

**IN THE SUPERIOR COURTS OF HALL AND DAWSON COUNTIES  
NORTHEASTERN JUDICIAL CIRCUIT  
STATE OF GEORGIA**

IN RE: Declaration of Judicial Emergency \*

\*

Date: July 15, 2020


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**ORDER DECLARING JUDICIAL EMERGENCY**

On March 13, 2020, the undersigned issued an *Order Declaring Judicial Emergency* for both Hall and Dawson Counties due to the threat of transmission of Coronavirus/COVID-19. This local order was twice extended, on April 8, 2020 and May 4, 2020, but it was permitted to expire on May 31, 2020. On March 14, 2020, the Honorable Harold D. Melton, Chief Justice of the Supreme Court of Georgia, declared a statewide judicial emergency. This state of emergency remains in effect today pursuant to a *Fourth Order Extending Declaration of Statewide Judicial Emergency* entered on July 10, 2020. Today's order supplements and applies Justice Melton's *Fourth Order*.

The COVID-19 disease continues to pose great risk to public health and, despite the implementation of and adherence to safe operating guidelines in this circuit, a number of courthouse employees have tested positive for COVID-19. Additionally, local and statewide case numbers continue to rise.

Therefore, pursuant to O.C.G.A. § 38-3-60(2)(D), it is hereby DETERMINED that a Judicial Emergency exists in Hall and Dawson counties, affecting all courts such that there is a serious health emergency. The emergency substantially endangers and infringes upon the normal functioning of the judicial system, the ability of persons to avail themselves of the judicial system, and the ability of litigants or others to have access to the courts.

GEORGIA, DAWSON COUNTY  
CLERK'S OFFICE, SUPERIOR COURT  
FILED FOR RECORD  
AT 11:40 AM 07-15-2020  
Recorded in BPA Book 43 Page 588-600  
This 15 day of July, 2020  
, Clerk

Pursuant to O.C.G.A. § 38-3-61, the undersigned does hereby DECLARE a Judicial Emergency in the Northeastern Judicial Circuit.

Accordingly, IT IS THE ORDER of the Court:

**I. Safe Operating Guidelines**

Pursuant to Justice Melton's *Fourth Order*, all courts must adopt operating guidelines consistent with the Georgia Court Reopening Guide and public health guidance. This circuit has previously created, published, and distributed the "Covid-19 Safe Operating Guidelines," dated June 1, 2020 and attached here as Exhibit A. The attachment is wholly incorporated and made a part of this order.

Specific guidelines with regard to jury proceedings will be forthcoming, as detailed in the section below.

**II. Jury Trial and Grand Jury Proceedings**

Because social distancing and other public health guidance makes it impracticable for courts to protect the health of the large groups of people who are normally assembled for jury proceedings, no jury trials or Grand juries shall be conducted before October 1, 2020.

Additionally, a local COVID-19 Jury Committee is hereby established to assist our courts with conducting in-persons proceedings, in particular jury trials and Grand jury proceedings. The Committee shall have the goal of ensuring the health and safety of all persons involved while protecting constitutional and statutory rights for defendants, witnesses, and victims. The following persons, or their designee, are hereby appointed to the committee:

Hon. Kathlene F. Gosselin, Chair, Chief Judge, Northeastern Judicial Circuit  
Hon. B.E. Roberts, III, Chief Judge, Hall County State Court  
Mr. Lee Darragh, District Attorney, Northeastern Judicial Circuit  
Mr. Brad Morris, Circuit Public Defender, Northeastern Judicial Circuit  
Ms. Stephanie Woodard, Solicitor General, Hall County  
Mr. Charles Baker, Clerk of Courts, Hall County State and Superior Courts

Mr. Justin Power, Clerk of Courts, Dawson County Superior Court  
Mr. Jason Stephenson, Court Administrator, Northeastern Judicial Circuit  
Capt. Cindy Mustachio, Courts Division, Hall County Sheriff's Office  
Lt. Johnny Holtzclaw, Dawson County Sheriff's Office  
Dr. Pamela Logan, Director, Georgia Department of Public Health District 2  
Ms. Lynn Ansley, Deputy Court Administrator, Northeastern Judicial Circuit  
Ms. Natalie Teston, President, Gainesville-Northeastern Bar Association

The Committee's work shall include, but not be limited to: (1) identifying, evaluating, and recommending the best accommodations and location for conducting jury proceedings, including whether an off-site location should be considered; (2) developing written guidelines for resuming jury trials and grand jury proceedings, including sanitization procedures, mask requirements, social distancing protocols, etc.; (3) developing written material to be published to litigants and the public that detail the health precautions taken by the court; and (4) recommending an appropriate date when such proceedings should resume.

