address for immediate contact. The jurors will be instructed to call the number on their jury summons at the close of business each day for further instructions on when to report.
20. Due to the limited amount of seating in the courtroom with social distancing and in order to limit the potential spread of COVID-19, no members of the public or witnesses will be permitted in the courtroom during jury selection. For Victim's Rights Acts cases when the victim wishes to be present in the courtroom during jury selection the victim may be seated at or behind the prosecution table but shall not be seated in the gallery. Limited seating may be available to the public after the jury is impaneled depending on the configuration of the courtroom for a jury trial.

#### **Conduct of the trial - Criminal**

21. The District Attorney shall publish the trial calendar two (2) weeks prior to the session of court. Cases selected for trial shall be prioritized by the Senior Resident Superior Court Judge in consultation with the District Attorney, the Public Defender and defense counsel. The calendar shall be prioritized by age of case, complexity of case, approximate length of the trial, with consideration provided to the cases which may be most expeditiously and safely tried, and to defendants held in custody. Cases will be called for trial in the order they appear on the published trial calendar.
22. For each session of court after the trial calendar is published, counsel for the State shall be prepared to try and have issued subpoenas for all the cases on the calendar.
23. If there is any question about the availability of a witness or question whether the defendant will appear, the district attorney and presiding judge shall be notified no later than the Friday before the case is scheduled to be tried. Motions to continue must be made prior to the session and will not be permitted on the day of the session.
24. There will be no calendar call on the Monday of a trial session. If the first case on the trial calendar has been previously continued, the next case on the trial calendar will be called once the jury venire is in place and has completed their orientation. Counsels for the other trials on the calendar should be available in the event their presence is needed in the courtroom but, due to space limitations, should remain outside of the courtroom.
25. All criminal jury trials shall seat at least two alternate jurors.

26. After the jury is impaneled, in the event a seated juror is unable to attend court due to a COVID related issue, that juror shall be excused and an alternate juror seated in his or her place. The court will evaluate the COVID related issue pursuant to the advisory standards of the local health department. If there are no remaining alternate jurors, the Court may elect to delay the trial or may declare a mistrial based on the facts and circumstances existing and known to the court at that time.
27. Impaneled jurors are to inform the Clerk of Court immediately of any COVID-19 related issues that arise during the trial.
28. Jury deliberation shall be conducted in a separate courtroom to comply with social distancing. The restroom in the jury deliberation room associated with that courtroom will be used for the jury only. While the jury is deliberating, the seats used by the jury in the trial courtroom shall remain unoccupied until a verdict is reached. If it is not possible, the seats occupied by the jurors will be cleaned before the jury returns to the courtroom.

#### **Conduct of Jury Trials – Civil**

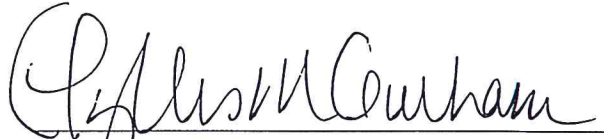
29. Trial calendars for each civil Superior Court session are published four weeks in advance of the trial date. Counsel shall take immediate steps to insure the availability of all witnesses for the trial. At the onset of the resumption of jury trials, trials lasting less than a week will take priority.
30. There will be no calendar call on the Monday of the trial session. Trials will be called in the order in which they appear on the trial calendar. Motions to continue made less than two weeks prior to the trial date will not be permitted absent exigent circumstances.
31. Counsel in all civil cases are encouraged to stipulate to a unanimous verdict of less than twelve to avoid the necessity of seating alternate jurors and to ensure that the trial can continue in the event jurors have to be excused due to COVID related issues.
32. In the event a jury trial is demanded for a District Court matter, counsel shall confer with the Chief District Court Judge and the Trial Court Coordinator to make arrangements for scheduling.

#### **Conduct of Jury Trials – Applicable to all cases**

33. Opening and closing arguments will be made from a podium positioned by the court to allow for proper social distancing. Attorneys will be required to argue from the podium and will not be permitted to approach the jury any closer than the front of the podium.

34. Absent exceptional circumstances, counsel will not be permitted to approach the witness. Any exhibits counsel wishes to hand to a witness shall be provided to the bailiff who will then hand the exhibit to the witness. The bailiff shall wear gloves and a mask. The witness stand shall be surrounded on three sides by a plexiglass shield.
35. During testimony, the witness will not be permitted to wear a mask. Counsel shall advise all witnesses of this rule prior to their appearance in court. (The witness must, otherwise, wear a face mask or face covering while in the courthouse.) The witness chair, table and plexiglass shall be wiped down after each witness testimony.
36. It is the responsibility of counsel for the state and defendant to contact all witnesses whom they intend to call and ensure that the witness has not exhibited any of the symptoms of Coronavirus or any other communicable illness, has not been advised by the Health Department to quarantine due to close contact and is otherwise healthy and able to testify. If any witness is unavailable it is the responsibility of counsel to bring that to the court's attention before the case is called for trial.
37. If counsel wishes to publish any exhibit to the jury, counsel must make arrangements for the exhibit to be displayed on a television screen or projector of sufficient size to enable the jury to see and hear the exhibit or shall have sufficient copies of the exhibit to provide one copy to each juror. Projection or display of the exhibit is the preferred method of publishing exhibits to the jury. If copies of the exhibits are to be provided to the jury, counsel will provide them to the bailiff who will then deliver them to the jury. This bailiff shall wear gloves and a mask when approaching the jury.
38. Jurors will be allowed to take notes. Notepads and pens will be sanitized and will be kept in individual baskets stored under each juror's assigned seat, to be handled only by the juror.
39. Once impaneled, the jury waiting room will be available for jurors during recess. A courtroom designated for jury deliberations will be made available when bench conferences and other hearings out of the presence of the jury are absolutely necessary.
40. Defense counsel shall AT ALL TIMES accompany the defendant in and out of the courtroom to avoid any appearance that the defendant is being led in or out by the bailiffs.
41. Unless otherwise ordered by the Court, all witnesses shall be sequestered outside of the courtroom and shall exit the courtroom once their testimony is complete. This rule shall not apply to the alleged victim or the lead investigating officer in any criminal trial.
42. Any violation of these rules shall subject the offending party to contempt of court which may be punishable by imprisonment for up to thirty (30) days and a fine of up to \$500.00.

SO ORDERED this 9 day of October, 2020.

A handwritten signature in cursive script, reading "Phyllis M. Gorham". The signature is written in black ink and is positioned above a horizontal line.

Phyllis M. Gorham  
Senior Resident Superior Court Judge