

WILLOUGHBY MUNICIPAL COURT
LAKE COUNTY, OHIO

WILLOUGHBY
LAKE COUNTY, OHIO
44041

IN RE: JURY TRIAL PROCEDURES)
DURING CORONAVIRUS)
EMERGENCY PERIOD)
)

JUDGE MARISA L. CORNACHIO

COURT ORDER

FILED

During the COVID-19 pandemic and emergency, and until further order of the court, for all jury trial proceedings:

1. No person who is scheduled or desires to appear in the courtroom for any proceeding may report to the courthouse or appear in the courtroom if the person has a fever, feels ill, or has any of the symptoms of COVID-19. Counsel shall be notified and appropriate motions or arrangements may be made to accommodate the person's absence, if feasible in the court's discretion. If counsel has a fever, feels ill, or has any of the symptoms of COVID-19, he/she shall notify the court's administrator and take steps to obtain a continuance. Courthouse officers shall screen and deny admission to any person exhibiting a fever of 100.4°F/38°C or more, as determined by the Court security officers. Court security officers may question any person who desires to enter the courthouse about coronavirus or COVID-19 relevant information, including general health, symptoms, travel, and contact with confirmed carriers, and the purpose of the person's visit to the courthouse. All persons shall obey the security emergency protocols, or be denied admission and/or be expelled from the courtroom or courthouse.
2. Elevator rides are limited to one occupant per car. Participants shall report to all hearings, and be present and seated in the hallway outside of the courtroom, not later than 15 minutes before the time scheduled for the hearing and shall maintain proper social distancing (six feet circumference around each person) in the hallway, regardless of their practice of social distancing before arriving in the hallway.
3. In addition to the prosecutor, defendant, defense counsel, victim advocate, victims (the number and definition as determined by the court), and any required interpreter, and with the court's permission, media representative(s), each party will be permitted only two persons in the courtroom at any given time.
4. The court's bailiff shall be notified by counsel for the parties at the earliest opportunity, but not later than the day prior to the scheduled hearing, of the number and names of persons (not to exceed two) who wish to attend or address the court in person at any in-court criminal proceeding, exclusive of counsel, the defendant, victim advocate, and any required interpreter. The court may exclude any undisclosed persons, other than those stated in this paragraph. The court shall advise courthouse officers of the expected number and names of permitted attendees and limit access to the courthouse accordingly.

5. Counsel shall notify the bailiff prior to the hearing of the identity of persons who wish to address the court during the hearing.

6. All pre-hearing discussions will take place in the courtroom with counsel, probation, and the court.

7. All persons in the courtroom shall maintain proper social distancing of six feet circumference as established by the court's bailiff. The bailiff and court security officers shall enforce the court's social distancing protocols anywhere in the courthouse.

8. If persons desire to address the court, they will be permitted to do so one at a time, from the gallery.

9. Any person wishing to address the court during a hearing who is not permitted to enter the courthouse or courtroom, or who otherwise cannot attend the hearing, may reduce his or her statements to writing and email them, or record it on an electronic audio/video file and provide it, to the Willoughby Probation Department, which will forward it to the court and preserve it for the record. The court may play the audio/video recording in the courtroom during the hearing, in its discretion, or note that the court has reviewed the communication.

10. For jury trials, the court orders the following provisions, in addition to any of the foregoing provisions that are not inconsistent herewith. The practices set forth herein shall be observed for all jury trials during the coronavirus emergency. The court will conduct only criminal jury trials during the emergency, and only if necessary in the opinion of the court.

A. Jury voir dire shall be conducted in two sessions. The first session shall be for voir dire and challenges for cause, with the second session being optional depending on the number of jurors excused for peremptory challenges and cause in the first session. The first session will commence at 8:30 a.m. and will be for those designated as Group One jurors. Group One shall not exceed a total of 14 prospective jurors, which is the juror loading capacity of the courtroom in the maintenance of social distancing requirements.

B. The second session will commence immediately following Group One jurors as necessary and will be for those designated as Group Two jurors. Group Two shall not exceed a total of 14 prospective jurors. If there are more than 28 jurors, Group Three will be added.

C. All ten (10) jurors are selected are regular jurors, without any juror being identified or named an alternate. Alternate jurors shall be selected by random drawing after the evidence is submitted and before the jury is given the case to deliberate; alternate shall not be discharged, but shall be retained sequestered in the courthouse during all deliberations until a verdict is announced in court. Counsel shall be mindful that the procedures

employed by the court for conducting jury trials during the judicial emergency are temporary and necessary, and they should tailor their conduct of voir dire to fit within the confines of the time allotted. For the voir dire, counsel shall be limited to one-half hour per group. The court shall strictly enforce the time limit. The court may employ a supplemental on-line questionnaire, if, in the court's opinion, one is advisable or appropriate. The court will communicate with prospective jurors by SMS (text) message, email, or phone call.

D. After the jury is selected, during the start of each day of trial, at 8:30 a.m. unless instructed otherwise by the court, jurors shall report to the main entrance of the courtroom, and shall move directly to their assigned seats in the courtroom.