### **III. Remote Proceedings**

Consistent with Justice Melton's *Fourth Order*, all courts should continue to use remote video technology wherever feasible, as a safer alternative to in-person proceedings. Such hearings in this circuit will be conducted using either the Zoom or Starleaf video platforms. Both have mobile and desktop software applications available to use free of charge.

#### **A. Compulsory Attendance**

As explicitly permitted in the statewide emergency orders, the judges of this circuit may compel the participation of litigants, lawyers, witnesses, and other essential personnel, so long as the compulsory attendance does not impose an undue burden on the participant or violate any provision of the United States or Georgia constitutions. Prior to a finding of contempt with regard to this provision, a person shall be entitled to an evidentiary hearing where he or she may present evidence on the burden imposed, including but not limited to: (1) the availability of home or public

internet access, (2) the ability to acquire an internet-equipped phone or device, (3) limited phone data/call minutes, (4) proper notice, and (5) the effort made to comply.

#### **B. Public Access and Livestreaming**

All remote proceedings shall be conducted in a manner consistent with the Georgia and United States constitutions and satisfy the requirement that hearings be open and public, except in the very rarest of exceptions. Therefore, a judge should ordinarily preside over a remote hearing from his or her open courtroom. In the event any judge conducts a proceeding from a location other than his or her courtroom, the public shall be given notice by a posting to the circuit's website, [www.nejc.org](http://www.nejc.org). Furthermore, the public shall be afforded the opportunity to view the proceeding themselves by contacting the presiding judge's office to obtain a link and password. In addition, the Superior Courts have set up YouTube livestream accounts, which may be occasionally used at the discretion of the judge presiding over the case.

#### **C. Witness Sequestration**

Upon the court or either party invoking the rule of sequestration during a video hearing, no witness may observe or listen to any portion of the proceeding until he or she has been called to testify. Witnesses listening to or observing the proceeding is strictly prohibited in those instances and violators will be subject to contempt of court.

#### **D. Recording/Photographs/Reproduction**

The recording, publishing, broadcasting or other copying or transmission of courtroom proceedings by video, audio, still photography or any other means is strictly prohibited except as provided in Uniform Superior and State Court Rule 22, which requires application by the party seeking to record the proceedings and approval of the court prior to the beginning of the proceeding. Violations of Rule 22 are subject to the penalties for contempt of court. Observers should keep their video off and sound on mute.

**This Judicial Emergency shall terminate on August 14, 2020, at 11:59 p.m., unless otherwise extended, rescinded, amended, or superseded.**

IT IS FURTHER ORDERED, pursuant to O.C.G.A § 38-3-63, that the Sheriffs of Hall and Dawson Counties shall post this Order on their public notification site and in the courthouses;

IT IS FURTHER ORDERED that the undersigned shall immediately notify and serve Chief Justice Harold D. Melton of the Supreme Court with a copy of this Order, such service to be accomplished via email to Tee Barnes, the Clerk of the Supreme Court of Georgia.

IT IS FURTHER ORDERED that the undersigned shall immediately notify and serve a copy of the order on the judges and clerks of all courts sitting within the jurisdictions affected.

IT IS SO ORDERED this 15<sup>th</sup> day of July, 2020 at 10:51 a.m./p.m.

  
Kahlene F. Gosselin, Chief Judge  
Northeastern Judicial Circuit

# Exhibit "A"



## Trial Courts OF THE Northeastern Judicial Circuit

JASON STEPHENSON  
COURT ADMINISTRATOR  
P.O. BOX 1435  
GAINESVILLE, GEORGIA 30503  
770-532-1895

DAWSON AND HALL COUNTIES

### COVID-19 Safe Operating Guidelines

June 1, 2020

On March 13, 2020, Chief Judge Kathlene Gosselin declared a judicial state of emergency due to the COVID-19 pandemic. A statewide emergency declaration was entered by the Chief Justice of the Georgia Supreme Court the next day. Pursuant to these orders, all non-essential proceedings in all courts were immediately suspended. Judge Gosselin's local order expired on May 31, 2020 while the statewide order has been extended through June 12, 2020.

