IN THE 32ND JUDICIAL CIRCUIT

STATE OF ALABAMA

ADMINISTRATIVE ORDER 2020-09

*An Order Relating to In-Person Judicial Proceedings During Phase One*

Pursuant to the authority granted to the presiding circuit judge of each judicial circuit of this State by Administrative Order No. 7 of the Supreme Court of Alabama dated May 13, 2020, the undersigned presiding circuit court judge finds it necessary to adopt the following procedures to minimize the risk of potential harm posed by COVID-19 to the health and safety of the general public and to court staff during in-person judicial proceedings. Therefore, after consultation with other judges of this judicial circuit, the District Attorney, the Cullman Circuit Court Clerk, and the Cullman County Commission, it is ORDERED that all in-person court proceedings, other than jury trials, will restart in this judicial circuit beginning May 18, 2020, subject to the following rules and procedures:

*Definitions*

“Courtroom” as used in this order refers to District Court courtroom number one, District Court courtroom number two, Circuit Court courtroom number one, and Circuit Court courtroom number two, as well as the areas immediately adjacent to those courtrooms.

“Court Clerk’s Area” as used in this order refers to magistrate interview rooms, court clerk’s counters or windows designated for the filing of court documents and receipt of court ordered monies, the waiting area adjacent to the clerk’s window or counter, and other rooms used for passport procurement, absentee voting, magistrate interview rooms, and other similar court clerk functions.

“Public Judicial Area” refers to witness and client interview rooms, the law library, and public bathrooms adjacent to those areas.

“Private Judicial Area” as used in this order refers to Circuit and District Court Judge’s chambers, each judge’s judicial assistant’s offices, each judge’s waiting room, jury rooms, court reporter’s offices, and private workstations and offices of the Circuit and District Court Clerks, and employee breakrooms and bathrooms. All private judicial areas shall be made non-accessible to members of the general public during Phase One.

Subject to the provisions of this order, all in-person court proceedings other than jury trials will resume May 18, 2020.

**Sick Individuals Prohibited Entry to Courtrooms and Judicial Areas**

An individual who exhibits any of the symptoms associated with COVID-19 that have been recognized by the Centers for Disease Control (CDC), such as a cough or shortness of breath, or who has been instructed by a medical provider or government official to self-quarantine due to possible exposure to the COVID-19, may be denied entry into a courtroom by the judge presiding over any court proceeding in this judicial circuit. The presiding judge may likewise exclude individuals from any public or private judicial area or from the court clerk’s area if there is sufficient indication a person may be ill and pose a threat of transmitting that illness to others.

*Procedure When Access Denied to Courtroom*

When an individual has been denied entry to a courtroom for a trial, hearing, or call docket as a result of suspected illness, the bailiff shall immediately inform the judge presiding over the court proceeding, and the judge shall determine whether the individual should be allowed entry or allowed entry under certain conditions, which may include requiring the individual who is suspected of being ill to wear a mask at all times or increasing the amount of social distancing between the individual and all others.

If entry is not permitted due to the suspected illness of a person, the judge presiding over the proceeding shall, after consultation with all counsel of record and any self-represented party, determine whether the judicial proceeding may proceed as scheduled or will need to be continued due to the absence of the person displaying signs of illness. If the person excluded is a party or material witness in a judicial proceeding, the judge presiding over the proceeding may also, after consultation with all parties and counsel of record, permit the individual suspected of being ill to appear at the judicial proceeding using videoconference technology as agreed to by the parties or as permitted by law or any administrative order of the Supreme Court of Alabama.

*Procedure When Access Denied to Court Clerk’s Area or Other Public Judicial Area*.

If access to a court clerk’s area or public judicial area is denied to an individual due to suspected illness, the bailiff shall immediately inform the presiding judge of this judicial circuit, and the presiding judge, in consultation with the circuit court clerk, shall determine whether the individual should be admitted or denied entry to the requested area or whether some other accommodation can be made that will not endanger the health and safety of others.

**Maximum Occupancy During Phase One**

The maximum number of people admitted entry into a courtroom, court clerk’s area, or other public and private judicial area at any one time shall conform to guidelines adopted by the Supreme Court of Alabama in Administrative Order No. 7. Signs showing the maximum number of people permitted to assemble in a courtroom, court clerk’s area or other public or private judicial area at any one time shall be posted in plain view near each area. The court bailiff assigned to each courtroom, or such other individual(s) that may be designated from time to time by a circuit or district court judge, shall keep a count of each person entering and leaving the courtroom, court clerk’s area or other public judicial area, using an electronic or other counting device designed to keep track of individuals.  Once the maximum number of people allowed to enter a room or area has been reached, no other person shall be allowed entry except as provided herein. If a courtroom has reached its maximum occupancy, the judge presiding over the proceeding may consider moving the trial or hearing to a larger courtroom, if one is available or using nearby courtrooms as a waiting area.