E. Jurors shall be seated in the courtroom, in observance of social distancing requirements, as directed by the bailiff.

F. Counsel and the parties shall maintain social distancing at the trial table.

G. An auxiliary table will be set up for the placement of exhibits, so that the attorneys may maintain distancing requirements with the witness and the judge. Counsel should prepare its case so that exhibits are presented **electronically** on the court's large presentation screen for all to view simultaneously. A supplemental monitor/screen may be employed so that the jurors at the far southeast corner of gallery can see the presentation. No jurors will handle evidence during the trial. The jury will be provided gloves to handle the evidence during deliberations.

H. Counsel shall remain at the trial table when questioning witnesses but may otherwise move through the well of the courtroom to access evidence and presentation tools. The court prefers that the parties bring their own devices to connect to the court's audio-video presentation system.

I. Sidebar conferences will not be held. Should there be any issue requiring discussion outside the presence of the jury, the judge and counsel may retire to the judge's chambers to engage in that discussion, and the jurors will remain in the courtroom, in which case, the court and counsel will use a court stenographer or an alternate digital audio recorder, or if it is unavailable, recreate in writing for the record the salient aspects of the discussion, if necessary. For more lengthy discussions which must be on the record or necessitates the use of exhibits, the jurors will be removed from the courtroom and placed in the multipurpose courtroom, if it is available, while the judge and counsel engage in that discussion in the courtroom.

J. Face masks for personal health protection may be worn by any juror, the defendant, and counsel; provided however, that the defendant will be required to remove any face mask he/she may be wearing, when requested for the purpose of witness identification. Witnesses may wear face masks when not testifying, but shall lower or remove them when testifying. Counsel shall lower or remove their masks when asking questions of any witness or when addressing the court, so that their speech may be accurately heard by the judge and jurors, persons can read lips to assist understanding, and the voice sounds picked up by the court's digital audio recording system. The court administrator shall order face masks which will be provided to anyone who requests or requires one to comply with this order.

K. The jury shall deliberate on the verdict in the courtroom. During jury deliberation, all video and audio feeds from the courtroom will be deactivated, to the extent possible. The courtroom door will be locked to the outside to prevent unintentional entry by unauthorized persons. The jurors shall be instructed to knock on the office suite entrance door of the courtroom when needing the assistance of court personnel, or indicating that they have reached a verdict.

L. The court will ensure that appropriate social distancing is maintained throughout the trial, both inside and outside the courtroom.

M. The court will ensure that no individual entering the courtroom is exhibiting symptoms of COVID-19, including a temperature of 100.4°F/38°C or more. All persons are subject to relevant COVID-19 questioning, including general health, symptoms, travel, and contact with confirmed carriers.

N. The court prefers to defer a potential juror's service to a period later in the year, but will excuse any potential juror who is concerned that participation in the trial will jeopardize his or her health or safety, provided that the potential juror notifies the court before 4:00 p.m. **more than three business days** before the day set for reporting for jury duty. The court will document the demographic characteristics of the jury pool and track the reasons for deferral or request for excusal.

O. Jurors, while on a comfort break during the trial shall be in the hallway on the second floor, restrooms, or outside the north entrance to the courthouse for fresh air, shall have no communication with anyone other than fellow jurors, and will observe social distancing requirements. Additional procedures such as restroom protocol, and other logistical matters shall be addressed during the trial as circumstances dictate. The court will encourage proper personal hygiene, including frequent washing of hands.

P. Jurors, at or before the time they are notified to report for duty, will be provided a copy of this order, a link to this order on the court's website, or a reference to the order on the court's website, so that they may know what measures the court has taken to protect their health and safety while on jury duty, including social distancing and other personal protective policies established by both the state and federal authorities, which may have the effect of reducing the number of requests to be excused, thereby increasing the pool of prospective jurors to approximate a fair cross-section of the community. The Health Commissioner of the Lake County General Health District has reviewed the provisions set forth in this order and has approved it. Jurors will be advised of this fact at the time they are notified to report for duty.

Q. During trial, no spectators, victim's advocate, media, or others will be permitted inside the courtroom, as the courtroom size is sufficient only for the judge, counsel, defendant, state's representative, bailiff, security officers, and jurors, in the maintenance of social distancing requirements.

R. If an interpreter is necessary, the court will have to address that circumstance when it arises.

S. Witnesses shall not be on the second floor of the courthouse, except as otherwise permitted, until they are called into the courtroom to give testimony. Witnesses may be present on the first floor of the courthouse, the conference room on the second floor, the auxiliary courtroom on the second floor, side offices, wherever directed by the bailiff, and shall maintain social distancing, but shall not communicate with or be in the presence of jurors except in the courtroom when testifying.

T. Defense counsel and the defendant shall wear masks or other appropriate personal protective equipment when conferring at a distance of less than six feet.

U. Court personnel will not touch or handle jurors' cell phones or drivers' licenses.

V. The Court has instructed the building and grounds personnel from the City of Willoughby to sanitize daily the courthouse entryways, courtroom and hallway outside of the courtroom, and provide hand sanitizer and sanitizing wipes as needed. Additional supplies are available with the bailiffs.

IT IS SO ORDERED.

Marisa L. Cornachio

JUDGE MARISA L. CORNACHIO

WILLOUGHBY
MUNICIPAL COURT
WILLOUGHBY, OH 44094

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