**Resuming Jury Trials in the Alabama Unified Judicial System**



**COVID-19 Guidelines for Alabama Trial Courts**

**August 2020**

**Resuming Jury Trials in the Alabama Unified Judicial System**

**COVID-19 Guidelines for Alabama Trial Courts**

**August 2020**

**Table of Contents**

**(to be added)**

**Introduction**

By order of the Supreme Court of Alabama jury trials have been suspended in Alabama’s Unified Judicial System until September 14, 2020, amid the COVID-19 pandemic. These Guidelines set forth suggestions for Alabama’s trial courts to consider in the resuming jury trials. The guidelines graft heavily from the report issued by the U.S. Courts COVID-19 Task Force Report issued on June 4, 2020, information gathered from federal and other state courts, as well as the Alabama Judges Pandemic Practices Bench Book issued by the Alabama Law Institute.

**I. Communicating Safety to the Prospective Jurors and to the Public.**

Providing information to prospective jurors about the steps taken by the courts to mitigate the spread of COVID-19 can help streamline the jury trial process while reducing juror anxiety.

* **Websites**: Presiding judges and circuit clerks should update local court websites to include up-to-date information about the courthouse and about the steps being taken to create a safer environment during the pandemic. Specific information about the procedures for jury trials should be included as a resource for prospective jurors and for attorneys.
* **News releases**: Trial courts should issue a news release to local news entities highlighting the jury questionnaire website and directing the public and prospective jurors to additional information about the court’s mitigation efforts. See the sample News Release in Appendix A.
* **Video**: Trial courts should produce a short explanatory video about the jury-selection process amidst the COVID-19 pandemic. See the sample script in Appendix B. Videos can be posted to the local court website and to other video streaming sites accessible to the public, e.g. YouTube, Vimeo, etc. If the video is on the court or circuit clerk’s website, provide information on the summons encouraging jurors to view it. Provide this information to the media.

**II. Jury Summons.**

* **Number of Jurors to Summons**: Increase the number of jurors summoned to appear, noting that this increase must be balanced against the risk of calling more jurors than are realistically needed thereby unnecessarily exposing them to possible contagions, e.g. a pool of 50 as opposed to 40.
	+ Plan for a lower yield from the jury pool during the pandemic. Even healthy jurors not considered particularly vulnerable to COVID-19 may hesitate to serve for a variety of reasons: to avoid the risk of exposing other members of their household to the virus; to care for children who no longer have school or summer activities to attend; to look for work if they have recently lost their employment; or because they have recently returned to work and cannot afford to take leave. The National Center for State Courts estimates around a 15% reduction from the pre-pandemic national average yield of 53%.
	+ Plan for the loss of a greater number of seated jurors during the pandemic due to illness or the need to care for sick family members. An effective contact-tracing program will likely cause loss of jurors due to a required, immediate self-quarantine after exposure to COVID-19. Take into consideration the possibility of losing jurors during trial when considering the number of alternate jurors to seat in criminal cases and overall number of jurors to seat in civil cases. Avoid falling below constitutional minimums and be prepared to address law concerning when waivers of constitutional minimums may be sought or granted.
	+ Consider a reduction of days required to be physically at the court facility, and implementation of a call-in standby system. Consider limiting juror pool size according to the maximum allowed in the assembly area accounting for social distancing requirements - especially if no qualifying procedures can be performed remotely.
	+ As a resource in planning maximizing juror pool participation, remember that https://www.census.gov/quickfacts/fact/table allows you to view individual county demographics. Also, www.countyhealthrankings.org reports the percentage of an individual county’s population in poor health. These resources can be used to anticipate juror pool response for your county to allow for adequate planning for juror summons yields.
* **FTAs**: To help increase juror summons yields in the future, follow-up on failures to appear or to defer, at least until the average yield rate returns to pre-COVID levels. This can be accomplished by quickly issuing a 2nd notice to those jurors containing notification that their absence was noted and giving them information on how to obtain a deferral to a set date in the future. Alternatively, a show-cause docket could be set up and scheduled for those who failed to appear, be excused, or defer. For those who fail to appear, consider the establishment of an amnesty program, providing that the recipient of the amnesty notice has an opportunity to call in to the court or circuit clerk and let the court know when they could appear for jury duty. Set up a date to appear for service for those that call in.
* **Juror Questionnaires**: Trial courts should use jury questionnaires to insure only properly qualified jurors appear for jury duty .
	+ *Online*: The jury summons will notify prospective jurors of the online questionnaire in which they can answer general questions about their qualifications as well answer questions specific to COVID-19. Responses are sent to the jury coordinator. See Rule 46, Ala. R. Jud. Admin. The URL for the jury-questionnaire website is: INSERT URL.
	+ *Paper*: Those prospective jurors who do not complete the online questionnaire should complete a supplemental questionnaire when they arrive for jury duty that asks:
		- I am currently ill and have tested positive for the Coronavirus
		- I am currently ill and concerned I may test positive for the Coronavirus
		- I am caring for a family member or loved one who has tested positive for the Coronavirus
		- I am afraid to be in a room with a large group of people
		- I have a financial hardship that will make it impossible for me to serve as a juror (if this one is applicable, please briefly explain the circumstances)
		- Any other reason why you cannot serve as a juror. If so, please explain. \_\_\_\_\_\_.
* **Screening**: The presiding circuit court judge, or his or her designee, should review the responses to the jury questionnaires submitted by the website to screen prospective jurors. Those who are disqualified by law shall be notified of such disqualification. Consideration should also be given to eliminating prospective jurors who have COVID-19 related reasons from serving prior to requiring them to appear at the courthouse. Target high-risk populations for the application of a more-relaxed excuse policy. Anticipate more financial hardship, health concerns, and childcare requests/excuses
* **Deferrals for COVID-19**:
	+ Consider greater use of deferrals, and set them 6-12 months out to deal with high-risk concerns, availability of vaccine anticipated, etc. Remember about 21% of the nation’s population is currently over 65.
	+ Make the rescheduling on a deferral automatic by selecting a deferred date at the time of the deferral.
	+ Those who have tested positive, or have been around those who have tested positive, should be considered for a second deferral.
	+ Remember that there are many child-care facility closures and enrollment freezes at this time.
	+ Courts should consider deferring jury service for prospective jurors who fall into the following categories:
		- Essential workers, i.e. healthcare professionals and workers who are critical to the COVID-19 response, including those working in long term care facilities;
		- Jurors with vulnerable health conditions or living with those who are vulnerable to COVID-19;
		- Prospective jurors who have been exposed to COVID-19;
		- People just returning to work after being furloughed;
		- Prospective jurors or jurors who develop COVID-19 symptoms while or after jury is impaneled
	+ When addressing high-risk population issues, keep the cross-section of the community in mind. Elderly, African-American, and Hispanic populations have been most severely impacted by the COVID outbreak. So, if adjustments must be made for increased use of excuses in those populations, be prepared for contentions that jury pool community cross-section requirements may not have been met for the jury pool. Duren v. Missouri, 439 U.S. 357 (1979), set up a three-pronged analysis of the community cross-section requirement. a) the group alleged excluded must be distinctive; b) the group’s representation in the pool is not fair and reasonable in relation to the number of persons in the community, and c) any underrepresentation is due to systemic exclusion. If all three prongs are met, the burden of proof then shifts to the state to show a compelling justification. First, regarding the Duren prongs, the argument could be made that the court has no control over the disease. Second, the court has no control over the increased health-risks of certain populations. Third, the exclusion is ad hoc-based upon exigent circumstances-and thus non-systemic. Even if all three prongs of Duren could be argued to be present, the state could likely easily demonstrate that the COVID-19 crisis is a compelling justification for an enhanced excuse/deferral policy. Do as much of the process on the front end as possible by getting pre-qualification excuses done before voir dire since Duren applies to the diversity of the pool, not the final venire.