If an individual appears seeking entry to a courtroom, court clerk’s area or other judicial area that has reached its maximum capacity, the bailiff, or other designated person having responsibility for maintaining proper social distancing in that area, shall inform the person that maximum occupancy has been reached and entry is not allowed until space becomes available. The bailiff, court clerk, or other designated person, shall either: (i) instruct the individual to wait on “stand here” social distancing markers located adjacent to each courtroom, (ii) instruct the person seeking entry to wait in a vacant courtroom or other designated waiting area, or (iii) if no waiting areas are available, obtain the name and cell phone number of the person and telephone him or her to return when space becomes available. If an individual who is called fails to return within 15 minutes from the time the call is placed, that individual forfeits his or her right to immediate entry but may request to be returned to a call waiting list.

**Courtroom and Court Clerk Occupancy**

*Court Clerk’s Area.*

A maximum of 12 people shall be allowed into the court clerk’s area at any one time. A designated court clerk shall keep a record of each person entering the court clerk’s area and when the number of people allowed entry equals the maximum number permitted for the area, no other individual shall be allowed entry until a person has first exited the court clerk’s area.

Only four individuals shall be allowed in the hallway adjacent to the court clerk’s payment and filing window at any one time and each must position himself or herself on a “stand here” social distancing marker affixed to the floor. If more than four individuals appear to speak to a court clerk or magistrate at any one time, each additional person shall be escorted by a court clerk to one of the two adjacent waiting rooms until the person can be assisted. Only four people at any one time shall be allowed in each of the two waiting rooms situated near the court clerk’s filing windows, and each person shall sit on or stand near social distancing markers that have been placed more than six feet apart in the waiting rooms. In all other publicly accessible rooms within the court clerk’s area, such as magistrate interview rooms and absentee voting rooms, all individuals must maintain a consistent social distance of six feet from each other and strictly adhere to all other safety protocols provided for herein.

*Courtrooms*

In addition to the judge presiding over a judicial proceeding and two other court employees who may be present in a courtroom to assist with the proceeding, the maximum occupancy for each courtroom is as follows:

(i) District Courtroom number 1 .….……..……………………….……….16

(ii) District Courtroom number 2 ………………………………………….21

(iii) Circuit Courtroom number 1 ………………………………………….30

(iv) Circuit Courtroom number 2 ……...…………………….………….…16

A person wishing to enter one of the four courtrooms shall present a copy of his or her summons, court notice or subpoena, if available, to a bailiff or courthouse security officer at the time entry is sought. If a court notice or subpoena is not presented, a bailiff or security officer shall obtain sufficient information from the person seeking entry to determine the correct courtroom the person should report to or direct the person to a court clerk for additional information to determine the correct courtroom.

A court bailiff or other person responsible for maintaining social distancing rules, shall keep a record of each person entering a courtroom, and when the number of people allowed entry equals the maximum number permitted for the courtroom, no other person shall be allowed entry to the courtroom until a person leaves.

Judges are encouraged to communicate with one another regarding the scheduling of court dockets and, to the fullest extent practicable, coordinate dockets to enable the most efficient use of courtroom facilities. When a court docket is staggered, a nearby courtroom that is not needed for a judicial proceeding may be used as a waiting area, provided that all individuals within the waiting area sit or stand six feet apart, using social distancing markers affixed to the benches in each courtroom as a guide.  If a courtroom is going to be used as a waiting area, the judge presiding over a judicial proceeding that wishes to use a vacant courtroom as a waiting area shall notify the bailiff and courthouse security assigned to his or her courtroom so that when the judge’s courtroom has reached its maximum occupancy, any person seeking entry to the courtroom may be escorted or directed to the nearby courtroom that is being used as a waiting area.

