

DEC 22, 2020 11:39 AM


Rebecca Keaton, Clerk of Superior Court
Cobb County, Georgia

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

In Re: Extension of Statewide Judicial Emergency, *
Amended Courthouse Safety Guidelines, * 20-1-0005
Suspension of Jury Trial Plan *
*

**ORDER AMENDING COURTHOUSE SAFETY GUIDELINES FOR ALL CLASSES OF COURTS and
SUSPENDING THE PLAN TO RESUME JURY TRIALS IN THE COBB JUDICIAL CIRCUIT**

On March 14, 2020 in response to the COVID-19 pandemic, the Honorable Harold D. Melton, the Chief Justice of the Supreme Court, issued an Order declaring Statewide Judicial Emergency pursuant to O.C.G.A. § 38-3-61. In each successive month, that Order has been extended and modified by nine separate Extension Orders, the most recent of which is set to expire January 8, 2021.

Since the original declaration of the statewide judicial emergency, Cobb County courts have remained open and have continued to perform their constitutionally and legally mandated duties to protect and enforce the rights of our citizens. The Cobb Judicial Circuit has followed each Extension Order and will continue to follow subsequent Extension Orders, and the most recent public health guidance from DPH and the CDC, consistent with the United States and Georgia Constitutions and applicable statutes and court rules.

Over the last few months, certain previously-tolled deadlines have been reinstated by the Supreme Court of Georgia and certain in-person proceedings have been permitted to allow courts to operate in a more robust manner. This included the ability to conduct jury trials and grand jury proceedings once each court formed a local committee and developed a plan for doing so. The Cobb Judicial Circuit established such a committee and formulated a plan to resume jury trials with input from all stakeholders and our public health experts.

As noted in the Chief Justice's Ninth Extension Order, each court's plans for conducting jury trials, grand jury proceedings, and other in-person proceedings may need to be revised--and proceedings delayed, canceled, or done remotely--based on changing local circumstances. Recent public health reports indicate that COVID-19 conditions are worsening dramatically in many parts of the State. The Chief Superior Court Judges have been

reminded to remain vigilant of changing COVID-19 conditions in their communities and be prepared to suspend all non-essential proceedings.

The Cobb Judicial Circuit recognizes that most in-court proceedings compel the attendance of various individuals rather than allowing them to decide how best to protect their own health, and further recognize that COVID-19 continues to spread in Georgia and Cobb County at unprecedented levels. After consultation with the Chief Judge of each class of court in this circuit and public health experts, the undersigned determines that current conditions¹ necessitate the scaling back of in-person operations, in all classes of courts, to only essential matters.

IT IS HEREBY ORDERED that all classes of courts in the Cobb Judicial Circuit scale back in-person proceedings to essential functions of the court only, consistent with the guidance given in the memorandum attached to this Order. Nothing in this Order shall be construed to limit any court's ability to conduct virtual proceedings that are otherwise allowed by law, court rule, or consent of the parties regardless of whether it is an essential or non-essential function of the court. This Order only limits *in-person* proceedings to the essential functions of the courts.

IT IS FURTHER ORDERED that the attached Memorandum establishing amended courthouse safety guidelines shall be followed and is incorporated herein and made part of this Order by reference.

IT IS FURTHER ORDERED that the Cobb Judicial Circuit will continue to follow the Chief Justice's *NINTH ORDER EXTENDING STATEWIDE JUDICIAL EMERGENCY* in all respects.

IT IS FURTHER ORDERED that plans to resume jury trials in the Cobb Judicial Circuit are hereby **SUSPENDED** until further Order of this Court. The previous Order of this Court authorizing the resumption of jury trials is **VACATED**. With this suspension, any deadlines related to jury trials in the Cobb Judicial Circuit will remain tolled by the Chief Justice's *NINTH ORDER EXTENDING STATEWIDE JUDICIAL EMERGENCY*. Any plan to restart jury trials

¹ At the time of this Order, Cobb County is one of the top five most impacted counties in Georgia. The 14-day average number of cases in Cobb County is approximately seven times higher than it was when the jury plan was approved by the local committee. Cobb-Douglas Public Health has reported to the undersigned that the availability of hospital beds is critically low.

will be by subsequent Order of the Chief Judge of Superior Court. Any petit jurors that have been summoned for jury trials in January are hereby excused from service for those weeks. The Jury Administrator is directed to notify all summoned petit jurors of this decision.

IT IS FURTHER ORDERED that this Court's Orders authorizing the resumption of Grand Jury proceedings and concurrent Grand Juries shall remain in full force and effect.