**III. Personal Protective Equipment.**

All courthouse personnel coming into regular contact with jurors (bailiffs, court attendants, clerks) should be required to use PPE at all times during the trial.

* **Face coverings**:

* + *Courtrooms and other court offices:* Every person physically appearing in the jury venire room, the jury room, the courtroom, and other areas controlled or maintained by the courts should always wear protective face coverings.
	+ *Face shields*:
		- Witnesses: Witnesses who are testifying in open court should use face shields in lieu of masks so that the jury can observe the facial expressions and so that the witnesses can be heard by the court reporter, the jurors, the judge, and attorneys.
		- Attorneys: When speaking in open court, attorneys, if possible, should use face shields in lieu of masks. Attorneys who are present but not speaking should wear a face covering of any variety.
		- Parties: Face shields should be the preferred face covering for the parties, especially in a criminal trial. If a defendant in a criminal case wears a mask during the trial, the jury may not be able to sufficiently observe/evaluate the defendant’s demeanor, reactions, and apparent candor or lack thereof. Consideration should also be given to the impact of masks on in-court identification by witnesses.
	+ *Plexiglass*: In all instances where social distancing is not possible an to the extent that it does not inhibit the ability to hear or communicate, consider using plexiglass dividers in appropriate places in the courtroom if necessary. Consider plex-glass in some or all of these areas – the bench, the court reporter’s position, the witness box, between jurors. Install a plexiglass shields to separate court staff from jurors at service points or counters.
* **Hygiene**:
	+ Hand sanitizer stations available inside the courtroom, the jury venire room, the jury room, common areas, and elsewhere as appropriate. The court should periodically inform jurors, attorneys, witnesses, the court reporter, members of the public, and others to the location of these stations.
	+ The court should remind jurors, attorneys, parties, court staff, and other trial participants at every break to wash or sanitize hands before and after returning from a break.
	+ The court, where feasible and appropriate, should restrict access to common areas and should restrict juror amenities (water/ice, coffee, food, etc.).
	+ Encourage jurors to bring their own writing instruments, reading materials, water bottles, snacks, and lunches.
	+ Consider whether to restrict restroom facilities in jury areas only or access to all public restrooms. Consider additional special signage regarding importance of proper hand washing in the restroom and nearby public spaces.

**IV. Space and Courtroom Preparation**

Consider consulting with local public health experts to help design or retrofit safe courtroom environments and to review your proposed jury reconstitution plan.

* **Paths of Travel**: Plan paths of juror travel from the entrance into the courthouse to rooms within the courthouse.
	+ In the areas where the jurors frequent, place social distancing markers.
	+ Limit the number of jurors who can ride an elevator to 2 or 4 (with face coverings).
	+ Consider use of stairwells as alternatives to elevators and have stairwells marked with appropriate signage to ensure safe use.
* **Courtrooms**

Each court should develop a plan for its courtrooms that allows for social distancing.