*Priority for Courtroom Occupancy*

In the event the number of people wishing to enter a courtroom exceeds the maximum number permitted by this administrative order, those individuals deemed essential to a judicial proceeding shall be given priority access to a courtroom. Judges, court staff, parties, counsel of record for each party, and witnesses shall be deemed essential in determining courtroom access. Spectators and others who are merely accompanying a party may be excluded from a courtroom if space is unavailable, except that parents or guardians of a minor or incapacitated adult may remain with the minor or incapacitated adult throughout any judicial proceeding. Individuals who are merely providing another person with transportation to the courthouse should remain in his or her vehicle or at some other location rather than attempting to enter a courtroom or other judicial area. Any occupancy issue that cannot be resolved by application of the foregoing shall be referred for resolution to the judge presiding over the docket call, hearing or trial.

*Court Notices, Summonses, and Subpoenas*

All court notices, summonses or subpoenas shall include the date and time of the proceeding, the name of the judge presiding over the proceeding and the courtroom number. The court notice, summons or subpoena shall also include an instruction for the individual receiving the court notice, summons, or subpoena to bring the document to the judicial proceeding to show courthouse security and a court bailiff when seeking entry to a courtroom. Individuals having a case set on a court docket may not be permitted entry into a courtroom until the time designated on his or her court notice.

*Courtroom Seating*

Signs shall be posted in each courtroom reminding individuals to sit at least six feet apart from one another, except as otherwise provided herein. Social distance markings shall be placed a minimum of six feet apart on each courtroom bench to denote safe seating distances and signs shall be placed on each bench instructing individuals to sit only on the marked areas so as to maintain a proper social distance. Typically, this will permit a court bench to be occupied only by two individuals seated near each end of a bench so that social distancing rules are not violated when a person is leaving his or her seat. Notwithstanding the foregoing, individuals residing in the same household are not subject to these social distancing requirements and may sit closer together if they choose.

If rows of courtroom benches are not spaced at least six feet apart, every other bench in a row shall be roped off so that the bench is not available for use. Chairs in a courtroom shall be placed a distance of at least six feet from all other chairs or benches in the courtroom and shall be situated so that individuals traversing a courtroom aisle or passageway do not violate the social distancing requirements mandated by the Supreme Court of Alabama. Any excess seating shall be removed from a courtroom. Further, before court proceedings commence, bailiffs assigned to assist in each courtroom shall periodically announce that individuals must remain at least six feet apart from other individuals who are not residing together in the same household and explain the purpose of the social distancing markers being used.

Once a judicial proceeding has concluded, all participants shall promptly vacate the courtroom so that staff may sanitize the courtroom for the next proceeding. No individual shall loiter about the courtroom or the hallways adjacent to a courtroom or otherwise congregate after the proceeding has concluded.

*Violations of Social Distancing Rules*

 It shall be the responsibility of each bailiff assigned to a courtroom to remind those in attendance of the social distancing protocols mandated by this court order and, if necessary, report violations of the order to the appropriate judge. An individual found to have willfully violated any provision of this order, including social distancing rules, may be held in contempt of court and punished accordingly.

*Masks*

It is recommended that all individuals entering a courtroom, court clerk’s area, private judicial area, or public judicial area wear a mask for his or her own protection and for the protection of others. Masks shall be worn by courtroom bailiffs and any other person involved with a judicial proceeding as may be directed by the judge presiding over the proceeding.  Masks worn into court proceedings shall not contain writing or any image that would be inappropriate for a courtroom setting. When mask use is required by this order or the order of a judge presiding over a judicial proceeding, the mask shall at all times completely cover the mouth and nostrils of the person who is wearing the mask.

*Social Distancing*

All individuals entering a courtroom, court clerk’s area, or other public judicial space, including hallways adjacent thereto, shall consistently maintain social distancing of at least six feet between individuals, as recommended by the CDC and as ordered by the Supreme Court of Alabama.

*Hallways*

No individual shall stand, congregate or loiter in any hallway adjacent to a courtroom or court clerk’s area, except as otherwise herein provided. Hallways shall be used only for ingress and egress to a courtroom or to a court clerk’s area, subject to permitted exceptions. When entering a courtroom or court clerk’s area, individuals shall at all times maintain a social distance of at least six feet from each other person, using social distancing “stand here” markers on the floor as a guide.

*Stairways and Elevators*

At the direction of the Cullman County Commission, only one person at a time shall be permitted to use an elevator, except that individuals who are living in the same household may use the same elevator. To maintain social distancing, the Cullman County Commission also has directed that stairways be used to travel in one direction only. The center stairwell of the courthouse has been designated by the Cullman County Commission as an “up” stairway and the stairways located at the north and south ends of the courthouse are designated as “down” stairways. Signs with arrows showing the direction of travel have been posted at stairway entrances on each floor of the courthouse and also on the walls at each stairway landing to inform the general public and individuals who work in the courthouse that the stairways are to be used for one-way travel only. The direction of travel may be altered by the Cullman County Commission in the future based on traffic use patterns. All individuals seeking entry or leaving a courtroom, court clerk’s area, or other public or private judicial area shall adhere strictly to the stairway procedure now in use or hereinafter adopted by the Cullman County Commission.