IT IS FURTHER ORDERED that the Sheriff of Cobb County shall post this Order on his public notification site and at the entrance to all courthouses.

IT IS FURTHER ORDERED that the Court Administrator shall immediately notify and served the Administrative Office of the Courts at <https://georgiacourts.gov/covid-19-court-operating-guidelines-form/> so that this document may be posted on their website.

IT IS FURTHER ORDERED that the Court Administrator shall immediately notify and serve a copy of this Order and attached Memorandum and Guidelines on the judges and clerks of all courts sitting in this circuit.

IT IS FURTHER ORDERED that the Court Administrator shall cause a copy of this Order and Guidelines to be posted prominently on this Court's website for public viewing.

Previous Orders of this Court that are inconsistent with this Order are superseded by the terms of this Order. This Order shall remain in effect during any continued statewide Judicial Emergency or until modified by further order of this Court.

This 22nd day of December, 2020.



Robert D. Leonard II
Chief Judge, Superior Court
Cobb Judicial Circuit



ROBERT D. LEONARD II

JUDGE

SUPERIOR COURT OF COBB COUNTY

70 HAYNES STREET

MARIETTA, GEORGIA 30090

MICHELLE JORDAN
JUDICIAL ADMINISTRATIVE SPECIALIST

OFFICE: 770-528-1837
FAX: 770-528-1842

MEMORANDUM

TO: All litigants, attorneys and members of the public
FROM: Chief Judge Robert D. Leonard II, Superior Court, Cobb Judicial Circuit
SUBJECT: Updated Coronavirus Court Operating Guidelines
DATE: December 22, 2020

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In accordance with the Chief Justice's DECLARATION OF STATEWIDE JUDICIAL EMERGENCY and the nine EXTENSION ORDERS extending said judicial emergency, Cobb County Courts have been handling matters, and will continue handle, to the extent feasible and consistent with those Orders, public health guidance and the United States and Georgia constitutions and applicable statutes and court rules, including the public's right of access to judicial proceedings and a criminal defendant's right to confrontation and open courtrooms.

Over the last few months, certain previously-tolled deadlines have been reinstated and certain in-person proceedings have been permitted to allow courts to operate in a more robust manner. This included the ability to conduct jury trial and grand jury proceedings once each court formed a local committee and developed a plan for doing so.

As noted in the Chief Justice's Ninth Extension Order, each court's plans for conducting jury trials, grand jury proceedings, and other in-person proceedings may need to be revised--and proceedings delayed, canceled, or done remotely--based on changing local circumstances. Recent public health reports indicate that COVID-19 conditions are worsening dramatically in many parts of the State. The Chief Judges of each Circuit have been reminded to remain vigilant of changing COVID-19 conditions in their communities and be prepared to suspend all non-essential proceedings.

The Cobb Judicial Circuit recognizes that most in-court proceedings compel the attendance of various individuals rather than allowing them to decide how best to protect their own health, and further recognize that the novel coronavirus continues to spread in Georgia and Cobb County at unprecedented levels. After consultation with our stakeholders and public health experts, this Court determines that it is necessary to protect all participants in judicial proceedings by scaling back in-person operations to only essential matters.

The updated safety guidelines contained herein shall remain in effect until amended by further Order of the Chief Judge of the Cobb Judicial Circuit. These guidelines represent the minimum standard safety guidelines for each class of court. **The Chief Judge of each court is authorized to establish safety guidelines that are more restrictive and specifically tailored to their courts and facilities.**

SAFETY GUIDELINES FOR COBB SUPERIOR COURT, STATE COURT, PROBATE COURT, JUVENILE COURT, MAGISTRATE COURT, AND ALL MUNICIPAL COURTS

Virtual Proceedings Required For All Non-Essential Court Functions.

The default format for non-essential proceedings in this circuit is virtual. Unless directed otherwise for good cause, all parties, attorneys, and witnesses should appear via teleconference or videoconference.

The courthouses may remain open for public access, but members of the public are encouraged to stay home. Courts conducting virtual hearings that are not open for public access shall satisfy the constitutional mandate of open courtrooms by livestream.

Essential In-Person Proceedings Permitted.

The Supreme Court has previously stated the following regarding what are deemed "essential" functions of the courts,

"Essential functions are subject to interpretation; however, some matters that fall into the essential function category are: (1) where an immediate liberty or safety concern is present requiring the attention of the court as soon as the court is available; (2) criminal court search warrants, arrest warrants, initial appearances, and bond reviews; (3) domestic abuse temporary protective orders and restraining orders; (4) juvenile court delinquency detention hearings and emergency removal matters; and (5) mental health commitment hearings."