* + Reconfigure the courtroom so that trial participants are separated by six feet. Jurors can be placing jurors in the gallery section of the courtroom and having the witness stand (table, box or mere seat) facing the gallery and lawyer tables.
	+ Space out seating at counsel tables that observe social distancing requirements.
	+ For the attorneys, have two podiums available.
	+ Take out any chairs in the courtroom that impede social distancing and mark/designate the balance of the seating areas to maintain social distancing requirements. Establish areas/zones to stand in the courtroom that will ensure social distancing while trial participants are not in their seats.
	+ Have handrails, door knobs/handles, lecterns, etc. wiped down routinely.
	+ Place tape marks on the floor/seats for proper distancing of jurors, attorneys, press, public, and other trial participants during all parts of the trial (vore dire, arguments, witness examination, side bar, etc.).
	+ The location of the judge, court reporter, and witness stand should be adequately distanced from other trial participants.
	+ Where feasible and where social distancing is not possible, use plexiglass dividers.
	+ Consider streaming the trial live in another space or unused courtroom if there is little or no room for the public, or if the trial is high profile or being closely covered.
	+ The court reporter could take record remotely from outside the courtroom, remain at the usual station with appropriate social distancing, or move to a different location as warranted.
	+ Make sure a sufficient space is dedicated for the jury in which to take breaks in a location away from third parties that allows the jurors to socially distance.
	+ Before the first trial, conduct a mock trial with attorneys, the court reporter, bailiffs, and others to test new equipment and trial procedures before implementation in a real trial.
* **Common areas**: Restrict access to common areas. Consider expanded use of hand sanitizer stations in common areas. Mark or tape hallways, waiting areas, and bathrooms to maintain social distancing. Establish lanes in the hallways/common areas. Have personnel assigned to monitor hallways, waiting areas, and bathroom access to assure social distancing and PPE orders are being observed.
* **Restrooms**: Consider whether to restrict restroom facilities in jury areas only or access to all public restrooms. Consider additional special signage regarding importance of proper hand washing in the restroom and nearby public spaces.
* **Cleaning**: Consider plans for deep cleaning all juror-occupied spaces after each session. Consider providing hand sanitizer and bleach wipes at the witness stand. A court employee or the witnesses themselves could wipe off the witness stand after each use.
* **Reporting**: Provide jurors with a phone number or an email address to report unsanitary conditions and conduct.
* **Signage**: Placing signage outside of courtroom and court office entrances explaining the court’s response to COVID-19 and reminding individuals to maintain proper social distancing and to wear face coverings.
* **Jury room**: Mark seats where jurors are permitted to sit enabling the court to have proper social distancing in the jury assembly room, or remove chairs, if possible, placing them the appropriate distance apart. Consider placing individual supply bags on jurors’ assigned seats before they arrive in the courthouse. Such supply bags should include hand sanitizer wipes or individual hand sanitizers and individual trial notebooks. Consider placing a cubby-hole type organizer in the jury room labeled with the jurors’ names for personal belongings and for juror notebooks so that they are not comingled. Consider a protocol for the use of the refrigerator and microwave in the jury room, such as clearly marked individual containers or bags and the use of gloves to access the refrigerator and microwave.

**IX. Arrival on the Day of Jury Service**

* **Signage**: Have clearly marked signs for jurors directing them to room or area designated for jury assembly.
* **Temperature scans**: Assure that juror temperatures are checked daily using touchless temperature scans. Anyone whose temperature exceeds that of the guidance provided in the Phased Plans. Jurors with a temperature over 100.4 degrees should be excused from service and replaced with an alternate.
* **Assembly area**:If the jury assembly room is not large enough for adequate social distancing, bring jurors to a courtroom or other room large enough for social-distancing measures to be applied.
* **Questionnaire**:Have a paper questionnaire available for those jurors who did not complete the online questionnaire.
* **Check-in**: Once in the assembly room, consider best methods for checking in. Documentation (summons and driver license) should be held by the juror for the court staff reviewing the documentation. Install a plexiglass shields to separate court staff from jurors at service points or counters.
* **Contact information**: Obtain contact information from jurors (email, cell phone, etc.) in the event of initiation of contact tracing.
* **Badges**: Use pre-printed, large stick-on labels for juror badges instead of plastic ones with pins to reduce contact with jurors
* **Duty to report**: Jurors should be instructed to self-report to the judge or court staff any symptoms they may have that morning before entering the courthouse and that they are under a continuing duty to report symptoms during their jury service. Jurors should immediately report to the court (from home—no attempt should be made to come to the courthouse) the advent of a positive COVID-19 test result of themselves or anyone in their immediate family. Upon such occurrence, the court will immediately consult with local public health authorities on proper CDC notification, testing, and sanitization guidelines/procedures, and with counsel and litigants regarding whether a mistrial is necessary.
* **Orientation**: Juror orientation should include a review of the steps the court is taking to increase juror safety. Remind jurors of the steps they must take for their enhanced safety, including frequent hand washing, sanitizing, face covering, social distancing, and so forth. Have a video available on the Circuit Clerk’s website, or to play during in person qualification, explaining jury duty and the modified selection process during the pandemic. Also explain in the video the COVID-19 procedures being undertaken at the court facility to make jurors feel safer and more secure during the pandemic
* **Monitor**: Monitor jurors while moving from one space to another during the course of the trial to ensure social distancing protocols are being followed.
* **Breaks**: Make sure a sufficient space is dedicated for the jury in which to take breaks in a location away from third parties that allows the jurors to socially distance.