As the NEJC initiates an exit from this state of emergency, it will not simply be a return to the things as they were. Instead, in accordance with the latest guidelines from federal and state officials, as well as critical input from local hospital leaders, the courts will see a gradual return of both personnel and services/proceedings.

In Justice Harold D. Melton's *Second Order Extending Declaration of Statewide Judicial Emergency*, he directs that prior to conducting extensive in-person proceedings, each court should develop written guidelines as to how in-court proceedings "will be conducted to protect the health of litigants, lawyers, judges, court personnel, and the public." The guidelines below are a first step toward each class of court developing their own specific policies and procedures.

BASIC MEASURES		
ALL COURTS	<p>COVID-19 is a respiratory illness thought to spread primarily through droplets expelled when someone speaks, breathes, coughs, sneezes, etc.</p> <p>Exposure is riskiest during close contact – defined as being within 6 feet of an infected person for about 10 minutes. Transmission is also thought to be possible from touching surfaces where droplets have settled and then touching your nose, mouth, or eyes.</p> <p>The following six <u>Basic Measures</u> are critical to fighting the risk of an outbreak in our court community.</p>	<p>Resources:</p> <p><a href="#">Centers for Disease Control and Prevention</a></p> <p><a href="#">Georgia Department of Public Health</a></p>

	<ol style="list-style-type: none"> <li>1. <b>Social Distancing</b> Keep 6 feet between yourself and people who do not live with you. Do not allow crowds to congregate.</li> <li>2. <b>Good Hygiene</b> Wash your hands with soap and water frequently, particularly after touching shared surfaces such as doorknobs, handles, tables, etc. Use hand sanitizer provided, and be sure to cover up coughs or sneezes and properly dispose of tissues.</li> <li>3. <b>Cleaning Surfaces</b> Frequently touched surfaces should be regularly wiped down with a disinfectant. This is in addition to the cleaning done by custodial staff.</li> <li>4. <b>Face Coverings</b> Face coverings are intended to trap droplets from leaving the wearer's mouth and nose. They should always be worn when in close contact with another person, as well as in public or common areas.</li> <li>5. <b>Self-Quarantine Personnel Policy</b> Mandatory self-disclosure and self-quarantine policies require employees to immediately alert their department head if they are experiencing any symptoms, have tested positive, or have had close contact with anyone who has. If so, they are required to stay at home.</li> <li>6. <b>Screening Measures at Entrances</b> While the courthouse remains open to the public, anyone entering is subject to the additional screening measures as ordered by the Chief Judge. These measures will include digital temperature checks.</li> </ol>	<a href="#">Northeast Georgia Health System</a>  <a href="#">NEJC.org</a>
SCREENING ENTRANTS	<p>By amended order entered June 1, 2020, courthouse deputies shall continue screening all employees and any other visitors by using an infrared thermometer and asking the following questions:</p> <ol style="list-style-type: none"> <li>1. Have you or anyone you have been in contact with in the last 14 days, tested positive for COVID19 or have/has contacted a medical professional or otherwise been concerned that you may have been exposed or infected with COVID19?</li> <li>2. Are you currently experiencing or have you experienced any symptoms of difficulty breathing, a persistent cough, or a fever of 100.5 degrees or greater in the past 14 days?</li> </ol>	Current Order Expires July 12, 2020

	<p>Anyone registering a fever and anyone answering yes to either question will be directed not to enter.</p> <p>Persons not permitted to enter should provide security with the following information: name, contact information, the court they were scheduled to attend and why, and the reason for denying entry.</p>	
<p>GLOBAL PRECAUTIONS</p>	<p>All persons entering judicial facilities must comply with the directives of court or security personnel; anyone not in compliance may be directed to leave or risk being held in contempt.</p> <p><u>Face Coverings:</u> Persons entering are required to wear face coverings over their mouth and nose</p> <ul style="list-style-type: none"> <li>▪ Must wear them in all public areas, including the courtrooms, unless otherwise directed by the judge</li> <li>▪ Disposable facemasks available at all facility entrances</li> <li>▪ Dawson County will not require them at the front entrance, but they are required in the 3<sup>rd</sup> and 4<sup>th</sup> floor courtrooms</li> </ul> <p><u>Hand Sanitizer</u> Widely available throughout the building, including elevator lobbies</p> <p><u>Water Fountains</u> Water fountains in the public hallways have been temporarily disabled</p> <p><u>Additional Cleaning</u> In addition to the normal cleaning, custodial staff will:</p> <ul style="list-style-type: none"> <li>▪ Sanitize doorknobs/push bars/handles</li> <li>▪ Sanitize elevator buttons/handrails</li> <li>▪ Sanitize courtroom surfaces as needed</li> <li>▪ Courtrooms sanitized each day after use</li> </ul> <p><u>Social Distancing</u> Signs posted throughout the building</p> <ul style="list-style-type: none"> <li>▪ Reminding and requiring visitors to keep 6 feet of physical distance between them, unless from the same household</li> <li>▪ Hallway seating removed except for chairs spaced 6 feet apart</li> <li>▪ Front entrance will be marked so as to identify appropriate spacing between persons that may be standing in line</li> <li>▪ Breezeway and Annex entry to be similarly marked</li> <li>▪ Elevator capacity limited to 2 persons at a time, unless from the same household</li> </ul>	