While this definition provides some meaningful guidance, it's not sufficiently detailed enough to give clarity to the bench, bar, and public about what is and is not an "essential" function for each class of court. The best qualified person to determine what is "essential" to each class of court is the Chief Judge of that court. **Accordingly, the Chief Judges of each class of court in Cobb County are hereby authorized to further define by court order what matters are "essential" in that court.** However, prior to filing and publishing such Order, it shall be presented to the Chief Judge of the Superior Court for review.

Since the pandemic began, most courts in the Cobb Judicial Circuit have developed procedures and deployed technology that allow for most essential and non-essential functions to be conducted virtually. However, there may be essential functions in certain classes of courts that simply cannot be conducted virtually. These essential functions that cannot be conducted virtually, may continue to be held in-person but only in strict compliance with the Orders of this Court, the Supreme Court, and consistent with the updated public health guidance from DPH and the CDC. If the court has the ability to conduct matters involving someone's liberty interest via videoconference at a jail or prison, that technology should be utilized rather than compelling in-person attendance for the hearing.

All participants in essential in-person proceedings are to comply with the following safety guidelines:

1. Please leave all non-essential people at home. Avoid bringing children or family members, especially the elderly, to court.
2. No one should come to court if they are not feeling well or have a temperature above 100 degrees. Contact the Assigned Judge's office to be excused and to have your case rescheduled.
3. Before you come to the courthouse please answer the four questions below. If your answer to any of the four questions is YES, then you should not come to the courthouse. Instead, contact the Assigned Judge's office to be excused and to have your case rescheduled.

- a. Have you had a recent onset of coughing?
 - b. Have you had any recent difficulty breathing?
 - c. Have you been around anyone who has been outside of the country in the last 14 days, or
 - d. Have you been around anyone who has been diagnosed with or is under investigation for potential COVID-19 infection?
4. Prior to entering the courthouse, you should answer the above questions again, and if your answer to any of the above questions is YES, then contact the Assigned Judge's office to be excused and to have your case rescheduled.
5. **Mask or face covering required.** Everyone, including Judges and court staff, coming to the courthouses shall have a mask or face covering on to enter the building. The mask or face covering shall remain on while in the courthouse, unless you are given permission to remove the mask or face covering by the judge.
6. Entering the courthouses: If you are entering the courthouse and there is a line, maintain social distance. Where there are markings on the ground establishing safe spacing, they are to be followed.
7. Temperature checks: As you enter the courthouse your temperature may be taken. If you have a fever and are turned away from the courthouse, contact the Assigned Judge's office to be excused and to have your case rescheduled.
8. Upon entry to the courthouse, you will then answer the above COVID-19 questions again, and if your answer to any of the above questions is YES, then contact the Assigned Judge's office to be excused and to have your case rescheduled.
9. **The social distancing rules are in effect in and around all Cobb County courthouses.** Everyone shall maintain at least six feet distance from anyone else.
10. Elevators and stairs: People entering the courthouses are encouraged to use the stairs to access the upper floors if they are able. The elevators have the number of people that can safely use them marked, they are limited to 1 or 2 people at a time based on their size.
11. Hand sanitizer stations are on every floor in the courthouses. Everyone is encouraged to use it frequently.
12. Restrooms are located on every floor and everyone is encouraged to wash hands frequently.
13. Do not use the water fountains. Property management/facilities directors are encouraged to disconnect the water fountains if they are able.
14. Courtrooms: There are limits on the number of people who may safely enter a courtroom to comply with the social distancing requirements. These limits vary depending on the size of the courtroom. If you anticipate that your case will require more people in attendance at your hearing than can safely fit into the courtroom, then notify the Assigned Judge's office sufficiently in advance of the hearing so that accommodations can be made for overflow.
15. In the courtrooms, observers and participants may sit in the gallery on the designated marked seats only. No one may approach the bench without the permission of the Assigned Judge. Everyone is encouraged to remain outside the courtroom until their case is called. Witnesses are encouraged to remain outside the courtroom until they are called. The witness will testify from the marked witness seat.
16. Exhibits should be made available in electronic format in advance of the hearing so that they are not passed back and forth between multiple people in the courtroom. Contact the Assigned Judge for instructions on exhibits and copies of their evidence protocols and procedures.
17. Any court conducting a calendar of essential matters shall take precautions to stagger matters appropriately and limit the size of the calendar to avoid large gatherings.

Updated court information is posted on the Cobb County website at:
<https://www.cobbcounty.org/communications/info-center/covid-19-updates>