**XII. Jury Selection and Trial**

* **Ground rules**: At the commencement of the proceedings, the court should instruct all trial participants (jurors, attorneys, parties, witnesses, court staff, the public, etc.) that they are to adhere to social distancing measures that have been implemented, including face-covering requirements, and that they are subject to any administrative or standing orders issued by the court.
* **Pretrial**: Establish ways to expedite the trial to minimize potential exposure to COVID-19.
	+ Enter a standing order in Appendix C and the pretrial order in Appendix D.
	+ Require mediation to have been attempted in all civil cases before trial
	+ Ask if the parties can stipulate to certain matters/facts.
	+ Determine whether parties can establish or stipulate to evidentiary/admissibility foundations.
	+ Set time limits for arguments where necessary.
* **Vore dire**:
	+ Assign seats to jurors.
	+ Initiate staggered starting times for groups of jurors during the voir dire process. Consider bringing smaller groups into the courtroom for voir dire to keep fewer people in the courtroom at any one given time, e.g. questioning only 12 to 14 at any time.
	+ Consider preparing a procedure to implement when privacy concerns compel individual voir dire. Consider where such an individual voir dire will occur, how social distancing norms will be respected, and who will be present, noting in a criminal case, the general right of a defendant to be present for all proceedings.
	+ Anticipate jury selection, considering entry protocols and staggered starting reporting times for voir dire, taking significantly longer than pre-COVID-19 procedure.
	+ Plan to have at least two alternate jurors. Make sure you can maintain them during deliberations in a properly supervised and socially distanced space.
	+ Do not allow counsel or parties to physically approach the jury closer than that permitted by social-distancing requirements

* **Opening and Closing Statements**: Place tape markers on the floor where the attorneys can stand or move during arguments to the jury. Do not allow counsel or parties to physically approach the jury closer than that permitted by social-distancing requirements.
* **Sidebars and Bench Conferences**: Determine alternatives to bench conferences during trials. Attorneys, parties, and the court reporter should not approach and congregate at or around the bench in violation of social distancing requirements at any time. Court and attorneys should use a deliberation room, chambers, an unused courtroom for sidebars, or other available room. Alternatives include using white-noise machines to mask sidebar conferences when such conferences are held in the presence of others.
* **Witnesses**:
	+ *Waiting*: Witnesses should be directed to a waiting area where they can socially distance before they testify
	+ *Oath*: If witnesses are sworn in on a Bible or other book, consider placing the book on or near the witness stand, under clear, single-use plastic covering that can be swapped out after each witness.
	+ *Approaching the witness*: Attorneys should not to approach the witness any closer than six feet. Preferably, technology used to show exhibits or other documents to witnesses. Otherwise, duplicate copies of exhibits should be made available at the witness stand for review by witnesses.
	+ *In-court identifications*: Consider procedures for in-court identification by witnesses when all participants are wearing masks. The person(s) identified should temporarily remove the mask and immediately replace it at the conclusion of the identification process.
* **Evidence and Exhibits**: Use technology (Electronic Visual Evidence Presenter, digital projector, etc.) to publish exhibits to the jury rather than handing them physical documents. Ensure there are adequate power sources available for any needed equipment. Add monitors so jurors at appropriate social distances will have equal visibility and access to documentary or other physical evidence. Parties must present evidence electronically, using a computer or document camera (no handing paper to the witness). Avoid passing exhibits between jurors. Make copies of all exhibits so that one document is not handled by everyone.
* **Attorney/Client Conferences and Confrontation**: The court should protect a party’s right to consult with his or her attorney and confront witnesses, especially in a criminal case, while using the protective measures necessitated.
	+ Make certain that criminal defendants have a way of communicating with their attorneys during breaks. Determine a private area for attorney-client communication to occur during the break. Consider separate secure and adequate space for such conferences to be held outside the courtroom setting if necessary.
	+ Provide accommodations to allow for socially distanced attorney-client conferences during trial, e.g. use of white-noise machines to block others from hearing privileged conversations or use of texting applications.
	+ Have defense counsel accept on the record the setup for the courtroom once the issues are briefed by the parties.
* **Interpreters**: If a mask impedes the interpreting, court interpreters assisting a party should wear a face shield, and the party receiving the interpreting services should also have a face covering. Court interpreters interpreting a witness’s testimony should also wear a face shield and should be appropriately distanced from the witness and others in the courtroom. Consider the use of remote interpretation by video or wireless interpretation equipment. When deaf/hearing-impaired staff, defendants, or others are involved in a proceeding, consider providing participants with clear face coverings or clear face shields to allow the mouth to be visible.
	+ Court staff should provide interpreters with current information on specific COVID-19 policies and requirements in the courthouse. Such information should be provided well in advance of an interpreter assignment.
	+ Court Interpreters should be required to check in with court staff before an assignment. Interpreters who have been exposed to COVID-19 or are experiencing signs of illness should be required to contact court staff as soon as possible so that appropriate scheduling adjustments can be made.
* **Videoconferencing and technology**: Where appropriate, where the parties agree, and where it does not invoke confrontation-clause concerns, utilize videoconferencing for witness testimony, interpreting, and attorney/client communication.
* **Breaks in Proceedings**: Before each break, the court should remind trial participants to remain socially distanced, to wear face coverings, and to adhere to other requirements and guidelines implemented by the court. Make sure a sufficient space is dedicated for the jury in which to take breaks in a location away from third parties that allows the jurors to socially distance. Recognize that a significant component of jury collaboration comes from their interactions with each other outside the presence of the judge and the attorneys as they gather and take breaks. Take care not to separate the jury on these breaks because factions and coalitions could unwittingly be forming.
* **Jury Deliberations**: The jury should deliberate in a room with sufficient space that allows the jurors to socially distance, e.g. a vacant courtroom, the jury assembly room, or other large space. The deliberation should be cleaned and disinfected after each day’s use. Place the responsibility of writing questions and completing the verdict form with the jury foreperson. Consider having lunch delivered to jurors at their expense in order to avoid their leaving the courthouse. Dispose of pens and juror notebooks after each trial or, alternatively, request that jurors use their own pens.
* **Post-trial**: Debrief jurors after the trial on their perceptions regarding the effectiveness of the special trial/jury management procedures in order to alter or amend them as necessary.
* **Other considerations**: Consider having the attorneys brief legal issues that are specific to conducting trial during a pandemic prior to the final pretrial conference. Address the courtroom layout and the courtroom rules in the final pretrial conference so that the attorneys can raise objections at that time. Plan for objections from counsel based on an inability to read jurors’ expressions in response to testimony, evidence, objections, and judges’ rulings, among others.

