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Patty Baker, Clerk of Superior Court - Cherokee County, GA

IN THE SUPERIOR COIURT OF CHEROKEE COUNTY
BLUE RIDGE JUDICIAL CIRCUIT
STATE OF GEORGIA

DECLARATION OF LOCAL
JUDICIAL EMERGENCY August 16, 2021

ORDER EXTENDING LOCAL JUDICIAL EMERGENCY

On July 1, 2021, this Court entered an Order Declaring Local Judicial Emergency, due to the significant backlog of cases created by the statewide suspension of jury trials ordered by the Chief Justice of the Supreme Court of Georgia. The local judicial emergency was extended by Order filed July 30, 2021. Said Order was amended on August 5, 2021, to reinstate several health and safety precautions due to a rise in COVID-19 cases in the community. [1]

Since the Court's last order, the active number of COVID-19 cases in Cherokee County has continued to rise, and has reached levels not seen since January of this year. [2] Also of concern is the number of employees working in the Justice Center who are testing positive, which anecdotally seems to be higher than at any point in the pandemic.

Therefore, it is with regret, and no small amount of frustration, that the Court deems in necessary to file this Order, which shall SUPERSEDE the Court's Orders of July 30, 2021, and August 5, 2021, in their entirety.

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[1] Order Declaring Local Judicial Emergency, filed July 1, 2021, at Superior Court Minute Book 201, Page 2757; Order Extending Local Judicial Emergency, filed July 30, 2021, at Superior Court Minute Book 201, Page 2788; and Order Amending Order Extending Local Judicial Emergency, filed August 5, 2021, at Superior Court Minute Book 201, Page 2797.

[2] On August 3, 2021, the number of new COVID cases was 172 and 7-day moving average was 85.6; the percentage of PCR tests with positive results was 18.6, and the 7-day moving average was 15. On August 16, 2021, the number of new COVID cases was 219 and 7-day moving average was 197; the percentage of PCR tests with positive results was 17.4, and the 7-day moving average was 18.9. The last date the number of new cases approached this amount was

In order to protect the health and safety of all court personnel, attorneys, litigants, and the general public, and to continue the orderly operation of the courts, and pursuant to O.C.G.A. § 38-3-60(2)(D) and O.C.G.A. § 38-3-61, the previously ordered judicial emergency is extended by this Order, and shall affect all courts and clerk's offices in the Blue Ridge Judicial Circuit.

Accordingly, IT IS THE ORDER of the Court, as follows:

1. Health and Safety Measures: Where this order refers to "public health guidance," it references the most specific current guidance provided by the federal Centers for Disease Control and Prevention (CDC), and the Georgia Department of Public Health (DPH).

While the courts have been abiding by various health and safety measure throughout the pandemic, this Order shall serve to clarify and reemphasize these provisions.

A. IF YOU ARE SICK OR HAVE BEEN EXPOSED, STAY HOME.

No person should come into the Justice Center or the Historic Courthouse if they have tested positive for COVID-19 or are experiencing common symptoms of COVID: fever or chills, cough, shortness of breath, fatigue, aches, loss of taste or smell, sore throat, runny nose, or diarrhea. Additionally, anyone exposed to someone with these symptoms, or to someone known to be positive for COVID-19, shall report this prior to the appropriate individual **before** entering any judicial facility (employees shall report this to their supervisor, litigants to their attorneys, jurors to the jury clerk, attorneys to the judge's office, etc.). Sick or exposed employees should be required to take time off or work remotely. Judges shall make appropriate accommodations for parties or attorneys who need to appear remotely, instead of in-person, to allow their appearance before the Court.

The Court Administrator shall cause the notice and requirements of this paragraph to be posted at the entrances of the Justice Center and the Historic Courthouse.

B. Screening and Public Access: Everyone entering the courthouse will be screened for symptoms and COVID- 19 exposure. The Sheriff's Office shall ask all persons entering the Justice Center the following questions: 1) Have you been diagnosed with, or had contact with someone who has been diagnosed with, COVID-19 within the last 14 days?; and 2) Have you developed a new cough, difficulty breathing, or fever over 100 degrees over the last 3 days? Anyone answering yes to either of these questions will not be allowed to enter the Justice Center.

Also, as a part of the screening process, deputies will take the temperature of every person entering the Justice Center. Any person with a fever of 100 degrees or higher will not be permitted to enter the Justice Center.

Any person denied entry into the Justice Center shall be instructed by deputies to call the Justice Center main telephone number (678-493-6100) from outside the courthouse. If said person is seeking to file a pleading or other document, the Clerk of Court shall determine whether such filing can be accomplished through the electronic filing system. If the individual does not have access to the e-filing system, then the Clerk shall accept paper filing. The person filing the pleading shall remain outside the Justice Center while the pleading is being filed; delivery of the paper filing shall be made by a deputy sheriff to the Clerk.