*Personal Protective Equipment*

All court clerks and judicial employees shall be provided masks and disposable gloves. Masks shall be worn by all court clerks and judicial employees whenever a court clerk or judicial employee has any in-person interaction with the general public and may be worn at any other times. Plexiglass or other clear screens shall be erected at all court clerk payment and filing counters and also in magistrate interview rooms and similar locations to provide a clear barrier between judicial employees and members of the general public or law enforcement officials who are seeking warrants, filing absentee ballots, who are seeking passports or otherwise seeking to avail themselves of any other judicial service requiring in-person contact with a court clerk, magistrate or judicial employee. To the extent practicable, plexiglass or other similar barrier shall be erected around each court clerk’s workstation of a sufficient height and width to prevent or inhibit transmission of the COVID-19 virus. Further, each judge may determine whether it is practicable or desirable to erect a plexiglass or other clear screen between a court reporter, the judge or other judicial employee, and other participants in a judicial proceeding in his or her courtroom.

*Sanitizing Stations*

Hand sanitizing stations containing a solution that is at least 60% alcohol shall be set up at the entrance to each courtroom, in the court clerk’s area and at various locations within each public judicial area.  Signs also shall be posted at conspicuous locations near the courtroom entrance, court clerk’s area, and other public judicial areas reminding individuals to wash their hands frequently and encouraging them to use hand sanitizer upon entering a courtroom, court clerk’s area, or any other public judicial area.

**Trial and Evidentiary Hearing Protocol**

Lawyers, parties, witnesses, and all others in attendance at a judicial proceeding shall maintain a consistent distance of at least six feet from all other individuals who are present. To further limit the transmission of COVID-19, customary handshakes or similar greetings that do not conform to social distancing rules shall not be permitted in the courtroom before, during or after in-person court proceedings.

*On Call Witnesses*

Attorneys and self-represented parties are strongly encouraged to place witnesses who will not be needed when a trial or hearing begins “on call” so that courtrooms and waiting areas do not exceed the maximum occupancy allowed pursuant to this administrative order. However, to avoid needless trial delays caused by a witness who has not yet arrived, each “on call” witnesses should be telephoned sufficiently in advance of his or her testimony so that a witness arrives shortly before his or her testimony is needed. Where feasible, the witness may report first to the office of the attorney who requested the witness to appear and wait at the office until it is time to testify.

*Communication between client and attorney*

When communication is desired between a party and his or her counsel during a court proceeding, notes may be exchanged. If notes are insufficient to adequately communicate, counsel may request a brief recess to communicate confidentially with his or her client in a nearby private interview room.

*Exhibits*

All exhibits shall be pre-marked before a judicial proceeding begins. Disposable gloves shall be available in each courtroom for use by all individuals present. An exhibit shown to a witness or offered into evidence shall only be touched by an individual who is wearing disposable gloves and the gloves shall be removed and disposed of according to guidelines adopted by the CDC when no longer needed. Further, an exhibit shall not be handed directly to a judge, witness, party, or to opposing counsel, but shall be placed on a table or other surface for retrieval and examination so that continuous social distancing is maintained.

*Masks*

If an individual is wearing a mask during a judicial proceeding, the court may require that the mask be temporarily removed: (i) for identification purposes, (ii) if the mask substantially interferes with the ability of the judge, parties, lawyers or court reporter to understand the witness, or (iii) if wearing the mask prevents an authorized recording device from accurately recording what is being said by an individual who is speaking.

**Jury Trials and Large Docket Calls***.*

By order of the Supreme Court of Alabama, no criminal or civil jury trials will be conducted until September 14, 2020. Further, the number of individuals ordered to attend a court docket shall not exceed the maximum number permitted for the courtroom where the judicial proceeding will be held. Provided, however, that judges may use a nearby courtroom as a waiting area if it is not needed by another judge and is otherwise available. The maximum occupancy for a courtroom used as a waiting area shall not be exceeded and all those in attendance shall fully comply with social distancing requirements while waiting. Nothing herein shall be construed to limit the right of a judge to stagger court dockets, which practice is encouraged and promotes the best use of limited judicial resources.