**Appendix A**

**Press Release**

Effective September 14, 2020,new procedures designed to keep jurors, other court participants and the public safe from COVID-19 have been put in place to allow jury trials to resume in \_\_\_\_\_\_\_\_\_\_ County beginning the week of \_\_\_\_\_\_\_\_\_\_\_, 2020. Summons will be mailed \_\_\_\_\_\_\_\_\_\_\_\_\_\_ and should arrive at the homes of potential jurors later in the week.

The new juror summons process has recently been developed in response to the current COVID-19 pandemic and will be the first occasion that an online jury qualification process has been used in Alabama state courts. Those individuals receiving a summons for jury duty will be instructed to log onto a dedicated juror website to complete a short questionnaire, using a secure PIN assigned to each potential juror. The website may be accessed by computer or on a smart phone. By completing the form, potential jurors will now qualify for jury service or request to be excused from jury service for a recognized exception online rather than in person. Jurors who are at a heightened risk of contracting COVID-19 due to age or an underlying medical condition may use the online form to request their jury service be deferred until a later date. All requests to be excused from jury service should be made no later than noon, \_\_\_\_\_\_\_\_\_\_\_\_, 2020.

The new juror summons also directs potential jurors to \_\_\_\_\_\_\_\_\_\_\_\_.org, the official court website for \_\_\_\_\_\_\_\_\_ Circuit and District Courts, where additional information is provided regarding safety protocols that have been implemented to make jury service safer during the current pandemic. Those new procedures include sanitizing surfaces, temperature checking for fever, social distancing measures, contactless sanitizing stations, one way travel staircases, limitations on the number of people permitted in an elevator, a newly configured jury box that will permit jurors to be seated at least six feet from other jurors, and a new jury room that permits jurors to maintain an appropriate social distance during deliberations and recesses.

Individuals who receive a juror summons and do not have internet or smart phone access that will enable them to complete online registration may contact the office of Circuit Court Clerk, \_\_\_\_\_\_\_\_\_\_\_\_\_\_, at the telephone number provided on the summons.

**Appendix B**

**Sample Jury Video Script**

**PRESDING JUDGE:** Hello. My name is \_\_\_\_\_\_\_\_\_\_\_\_. It’s my honor to serve as presiding judge here in the \_\_\_ judicial circuit. On behalf of the judges, circuit court clerk and our court staffs, I’d like to thank you for your willingness to serve as a juror. Jury service is one of the most important duties of citizenship that we have in our country. You’ll be taking part in a tradition that dates back hundreds of years and stands as the cornerstone of our justice system. I believe that you, like so many others before you, will find jury service to be an educational and a satisfying experience. But we also want to make your experience a safe one.

This short video has been prepared to answer some of your questions about what you can expect from your jury service during the COVID-19 pandemic and to address some of the concerns you may have.

On the Monday your jury service begins, you should arrive at the courthouse between 8:00 and 8:30 in the morning. To avoid having everyone arriving at the same time, we ask that if your last name starts with a letter from A-J, you try to arrive at the courthouse between 8:00 and 8:15 that morning and if your last name begins with a letter from K-Z that you try and arrive between 8:15 and 8:30. Please feel free to park anywhere you are able to find available parking around the courthouse. The number of jurors called has been drastically reduced, so hopefully you’ll have no difficulty finding a parking place. Jurors will enter the courthouse through the Main entrance located in the back of the courthouse, adjacent to First Avenue SW.

For your safety and the safety of others, Alabama law requires that you wear a mask as you enter the courthouse and anytime that you cannot maintain a social distance of six feet from others. Since all prospective jurors will be seated at least six feet apart from other potential jurors, you won’t be required to wear your mask once you have been checked in and seated. Of course, you can always keep your mask on if that makes you more comfortable.