	<p><u>Courtroom Seating</u></p> <ul style="list-style-type: none"> <li>▪ Each courtroom has a “maximum capacity” based on proper distancing</li> <li>▪ Maximum capacity does not include court personnel, and should not be exceeded except at the judge’s direction</li> <li>▪ Litigants and visitors are encouraged not to bring nonessential persons with them, especially children</li> <li>▪ Persons with cases on the calendar will be given priority for seating</li> </ul>	
<b>SUPERIOR COURT</b>		
<b>GENERAL</b>	<p>All offices resume normal operating hours</p> <p><u>In-Person Proceedings</u> Only schedule if the hearing is one that cannot reasonably be held via videoconference</p> <ul style="list-style-type: none"> <li>▪ As determined by the assigned judge</li> <li>▪ No jury trials until August 2020</li> </ul> <p><u>Large Calendars</u> The number of attendees is expected to exceed the courtroom’s maximum seating capacity</p> <ul style="list-style-type: none"> <li>▪ Trial weeks, arraignments, calendar calls, etc.</li> <li>▪ Scheduled in consultation with the Courts Coordinator so as to avoid overcrowding</li> </ul> <p><u>Small Calendars</u> The number of attendees is <i>not</i> expected to exceed the courtroom’s maximum seating capacity</p> <ul style="list-style-type: none"> <li>▪ Staggered hearing times throughout the day, rather than a morning calendar and afternoon calendar</li> <li>▪ To be scheduled at each judge’s discretion</li> </ul> <p><u>Maximum Seating Capacities</u> Does not include Court Personnel</p> <ul style="list-style-type: none"> <li>▪ Courtroom 401: 23 people</li> <li>▪ Courtroom 402: 23 people</li> <li>▪ Courtroom 403: 23 people</li> <li>▪ Courtroom 404: 23 people</li> <li>▪ Courtroom 202: 23 people</li> <li>▪ Jury Assembly Room: 40 people</li> </ul> <p><u>Designated Alternate Location</u> Chicopee Woods Agricultural Center designated as an alternate courthouse location for the duration of the judicial emergency,</p>	<p>Beginning June 1, 2020</p>

	<p>currently June 12, 2020</p> <ul style="list-style-type: none"> <li>Hearings scheduled where proper distancing may be hard to ensure in the courthouse</li> </ul>	
DOMESTICS	<p><u>Video Proceedings</u> Resume non-essential hearings by Zoom only, or with very limited in-person attendance</p> <ul style="list-style-type: none"> <li>Judges’ offices to schedule, with training and assistance from Court Administration</li> <li>Priority will be given to those hearings which were cancelled as a result of the emergency order</li> <li>If any party objects to conducting the hearing by Zoom, the case may be removed from the calendar by contacting the judge’s office (the case will then be postponed until in-person proceedings resume)</li> <li>If a hearing will require extensive evidence or multiple witnesses, etc., the case may not be appropriate for a video hearing. All hearings are scheduled and conducted at the discretion of the assigned judge</li> <li>Livestream to YouTube if the judge is not physically on the bench</li> <li>“Zoom stations” available on the 4<sup>th</sup> floor for any litigant unable to join by their own device or internet connection</li> </ul> <p><u>In-Person Proceedings</u> Non-essential, in-person proceedings resume</p> <ul style="list-style-type: none"> <li>Make every reasonable effort to schedule and conduct the proceeding via Zoom first</li> <li>Refrain from scheduling any calendars expected to exceed the maximum capacity of a courtroom</li> <li>Advise litigants of the screening measures and mask mandate before they come to court</li> </ul>	<p>Began May 11, 2020</p> <p>Beginning June 15, 2020</p>
GENERAL CIVIL	<p><u>Motions and Hearings</u> Make every reasonable effort to schedule and conduct proceedings via Zoom</p> <ul style="list-style-type: none"> <li>With the consent of the parties and at the discretion of the assigned judge</li> <li>A request for an in-person proceeding may delay the matter being heard</li> </ul> <p><u>In-Person Proceedings</u> Scheduled at the assigned judge’s discretion</p> <ul style="list-style-type: none"> <li>Refrain from scheduling any hearings expected to exceed the maximum capacity of a courtroom</li> </ul>	<p>Beginning June 15, 2020</p>