**Cleaning Requirements**

Frequently touched surfaces including, but not limited to, courtroom benches, tables, doorknobs, light switches, writing instruments used by the general public, seats, witness stands, computer keyboards, countertops at the court clerk’s filing and payment window, tables, chairs, and all surfaces frequently touched in courtrooms, the court clerk’s area, and other public and private judicial areas shall be sanitized by cleaning staff or court staff at regular intervals throughout the day, depending on use. At a minimum, each courtroom shall be sanitized according to CDC recommendations at the conclusion of each court proceeding and before individuals involved with the next proceeding are allowed entry into the courtroom. All chemicals used to sanitize and disinfect surfaces must meet standards adopted by the CDC or the Alabama Department of Public Health as adequate to kill infectious agents, including COVID-19.

**Video Conference Use For Those At Risk**

  Those individuals more than 65 years of age, having an underlying health condition that makes them more susceptible to COVID-19, or who is otherwise classified as a “vulnerable person” or subject to quarantine under the Safer-at-Home Order entered by the State Health Officer, may file a request to appear using videoconference technology that has been approved by the court. The testimony of a person appearing by use of videoconference technology may be considered by the court pursuant to an agreement of the parties to the proceeding or as otherwise allowed by the rules of court or authorized by the Supreme Court of Alabama.

**Court Clerk’s Offices Not Accessible to General Public**

No person shall enter the non-public offices of court clerks except as expressly authorized by the Circuit Court Clerk. Workstations used by court clerks shall be spaced at least six feet apart or separated by a barrier and each clerk shall consistently maintain the required social distance from other clerks throughout the workday, including breaks. Further, masks shall be made available to each clerk and disposable gloves shall be provided to a clerk when his or her duties require the handling of documents, money, checks or other physical objects received from the public. After use, disposable gloves shall be removed and disposed of according to CDC guidelines.

*Warrants and other Court Clerk Business*

Whenever it is necessary for a clerk or magistrate to have contact with a member of law enforcement or any member the public in an area where there is no glass screen or sneeze guard separating the clerk or magistrate from another individual, the meeting shall occur in a room designated for that purpose and the clerk or magistrate shall wear a mask during the interaction. Further, all individuals in the room must maintain a social distance of at least six feet from one another at all times. If documents or other physical objects will be exchanged or handled by the individuals present, disposable gloves shall be provided and worn by all those touching the document or physical object and the gloves shall be removed and disposed of according to CDC recommendations when no longer needed.

**Virtual Court Hearings**

Virtual court hearings provide the best social distancing tool available to the courts for limiting the transmission of the COVID-19 virus and may be used at the discretion of a trial judge in all instances when practicable and permitted by statute, rules of court, or administrative order of the Supreme Court of Alabama. A virtual court hearing shall be held in every case in which all parties to the action have filed a written request asking for a specific judicial proceeding to be conducted as a virtual court hearing, provided the parties have unanimously agreed to the virtual court hearing procedures adopted by the Supreme of Alabama or as otherwise permitted by law.

**Posting of Public Notices**

Signs displaying the maximum occupancy for each courtroom shall be posted in a conspicuous place near the entrance to each courtroom. In addition, the following notice shall also be posted outside the entrance of each courtroom and at the Circuit Court Clerk’s payment and filing counter:

“No one who is experiencing symptoms consistent with COVID-19, or who has been advised to self-quarantine by a medical provider or government official shall enter a courtroom, court clerk’s area, or any other judicial area. Further, every individual is required to maintain a minimum distance of six feet from all other individuals while in a courtroom, the hallways adjacent to courtrooms, the court clerk’s area and in all other judicial areas, except for individuals residing in the same home. Failure to abide by these social distancing requirements may subject a person to being held in contempt of court.”

Social distancing signs reminding individuals to maintain a distance of at least six feet from others shall also be posted at regular intervals in the hallways adjacent to courtrooms, inside courtrooms, near the court clerk’s area and all other public judicial areas. In addition, signs shall be placed near courtrooms and other publicly accessible areas encouraging the public to frequently wash their hands and to use hand sanitizing stations before entering a courtroom, the court clerk’s area or any other judicial area.

The Circuit Court Clerk shall post a copy of this order on the court’s official website, cullmancourts.org and shall also provide a copy of this order to the Alabama Administrative Office of Courts.

  Done this the 13th day of May, 2020.

/s/\_Gregory A. Nicholas\_\_\_\_\_\_\_\_\_\_\_

Gregory A. Nicholas

Presiding Circuit Judge

32nd Judicial Circuit

State of Alabama