As you enter the courthouse to begin your jury service, you will pass through a metal detector and a no contact thermal scanner will check each potential juror for a fever. Any person having a fever greater than 100 degrees Fahrenheit will not be allowed entry to a courtroom. [video shows thermal scanner]

After your temperature scan shows you have no fever, you’ll either take the stairs or ride the elevators to a third-floor courtroom to be checked in. Stairways are designated for one-way travel only to help maintain a consistent social distance from others. The center staircase located near the elevators as you enter the courthouse has been designated for travel up [video show “up” sign by stairway] and the stairways on the south end of the courthouse are designated for traveling down to a lower floor. [video shows “down” sign by stair.] If you decide to use one of the two elevators, please remember that only two individuals may ride an elevator at one time who are not members of the same household so that social distancing can be preserved.

Jury check-in and orientation will take place in circuit courtroom number one located on the third floor, near the north end of the courthouse. As you enter this courtroom, you’ll notice a contactless hand sanitizing station has been set up so that each person who enters can easily practice good hand sanitizing, which the CDC has Indicated is one of the best ways to limit the spread of COVID-19. [video shows contactless hand sanitizing station]

Upon your arrival, if a line has formed to be checked in for jury duty, we ask each person to maintain a distance of at least six feet from others. [video social distancing sign] Social distancing markers have been placed on the floor to indicate where each person should stand while waiting to be checked in. [video cuts to social distancing marker]

Now, here’s our circuit court clerk to explain the check-in procedure that will be followed when you report for jury service.

**CIRCUIT COURT CLERK**: I’ll be waiting to greet you as you enter the courtroom to begin your jury service. Before jurors arrive for orientation, all seats in the courtroom gallery will have been sanitized with a disinfectant solution designed to kill theCOVID-19 virus. [show video of mist spraying seats] In addition, all pens and other frequently touched surfaces will also be thoroughly cleaned with a disinfectant, and this cleaning will occur periodically throughout the day.

To ensure proper social distancing, no more than three jurors will be seated on a courtroom bench and every other bench will remain empty. [video show people seated with spacing]. Each available seat in the courtroom gallery has been given a unique number and every prospective juror has been assigned a seat. After being checked in, you will be directed to your assigned seat and you may remove your mask at that time, if you wish. But please remember, anytime you need to get up from your seat during a recess and are unable to maintain a distance of six feet from others, you will need to put your face mask back on to keep you and others safe. Once all jurors have been checked in, the judge will begin jury orientation and qualification of the jury.

If you are chosen as a juror to hear a case, you will be assigned a seat in a newly configured jury box. Those individuals who have not been chosen as jurors for the first case will be dismissed for the day, with instructions to check back after five o’clock each afternoon for further reporting instructions. Your jury service will not last longer than five days and may be fewer than five days depending on the cases being tried.

Because it would be impossible to keep an appropriate social distance in a traditional jury box, we have created a super-sized jury box. As you can see in this video example, all 12 individuals in this new jury box are able to maintain a consistent 6 feet of separation from other jurors. [show video of 12 people seated in new jury box].

When a trial has concluded and it’s time for a jury to begin deliberations, jurors will be escorted to a small courtroom that will be closed to the general public throughout the trial and jury deliberations.”

**PRESIDING JUDGE:** As we restart jury trials, I want you to know that your wellbeing is a top priority. We would never ask you to put your health at risk by serving on a jury. Many of you have understandable fears about contracting COVID-19 due to age or underlying health conditions and the law allows you to be excused from jury service because of health concerns. If you have worries about attending a public event such as a jury trial, please contact the telephone number listed on this website to speak with a designated court official that has been authorized to defer your jury service to another time or excuse you altogether. [show phone number on video]. Thanks again for your willingness to serve as a juror. We look forward to seeing you in court!

**APPENDIX C**

**Sample Standing Order**

IN THE CIRCUIT COURT OF [\_\_\_\_\_\_] COUNTY, ALABAMA

JOHN DOE, )

Plaintiff, )

 ) Case No. \_\_\_\_\_\_\_\_\_

v. ) CV-2019-90000.00

 )

ABC CORP., )

Defendant. )

STANDING ORDER DUE TO COVID-19

The Court hereby enters this Standing Order Due to COVID-19 which is applicable to all civil actions in this Circuit until further notice:

WHEREAS COVID-19 continues to be present in this community; and,

WHEREAS the Court wishes to minimize the risk of transmission of COVID-19 to staff, attorneys, parties and witnesses; and,

WHEREAS the Court wishes to continue delivering the just, speedy, and inexpensive determination of every action and proceeding; and,

WHEREAS the presence of COVID-19 continues to cause ongoing interruptions in the normal functions of the Court system, and those interruptions are expected to continue for quite some time; and,

WHEREAS all Courts will soon be re-scheduling bench and jury trials which had to be continued due to COVID-19; and,

WHEREAS new cases continue to be filed and to be set for bench and jury trials on those same trial dockets;

NOW THEREFORE all lawyers and parties litigating civil cases in this Circuit are hereby given notice as follows:

1. Civil cases in which the parties are willing to agree to a bench trial or a jury trial with less than 12 jurors are likely to be tried more promptly than those cases which require a 12-person jury.

