



# NICK A. SELVAGGIO, JUDGE

## Champaign County Court of Common Pleas, General Division

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### **Champaign County Common Pleas Court COVID-19 Jury Trial Protocol**

#### 1. Juror Summons

- a. Based on jury response rates and approved excused dismissal rates for "COVID-19 era" jurors summonsed for grand jury, the Court will summons one hundred thirty-five (135) prospective jurors, an increase from the traditional fifty (50) prospective jurors usually summoned.

#### 2. Pretrial Juror Communications and Questionnaires

- a. The Jury Commissioners will mail a letter and Jury Questionnaire to prospective jurors with instructions to complete and mail the questionnaire back to Court Offices before a pre-selected deadline. The letter will contain traditional advisements for being excused from jury service and the opportunity to express a "COVID-19" reason for being excused from jury service.
  - i. Pretrial completion of the questionnaires will reduce the amount of time prospective jurors are present in the Auditorium waiting for the trial to begin.
  - ii. Non-responsive jurors may receive a second letter from the Court requesting compliance.
- b. The Jury Commissioner letter and Jury Questionnaire will be accompanied by a letter from the Court informing the prospective jurors that, like all businesses, the Court has a strong interest in minimizing their risk of contracting the COVID-19 virus.
  - i. Similar to the language used by the Jury Commissioners, the jurors will again be informed that any person who wants to be excused from jury service because they are either in a high-risk category for contracting the virus or feels scared about contracting the virus during their jury service, should call Court Offices immediately (937-484-1000) and the juror will be excused from jury service.
  - ii. The letter from the Court will also inform jurors of the new jury trial protocols implemented by the Court, as approved by the Champaign County Health Commissioner, for jury trial service.

### 3. Juror Appearance on Day of Trial

- a. Trial jury service will take place in the Auditorium of the Champaign County Community Center, 1512 St. Rt. 68 South, Urbana, Ohio.
- b. Only thirty (30) non-excused prospective jurors (in numerical order) who have returned questionnaires will be asked to physically appear at the Community Center on the day of trial.
- c. The remaining non-excused prospective jurors who returned questionnaires will be asked to remain at their residence on the first day of trial in an “on-call” status from 8:15 a.m. – 2:15 p.m. in case it becomes necessary to have additional jurors appear.
  - i. If not called by 2:15 p.m., jurors will be released from their duty to serve as a prospective trial juror.
  - ii. The “on-call” method enables the Court to keep “crowd gathering” to a minimum.
- d. Regardless of whether the prospective juror is required to physically appear for trial, on the day of trial, and before they come to the Community Center, all non-excused prospective jurors (including those “on-call”) will be asked through the Court’s letter to self-monitor whether they are experiencing any of the following symptoms within the last 2-3 days or have been exposed to someone experiencing these symptoms:
  - i. Fever more than 100.4 degrees;
  - ii. Persistent, dry cough
  - iii. Shortness of breath or difficulty breathing
  - iv. Chills, Muscle pain or Sore Throat
  - v. New loss of taste or smell
  - vi. Nausea, vomiting or diarrhea

Jurors will be instructed not come to trial if they are experiencing these symptoms or feel sick. Jurors experiencing symptoms or feeling sick will be instructed to call Court Staff (937-484-1000) to be excused from jury service.

### 4. Screening of Trial Participants

- a. Prospective jurors will be instructed to look for a large “JURORS (with pointed arrow)” sign at the front entrance of the building and be directed to a single entrance point into the Community Center.

- b. While in their vehicle, jurors will be asked to self-monitor the entrance into the Community Center, and to remain in their vehicle if there appears to be a group of other jurors waiting to be screened.
- c. Before entering the Community Center, the Court, Court Staff, lawyers, parties and prospective jurors will be screened for COVID-19 symptoms, including taking of temperature.
  - i. The Court, Court Staff, lawyers, parties and any participating juror will have their temperature taken at the beginning of every day of service.
  - ii. All individuals entering the Community Center will also be screened in accordance with court security policies for weapons and inspection of handbags.

#### 5. Facial Coverings / Gloves / Hand Sanitizer

- a. All lawyers, parties, prospective jurors, and trial jurors will be required to have facial coverings before entering the Community Center.
- b. Lawyers, parties and jurors will be permitted to bring and wear their own facial covering.
  - i. The Court will provide any prospective juror and each trial juror who does not bring a facial covering to the Community Center with a baggie containing a disposable face mask for each day of service.
- c. Lawyers and parties (except when testifying) shall wear masks throughout the trial (i.e., during opening statement, closing argument, examination of witnesses, recesses, bench conferences and jury instruction discussions).
- d. Lawyers (except when handling exhibits during trial), parties, and jurors (except when handling exhibits during deliberations) are not required to wear gloves, but instead will be encouraged to use hand sanitizer every time they enter the Auditorium or Conference Room C.
- e. Hand sanitizer will be placed in the entrance to the Auditorium and in the entrance to Conference Room C.