If the person denied entry into the Justice Center is there to attend a hearing as either a litigant, witness, or public spectator, such person shall remain outside the Justice Center while the appropriate judicial chambers is notified by the security staff. The assigned judge is authorized to consider all relevant facts and circumstances and make a determination as to whether to admit such person.

The Clerk of Court shall remain open to the public for filing of pleadings by self-represented litigants and in criminal cases. All self-represented litigants, including individuals seeking to file a Petition for Temporary Protective Order under the Family Violence Act, should contact the Clerk of Court at clerk.cherokeega.com or call 678-493-6511 to schedule an appointment for assistance. While attorneys and self-represented litigants are encouraged to use the temporary criminal e-filing system, the Clerk shall accept and file paper pleadings in all criminal cases.

C. Masks: All persons entering the Justice Center are required to wear a mask in any public area of the building, to include lobbies, hallways, elevators, rest rooms, the Jury Assembly room, and the Law Library. This requirement includes individuals working in the building as well as members of the public. Those working in their offices may remove their masks with the consent of their supervisor.

The mask must remain in proper position over the nose and mouth. All courthouse deputies, bailiffs, and other staff will remain vigilant and politely ask anybody in the Courthouse seen without a mask to put one on. Anyone arriving without a mask will be provided one at screening.

Individuals in court may remove their face-covering only with the permission of the judge presiding.

D. Social Distancing and Room Capacities; Jury Assembly Room: All courts, offices, and departments are encouraged, to the extent possible, to allow employees to work remotely, and to conduct business and offer services by appointment, in order to mitigate the number of visitors entering the facilities at any given time.

All persons in the building shall make every effort to remain six feet apart during face-to-face interactions. The limit for elevator capacity shall be 2 people not in the same household, and this restriction posted at the elevator entries. All judges are encouraged to be aware of

appropriate room capacities and social distancing for any proceeding occurring in their courtroom.

The Jury Assembly room has a maximum capacity of 24 people. In order to coordinate the use of this room among the classes of courts, and allow for appropriate cleaning and social distancing, any court or office requesting use of it shall contact Lynn Epps, Court Administrator, for prior approval.

No office or entity will be allowed use of the Jury Assembly room without permission of the Court Administrator. It shall not be used for meetings, trainings, conferences, receptions, or any other functions other than those solely related to conducting court (for example, arraignments, grand jury, jury assembly) for the duration of this Order, and any extension thereof.

2. Essential Functions: The Frank C. Mills, III Cherokee County Justice Center **shall remain open to the public** and the Courts shall be open to address essential functions, giving priority to matters necessary to protect health, safety, and liberty of individuals. Essential functions include the following: (a) where an immediate liberty or safety concern is present requiring the attention of the court as soon as the court is available; (b) criminal court search warrants, arrest warrants, initial appearances, and bond reviews; (c) domestic abuse temporary protective orders and restraining orders; (d) juvenile court delinquency detention hearings and emergency removal matters; and (e) mental health commitment hearings.

3. Limitation and Suspension of In-Person Proceedings; Proceedings to be Conducted Remotely: The Justice Center remains open to the public for access of the essential functions of the courts. As noted in prior orders, the Courts of the Blue Ridge Judicial Circuit have worked hard to develop resources for conducting non-jury hearings remotely.

A. Suspension of In-Person Hearings: This Order suspends and cancels any in-person hearings or proceedings in the Justice Center, except as otherwise allowed herein. Jury trials now in progress may continue to conclusion. The grand jury shall be permitted to conduct in-person proceedings in the Jury Assembly Room of the Justice Center, abiding by all public health guidance and procedures set forth in this Order.

B. Conduct of Remote Hearings: On March 27, 30, and 31 of 2020, the Supreme Court of Georgia issued orders temporarily clarifying and amending video conferencing rules of the Superior Courts, Juvenile Courts, Magistrate Courts, Municipal Courts, and Probate Courts. By Order of the Georgia Supreme Court on June 22, 2021, those temporary amendments have been extended and shall remain in effect through June 30, 2022. In addition, those rules were additionally clarified to allow any proceeding not otherwise allowed to be conducted by video conference so long as the judge and all the parties consent, and public access is ensured as required. in said rules.

All classes of court shall conduct hearings remotely, by telephone or videoconference, except as otherwise provided herein. Courts may compel the participation of litigants, lawyers, witnesses, and other essential personnel in remote judicial proceedings, where allowed by court rules (including emergency amendments thereto). Such proceedings shall be consistent with public health guidance, must not impose undue burdens on participants, and must not be prohibited by the requirements of the United States or Georgia constitutions or applicable statutes or court rules. In civil, criminal, juvenile, and administrative proceedings, litigants may expressly consent in the record to remote proceedings not otherwise authorized and affirmatively waive otherwise applicable legal requirements.

If a party or a member of the public objects to the remote proceeding, the court shall sustain or overrule such objection prior to conducting the proceeding.

