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

DECLARATION OF LOCAL
JUDICIAL EMERGENCY December 18, 2020

ORDER DECLARING LOCAL JUDICIAL EMERGENCY

On March 14, 2020, Chief Justice Harold Melton of the Supreme Court of Georgia entered an order declaring a state-wide judicial emergency. Thereafter, the Chief Justice has entered a series of orders extending the state-wide judicial emergency, with certain modifications and guidance. The most recent of these orders is dated December 9, 2020, and the Courts of the Blue Ridge Judicial Circuit are bound by it, except to the extent that the Chief Judge of the circuit may properly add additional restrictions. [1]

Since the Chief Justice's original order, this Court has entered multiple orders to confirm and implement the provisions of that order and its extensions.[2] Those orders are incorporated herein by reference, except as may be in conflict with the Chief Justice's Order of December 9, 2020, or as superseded or modified herein. The last local emergency order, dated August 12, 2020, expired on September 12, 2020.

[1] OCGA §§ 38-3-61 and 38-3-62.

[2] Said orders are as follows: Order to Address Essential Functions, filed March 18, 2020 at Superior Court Minute Book 201, Page 2229; Order on Public Access, filed March 26, 2020 at Superior Court Minute Book 201, Page 2231; First Amendment to Order to Address Essential Functions, filed March 27, 2020 at Superior Court Minute Book 201, Page 2233; Order Declaring Extension of Judicial Emergency, filed April 7, 2020 at Superior Court Minute Book 201, Page 2240; Order Declaring Second Extension of Judicial Emergency, filed May 12, 2020 at Superior Court Minute Book 201, Page 2256; Order Declaring Local Judicial Emergency, filed July 13, 2020 at Superior Court Minute Book 201, Page 2301; and Order Extending Local Judicial Emergency, filed August 12, 2020, Superior Court Minute Book 201, Page 2331.

As of the date of this Order, the active number of coronavirus/CoVid-19 cases in Cherokee County and the entire State have risen in concerning way. New case numbers are higher now than at any time during the pandemic. [3]

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, a judicial emergency is declared 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).[4]

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. 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

[3] On August 12, 2020, the date of the last local emergency order, the number of new confirmed coronavirus cases in Cherokee County was 65, and the 7-day average was 86.3. As of December 16, 2020, those numbers are 79 and 98.3, respectively. Cherokee County's test positivity rate for the past two weeks is 11.5%. The DPH County Indicator Report designates Cherokee County as a "county with high transmission indicators," along with every other county that adjoins Cherokee, except Fulton County. See Georgia Department of Public Health, Daily Covid-19 Status Report, https://dph.georgia.gov/covid-19-daily-status-report.

[4] The Court consulted on December 14, 2020, with Dr. Zachary Taylor, District Director of Georgia DPH North Georgia District, of which Cherokee County is a part., to ascertain the local status of the pandemic. The measures herein are all recommended best practices for stopping the spread of COVID-19, per CDC and DPH.

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 decide 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.

B. 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.

C. 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: While the Justice Center remains open to the public for access of the essential functions of the courts, the courts have been pro-active and adaptable to use of electronic and remote proceedings, in order to abide by public health guidance and continue the operation of business. The judges, clerk and court administrator and sheriff of this circuit have worked diligently throughout the judicial emergency to provide access to the courts.

There exists little reason for the use of in-person proceedings during this judicial emergency. Electronic filing of pleadings is available in both civil and criminal cases. Procedures have been developed for the conducting of criminal matters remotely, as permitted by Uniform

Superior Court rules, both in cases where a defendant is in custody or free on bond. The courts have used electronic devices for signing of documents, and digital applications for sharing and reviewing evidentiary documents. Livestream broadcast of those matters is available to provide public access to court proceedings and to ensure a defendant's right to an open courtroom; judges have conducted "hybrid" hearings in an open courtroom to eliminate the need for livestream in matters involving minor children or where there might otherwise be evidence of a sensitive nature.

A. Suspension of In-Person Hearings: Therefore, this Order suspends and cancels any in-person hearings or proceedings in the Justice Center, except as otherwise allowed herein. The grand jurors summoned to report on January 11, 2020, shall be notified to report on February 8, 2020, and shall not meet or report prior to the expiration of this Order. Superior Court arraignment calendars scheduled during the pendency of this Order shall be cancelled insofar as the calendars require individuals to report in person; alternate provisions may be made for arraignment by videoconference.

B. Conduct of Remote Hearings: 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.

In order to insure for proper sanitation of courtrooms and public spaces, judges are encouraged to notify the Court Administrator prior to conducting an in-person hearing.

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. No Tolling of Deadlines on Litigants: The reimposition of deadlines on litigants found in Section II of the Chief Justice's Ninth Order Extending Declaration of Judicial Emergency, dated December 9, 2020, is incorporated herein by reference.

7. Resumption of Jury Trials: The Court has appointed a committee to develop a plan for safely resuming jury trials, according to the Orders of the Chief Justice. That committee has not finalized a plan at present; however, it is contemplated that such a plan will be completed in early January, to allow jury trials to resume January 26, 2021.

This Order shall become effective on December 18, 2020, at 11:59 p.m. It shall terminate on January 17, 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, 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 Harold D. Melton 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 18th day of December, 2020.

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