#### 6. Trial Witnesses

- a. Any witness, including law enforcement officers, lay witnesses and expert witnesses expected to testify shall:

- i. Adhere to the “self-monitoring” requirements noted in Paragraph 3, above.
  - ii. Comply with the “health screening” and “security screening” noted in Paragraph 4, above.
  - iii. Comply with the “facial covering” requirements noted in Paragraph 5, above.
  - iv. Shall be seated in “social distancing spaced” chairs in the hallway outside the Auditorium while waiting to testify.
- b. The party that subpoenaed the particular witness is ordered to communicate this directive to their prospective witness before trial and monitor the hallway during the trial in order to ensure that this directive is being complied with.
- c. The Court will provide a disposable mask to any witness who comes to the Community Center without a facial covering.

#### 7. Public or Media Spectators

- a. Any member of the public or member of the media wishing to observe the trial shall:
  - i. Adhere to the “self-monitoring” requirements noted in Paragraph 3, above.
  - ii. Comply with the “health screening” and “security screening” noted in Paragraph 4, above.
  - iii. Comply with the “facial covering” requirements noted in Paragraph 5, above.
  - iv. Sit in “social-distancing” spaced seating marked for the public.

#### 8. Juror Check-In

- a. Once screened, prospective jurors will stand on “social distancing spaced markings” in the hallway outside the Auditorium while waiting to be checked-in by Court Staff.
- b. Prospective jurors will be checked-in by Court Staff by approaching the check-in table one at a time and lay their identification on the table.

- c. The juror will be asked to step back while the Court Staff examines and verifies the identification. Once verified, Court Staff will step back, ask the juror to pick up their ID and then proceed into the Auditorium and be seated at a location marked by a table tent hung over a chair with their juror number.
- d. The juror will use that same juror number to identify themselves when answering questions during *voir dire*.

#### 9. Courtroom Configuration – *Voir Dire* and Opening Statements

- a. Prospective jurors will be seated on “social distancing spaced markings” in the Auditorium to comply with “social distancing” requirements.
- b. In order to comply with “social distancing” requirements, the presentation of *voir dire* and opening statement will have tables and chairs arranged so that the Court, counsel, and the parties are all facing the panel of prospective jurors.
- c. The Court and both counsel will be provided with clip-on microphones.
- d. The Court and both counsel will individually address the prospective panel of jurors from behind the podium. The podium will be sanitized after each individual use.
- e. Attempts will be made to conduct *voir dire* without the individual juror's use of a microphone. In the event amplification of the juror's voice is needed, Court Staff will provide the juror with a hand-held microphone, which will be sanitized after each individual use.
- f. The Court and parties will not remove themselves from the Auditorium to select the trial jury. Challenges for cause and peremptory challenges will be made in the presence of the prospective jurors.

#### 10. Courtroom Configuration – Trial

- a. After the jury is selected, the basic panel of twelve, plus the alternate if selected, will be placed in Conference Room C while Court Staff reconfigure the Auditorium space in a “socially distant” configuration similar in design to the layout of the current Champaign County Common Pleas Courtroom.
- b. Tables and chairs will be spaced in order to comply with social distancing requirements.

- c. Trial jurors will be seated on “social distancing spaced markings” in the Auditorium to comply with “social distancing” requirements.
- d. Court Staff will wipe down and sanitize the reconfigured juror chairs.
- e. A plexi-glass screen will be placed between the two counsel tables.

#### 11. Testifying Witness

- a. A plexi-glass screen will be placed around the witness stand, and the testifying witness will remove his/her facial covering before testifying.
  - i. This configuration will enable the Court Reporter to maintain an accurate recording of the proceedings.
  - ii. This configuration will enable the Court, the jurors and counsel with the opportunity to observe the witness’ demeanor and facial expressions during the examination process.
- b. The testifying witness will utilize a hand-held microphone during testimony.
  - i. Court Staff will sanitize the plexi-glass screen and microphone at the conclusion of the testimony of each witness.
- c. Lawyers shall ask questions from counsel table.
- d. Lawyers shall attempt to minimize the number of times they need to approach the witness.

#### 12. Trial Exhibits

- a. Each counsel and the testifying witness shall wear disposable gloves when handling an exhibit.
  - i. The Court will provide each witness with disposable gloves to handle the exhibit.
- b. Exhibit(s) shall not be passed to jurors during the trial.
- c. If one of the parties desires to use the Auditorium projection screen, arrangements should be made with the Bailiff prior to trial to practice their presentation.
- d. Champaign G.D.L.R. 3.3(F) for Trial Exhibit presentation remains applicable.