2. If your case is set for a jury trial, a continuance will not be granted except under extraordinary circumstances, if at all, until the morning of trial so as to avoid wasting a precious jury week.

3. Cases will not be continued due to the absence of a witness caused by illness, travel problems or otherwise. All cases should be prepared in such a way as to allow for the presentation of key evidence by deposition as if a witness is unavailable for trial. All depositions taken from the date of this Standing Order forward should be taken as “trial depositions,” videoed if feasible, and all interested parties should ask questions of each witnesses in case that witness later becomes unavailable for trial.

4. In the event that witness depositions have not been taken as trial depositions because they either preceded the date of this Standing Order or are subject to an agreement among the parties about live presentation by video as set forth herein, then the parties will make arrangements for any witness, otherwise available in the jurisdiction, but who is unavailable due to illness or travel restrictions related to COVID-19, to be made available for live-feed video testimony at trial, subject to terms agreed upon by the parties and approved by the Court.

5. Absent a showing of very good cause, all cases must be mediated prior to trial.

6. Prior to the final pre-trial hearing, the parties will have to make a significant effort to narrow the factual, legal and evidentiary issues. To facilitate this process, new, detailed Pre-Trial Orders will be entered in all cases.

7. Counsel will be responsible for ensuring that all staff, parties and witnesses they bring into Court meet and observe CDC, and state and local health authority, COVID-19 safety guidelines for interacting with the public.

8. Counsel will also be responsible for ensuring that any documents or physical evidence which are presented to the Court are properly sanitized before presentation and are handled in such a manner at trial to minimize the risk of spreading infection. Specific guidelines for such treatment of documents and other evidence may be issued and updated from time to time.

9. All courtesy copies of case materials shall be e-mailed to the Court, not sent in hard copy.

DONE this \_\_ day of \_\_\_\_\_\_\_\_\_, 2020.

/s/ [ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_]

CIRCUIT JUDGE

**APPENDIX D**

Sample Standing Order

IN THE CIRCUIT COURT OF [\_\_\_\_\_\_] COUNTY, ALABAMA

JOHN DOE, )

Plaintiff, )

 ) Case No. \_\_\_\_\_\_\_\_\_

v. ) CV-2019-90000.00

 )

ABC CORP., )

Defendant. )

This civil action [is hereby set for trial/remains set for trial] on \_\_\_\_\_\_\_, 2020.

Prior to trial, the parties shall either mediate the case or have a settlement conference with all parties, counsel, and applicable insurance carriers (if any) participating. The mediation/settlement conference may be conducted by teleconference or by videoconference, if necessary.

The Court will hold a Pre-Trial Conference on [ ] either in person or by Zoom videoconference. At the Conference, the Court will rule on all motions *in limine*, objections to witnesses and exhibits, requested jury charges, and any other pre-trial legal maters raised by the parties.

The parties shall, by no later than [2 weeks] prior to the Pre-Trial Conference, file a Joint Pre-Trial Report in the form attached hereto as Exhibit A. Counsel shall confer and jointly prepare a single Joint Pre-Trial Report. “Joint preparation” entails that counsel affirmatively and in good faith attempt to reach agreement on each of the matters required by this Order to be addressed in the Joint Pre-Trial Report. Matters of good-faith disagreement should be so noted in the Joint Pre-Trial Report and should be accompanied by a statement as to whether any specific rulings by the Court on those matters might facilitate the conduct of the trial or ongoing settlement negotiations.

The parties shall also, by no later than [2 weeks] prior to the Pre-Trial Conference, file a Joint Stipulation of facts in the form attached hereto as Exhibit B.

The parties shall also, by no later than [2 weeks] prior to the Pre-Trial Conference, file a Joint Stipulation of Agreed-Upon Evidence in the form attached hereto as Exhibit C, which identifies all exhibits and deposition (or portions of depositions) the parties agree will be admissible in Court. The parties shall jointly submit a binder of pre-approved exhibits.

DONE this \_\_ day of \_\_\_\_\_\_\_\_\_, 2020.

/s/ [ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_]

CIRCUIT JUDGE

**EXHIBIT A**

**JOINT PRE-TRIAL REPORT**

The undersigned parties hereby submit this Joint Pre-Trial Report.

**I. Jurisdiction and Parties.**

A statement as to (1) the Court’s jurisdiction over the subject matter and parties, (2) the propriety of parties, including correctness of identity of legal entities (*e.g.,* partnership, corporation or individual d/b/a trade name), and (3) the necessity of appointment of Guardian ad Litem or other representative, and validity of appointment if already made.

**II. For Each Remaining Claim**

(Statement of the legal claim to be tried, *e.g.,* negligence, breach of contract, etc.)

a. LEGAL ELEMENTS (To the extent available, the parties should use the format and elements provided in the Pattern Jury Instructions.)

b. AGREED FACTS (as to this legal claim).

c. DISPUTED FACTS (as to this legal claim) (Disputed facts should indicate which party contends the fact exists and what evidence supports all or a portion of the stated disputed fact. To the extent the opposing party disputes the fact, they should indicate what evidence it has to dispute the fact or facts.)

**III. For Each Remaining Affirmative Defense**

(Statement of the affirmative defense to be tried, *e.g.,* contributory negligence, statute of limitations, etc.)

a. LEGAL ELEMENTS (The same provisions that apply to the statement of legal claims apply to statements of affirmative defenses.)

b. AGREED FACTS (The same provisions that apply to the statement of legal claims apply to statements of affirmative defenses.)

c. DISPUTED FACTS (The same provisions that apply to the statement of legal claims apply to statements of affirmative defenses.)