ANY PERSON WITHOUT ACCESS TO AN ADEQUATE INTERNET CONNECTION OR TO A DEVICE WHICH WILL PERMIT REMOTE PARTICIPATION SHOULD CONTACT THE COURT ADMINISTRATOR'S OFFICE PRIOR TO HEARING. THE COURT ADMINISTRATOR WILL MAKE SUCH AVAILABLE FOR PARTICIPATION IN THE HEARING AT THE JUSTICE CENTER. IF YOU ARE ORDERED OR SUMMONED TO APPEAR, AND YOU HAVE NOT MADE THESE ARRANGEMENTS PRIOR TO HEARING, YOU SHOULD STILL APPEAR AT THE JUSTICE CENTER WHEN REQUIRED, ALTHOUGH YOUR HEARING MAY BE DELAYED OR CONTINUED AT THE DISCRETION OF THE ASSIGNED JUDGE.

C. In-Person Hearings; Treatment Courts: Essential matters as defined herein, and matters deemed emergencies by the assigned judge, may be held in-person, only if: (a) required by law to be in person, or (b) if it is not practicable for technical or other reasons for persons participate in the proceeding to participate remotely, AND (c) as long as any such hearing or matter is conducted in accordance with public health guidance and this Court's related orders.

Treatment courts and accountability courts may conduct in-person proceedings, if deemed necessary by the presiding judges of said courts, to address the special circumstances and needs of their participants. All such hearings shall be conducted in accordance with public health guidance and this Court's related orders.

3. Alternate Locations: Nothing herein shall prohibit any class of court from conducting hearings or other business at an external or alternate location, with the agreement of the Cherokee

County Board of Commissioners, in order to allow larger calendars while still abiding by social distancing and other public health guidance.

4. Livestream Broadcasts: Livestream links are available on the Court Administration website (https://www.cherokeega.com/Court-Administrators-Office/) for all proceedings not deemed to be confidential by law or otherwise held in open court.

5. Probate Court: The Probate Court shall conduct all business, with the exception of essential matters and emergencies, by appointment only. These appointments shall be scheduled and conducted in a way to ensure that applicants are required to maintain social distancing guidelines (for example, to limit the number of people in waiting area, hallways, and elevators). The Probate Court shall continue to provide essential services as set forth on the Probate Court website (https://www.cherokeega.com/Probate-Court/). The Probate Court shall coordinate with the Sheriff's courthouse security personnel to ensure that walk-in applicants are advised of the way they may schedule an appointment for the services sought.

6. Tolling Provisions: The tolling provisions enacted by the various Orders of the Chief Justice are no longer in effect. This order imposes the following tolling provisions.

A. Superior and State Court: **The time for filing a statutory speedy trial demand under O.C.G.A. § 17-7-170 and §17-7-171 is hereby reinstated**. However, the time allotted under those statutes for the case to be tried remains tolled for the duration of this Order.

B. Magistrate Court: The statutory deadlines for setting civil cases for trial imposed on the magistrate court by O.C.G.A. § 15-10-43(c) are suspended.

This Order shall become effective on August 17, 2021. It shall terminate on August 30, 2021, at 11:59 p.m., unless otherwise extended, rescinded, amended, or superseded.

This document shall be posted at all entryways to the Justice Center and the Historic Courthouse, on the website of the Clerk of Court and the Court Administrator, and at the elevator entrances on all floors of the Justice Center.

Pursuant to O.C.G.A. § 38-3-63, it is Ordered that the Sheriff of Cherokee County shall post this Order on his public notification site and in the Frank C. Mills, III Justice Center; that this Order shall immediately be served upon Chief Justice David Nahamias of the Supreme Court of Georgia, such service to be accomplished via email to Tee Barnes, the Clerk of the Supreme Court of Georgia, at barnest@gasupreme.us; that this Order shall immediately be served upon the judges and clerks of all courts of the Blue Ridge Judicial Circuit and on the clerks of the Georgia Court of Appeals and the Georgia Supreme Court, such service to be accomplished through reasonable means to assure expeditious receipt; and this Order shall be published on the Court Administrator's website for notice to the affected parties, counsel for the affected parties, and the public.

SO ORDERED, this 16th day of August, 2021.

Ellen McElyea

Chief Judge Ellen McElyea
Superior Court of Cherokee County
Blue Ridge Judicial Circuit

CC:
Chief Justice Harold Melton, Supreme Court of Georgia

Tee Barnes, Clerk of the Supreme Court of Georgia
Clerk, Georgia Court of Appeals
Sheriff Frank Reynolds
Judges of Cherokee Superior Court
Judges of Cherokee State Court
Judges of Cherokee Juvenile Court
Judge James Drane, Magistrate
Judge Keith Wood, Probate Court
Patty Baker, Clerk of Courts
Shannon Wallace, District Attorney
Todd Hayes, Solicitor-General
Lynn Epps, Court Administrator
Cherokee County Bar Association
Louis Turchiarelli, Indigent Defense Director
Cherokee County Board of Commissioners