- e. During deliberations, the Court will provide each trial juror with disposable gloves so they may handle and examine any exhibits admitted into evidence.

### 13. Bench Conferences

- a. In an effort to adhere to “social distancing recommendations”, bench conferences will be attempted in a corner of the Auditorium farthest away from the jury.
- b. For anticipated prolonged bench discussions, the trial jury will be escorted back to Conference C, be escorted outside (weather permitting) or be temporarily excused from the proceedings while the Court, Court Reporter and parties remain in the Auditorium to discuss and resolve the issue.

### 14. Juror Conduct During Trial

- a. Upon commencement of the actual trial, the trial jurors will be provided with a bottle of water and disposable three-ring notebooks containing paper and a pen.
  - i. The trial jurors will be permitted to consume water at their seats during the trial.
  - ii. The trial jurors will be permitted to take notes during the trial.
  - iii. The trial jurors will be instructed that upon completion of the trial, they will keep the notebook and pen and personally shred their trial notes into the shredder provided by the Court.
- b. The Court will suspend the practice of allowing the jurors to ask questions during the trial.
  - i. The Court finds that the juror questioning process requires:
    - 1. Each juror to transmit paperwork “down the jury row” to the Bailiff for collection and delivery to the Court.
    - 2. The Court and lawyers to gather around the Court Reporter in whispered tones to discuss and debate whether the proposed question(s) should be asked.
  - ii. The Court finds that the public health need for “social distancing” and the public health need to minimize the risk of transmission/exposure to the COVID-19 virus outweighs, at this

time, the need for the jury to have the opportunity to ask questions of a witness.

#### 15. Restroom Use

- a. During *voir dire*, trial and deliberations in the Auditorium, the Health Commissioner has determined that there is sufficient “physical distance” spacing in the restrooms located across from the Auditorium to have two persons enter the same gender specific restroom at one time.
- b. During short trial recesses when the jury is housed in Conference Room C, only one person will be permitted to enter the same gender specific restroom at one time.
- c. Court Staff shall monitor the restroom occupancy during a recess break.

#### 16. Trial Recess

- a. Weather permitting, the Court will strive to permit jurors to walk outside the building during all recesses in their path of travel to Conference Room C.
- b. The Court will not provide jurors in Conference Room C with reading materials, games or food (except for individually wrapped snacks) during breaks in the trial. Disposable bottles of water will be provided.
- c. Jurors seated in Conference Room C will be encouraged to bring their own puzzles, games, books and magazines with them to occupy their time during breaks. Card games are prohibited.

#### 17. Retention of Cell Phones

- a. Prospective jurors will be permitted to retain their cell phones in the “off position” during *voir dire*.
- b. During the presentation of trial, trial jurors will not be asked to place their cell phone in one of the Court’s secured pouches. Instead, the trial juror will be asked to place their cell phone in the “off position” on a paper plate underneath their seat, with instructions not to use it during their trial service.
- c. During a break in the trial, the juror will be permitted to access their cell phone, provided that the juror complies with Court instructions not to research the case, conduct experiments on their own or communicate or express opinions about the case with others regarding their service.



- d. When the jury retires to deliberate, the trial jurors who have cell phones in their possession will be ordered to place and seal their cell phone in individual one-gallon plastic baggies.
  - i. The baggies will be retained by the bailiff until the verdict is read and the jury is dismissed.

#### 18. Deliberations

- a. All deliberations of the trial jury will occur in the Auditorium.
- b. Court Staff will sanitize six tables of at least six feet in length and twelve chairs to be spaced in accordance with “social distancing recommendations”.
  - i. Jurors will utilize these tables while deliberating and if applicable, while eating a meal.
- c. Jurors will ring a bell to notify the Bailiff of the need to use the adjoining restrooms before jurors are permitted to depart the jury room.
- d. Jurors will ring a bell to notify the Bailiff when they have a question or have reached a verdict.
- e. Any food ordered for the jury during deliberations shall comply with the following protocol:
  - i. Paper menus shall be used with instructions to mark their order on the menu.
  - ii. Court Staff will collect the paper menus while wearing gloves.
  - iii. Court Staff shall use gloves when disbursing the food and individual cans of soda or bottled water to the jurors.
  - iv. Jurors will abide by “social distancing” requirements when consuming the food.

- 19. This protocol is subject to joint modification by the Court and Champaign County Health Commissioner or designated Champaign County Health District staff member should circumstances arise necessitating deviation from the procedures set forth herein.