**IV. Jury Charges**

a. Jury Charges [APJI or otherwise] which the Parties Agree are Applicable.

b. Jury Charges [APJI or otherwise] which the Plaintiff(s) Believe are Applicable but Defendant(s) Deny are Applicable.

c. Jury Charges [APJI or otherwise] which the Plaintiff(s) Believe are Applicable but Defendant(s) Deny are Applicable.

**V. Damages**

a. Agreed Damages:

1. Any medical bills the parties agree were reasonable and necessary as a result of the treatment

2. Any out of pocket expenses the parties agree were reasonable and necessarily incurred as a result of their medical diagnosis and treatment

3. Any damages the parties agree that are attributable to a claimed breach of contract (note the parties aren’t agreeing that there was a breach of contract)

b. Disputed Damages

**VI. Composition and Number of Jurors**

a. Do the parties agree to a jury of less than twelve (12) people?

b. If so, how many? (the parties can agree to a jury of six or more)

**VII. Bench Trial**

Do ***all*** parties agree to a bench trial?

**VIII. Mediation/Settlement Conference**

Have the parties completed mediation/settlement conference? Attach mediation/settlement report.

**IX. Impediments to trying the case on the appointed trial date**

a. Plaintiff(s)?

b. Defendant(s)?

**X. Confirmation of Witness Health and Availability**

Counsel for Plaintiff(s) and Defendant(s) certify that they have made a sincere effort to speak with all anticipated trial witnesses and confirm that the witnesses have not been exposed to or diagnosed with COVID-19 in the last fourteen days and do not cohabitate with anyone that has been exposed to or diagnosed with COVID-19 in the last fourteen days.

**XI. Confirmation of Party and Attorney Health and Availability**

Counsel for Plaintiff(s) and Defendant(s) certify that neither they nor their clients have not been exposed to or diagnosed with COVID-19 in the last fourteen days and do not cohabitate with anyone that has been exposed to or diagnosed with COVID-19 in the last fourteen days.

Jointly submitted, \_\_\_\_\_\_\_\_, 2020

/s [counsel for the Plaintiff(s)]

[name and firm name of counsel]

/s [counsel for the Defendant(s)]

[name and firm name of counsel]

**EXHIBIT B**

**JOINT STIPULATION OF FACTS**

The following facts are hereby stipulated to by the parties:

1.

2.

3.

…

Jointly submitted, \_\_\_\_\_\_\_\_, 2020

/s [counsel for the Plaintiff(s)]

[name and firm name of counsel]

/s [counsel for the Defendant(s)]

[name and firm name of counsel]

**EXHIBIT C**

**JOINT STIPULATION OF AGREED-UPON EVIDENCE**

**I. EXHIBITS**

The parties jointly stipulate that the following exhibits may be admitted (pre-admitted) into evidence at the trial of this case:

Plaintiff’s Exhibits [list and identify by name and Exhibit Number all exhibits which the parties agree may be admitted into evidence in this case]

1.

2.

3.

…

Defendant’s Exhibits [list and identify by name and Exhibit Number all exhibits which the parties agree may be admitted into evidence in this case]

1.

2.

3.

…

**II. DEPOSITIONS**

The parties jointly stipulate that the following depositions, or portions thereof, may be utilized at the trial of this case. Exhibits may be admitted (pre-admitted) into evidence in this case:

1. [name of deponent]

deposition portions which are admissible

2. [name of deponent]

deposition portions which are admissible

3. [name of deponent]

deposition portions which are admissible

…

Jointly submitted, \_\_\_\_\_\_\_\_, 2020

/s [counsel for the Plaintiff(s)]

[name and firm name of counsel]

/s [counsel for the Defendant(s)]

[name and firm name of counsel]

**EXHIBIT D**

**JOINT STIPULATION TO A NON-JURY (BENCH) TRIAL**

In accordance with Ala. R. Civ. P. 39(a)(1), the undersigned parties and their legal counsel hereby jointly stipulate to the withdrawal of the jury demand in this case and the trying of the case as a non-jury (bench) trial.

Jointly submitted, \_\_\_\_\_\_\_\_, 2020

*The use of electronic signatures on this document is allowed.*

/s [Plaintiff]

[name]

/s [counsel for the Plaintiff]

[name and firm name of counsel]

/s [Defendant]

[name and firm name of counsel]

/s [counsel for the Defendant]

[name and firm name of counsel]

**EXHIBIT E**

**JOINT STIPULATION TO LESS THAN 12 JURORS**

In accordance with Ala. R. Civ. P. 48, the undersigned parties and their legal counsel hereby jointly stipulate that the jury in this case shall consist of [specify a number less than 12] jurors. The venire panel for this jury will consist of [twice the above number] of potential jurors, from which the jury will be selected by the parties or their attorneys alternately striking one (1) from the list until [the above number] jurors remain. *See* Ala. R. Civ. P. 47(b). The party demanding the jury shall have the first strike. *See id.*

Jointly submitted, \_\_\_\_\_\_\_\_, 2020

*The use of electronic signatures on this document is allowed.*

/s [Plaintiff]

[name]