	<ul style="list-style-type: none"> <li>▪ Advise litigants of the screening measures and mask mandate before they come to court</li> </ul>	
CRIMINAL	<p>Prioritize hearings where a defendant can waive his presence, and make every reasonable effort to conduct the proceedings via Zoom</p> <p><u>Jail Hearings</u> Use Starleaf or Zoom videoconferencing, rather than transport</p> <ul style="list-style-type: none"> <li>▪ Courts Coordinator to serve as host and liaison to the jail, until those duties can be handed off to the judges' offices staff</li> <li>▪ Rotation for Reserved Use of Video Equipment: <ul style="list-style-type: none"> <li>- Monday – Judge C. Andrew Fuller (8:30-10, 2-5:00)</li> <li>- Tuesday – Judge Kathlene F. Gosselin (3:00 to 5:00)</li> <li>- Wednesday – Judge Bonnie C. Oliver (8:30 to 1:00)</li> <li>- Wednesday – Judge Clint G. Bearden (3:00 to 5:00)</li> <li>- Thursday – Judge Jason J. Deal (8:30 to 1:00)</li> <li>- Friday – Judge Jason J. Deal (3:00 to 5:00)</li> </ul> </li> </ul> <p><u>Arraignments and Calendar Calls</u></p> <ul style="list-style-type: none"> <li>▪ Encourage ADAs and defense attorneys to speak prior to coming into the courtroom</li> <li>▪ Calendars may be reduced and staggered report times</li> <li>▪ Use of Jury Assembly Room and other empty courtrooms</li> </ul>	Beginning July 1, 2020
JURY TRIALS	<p>Prioritize cases where defendant is in jail</p> <p><u>Scheduling</u> Reset all previously scheduled jury calendars for 2020</p> <ul style="list-style-type: none"> <li>▪ Re-create a Master AOC Calendar starting with jury trials</li> <li>▪ No more than two judges conducting jury trials at a time, whether State or Superior Court</li> <li>▪ 4 total trial weeks per judge</li> </ul> <p><u>Jury Selection and Deliberations</u> To Be Determined</p>	Beginning August 2020

STATE COURT		
GENERAL	<p>All offices resume normal operating hours</p> <p><u>In-Person Proceedings</u> Only scheduled if the hearing is one that cannot reasonably be held via videoconference</p> <ul style="list-style-type: none"> <li>▪ As determined by the assigned judge</li> <li>▪ No jury trials until August 2020</li> </ul> <p><u>Large Calendars</u> The number of attendees is expected to exceed the courtroom's maximum seating capacity</p> <ul style="list-style-type: none"> <li>▪ Trial weeks, arraignments, etc.</li> <li>▪ Scheduled in consultation with the Courts Coordinator so as to avoid overcrowding</li> </ul> <p><u>Small Calendars</u> The number of attendees is <i>not</i> expected to exceed the courtroom's maximum seating capacity</p> <ul style="list-style-type: none"> <li>▪ May be achieved by staggering hearing times throughout the day, rather than a morning calendar and afternoon calendar</li> <li>▪ To be scheduled at each judge's discretion</li> </ul> <p><u>Maximum Seating Capacities</u></p> <ul style="list-style-type: none"> <li>▪ Courtroom 201: 22 people</li> <li>▪ Courtroom 101: 23 people</li> <li>▪ Courtroom 102: 32 people</li> <li>▪ Jury Assembly Room: 40 people</li> </ul>	Beginning June 1, 2020
CRIMINAL	<p>Prioritize hearings where a defendant can waive his presence, and make every reasonable effort to conduct the proceedings via Zoom</p> <p><u>Jail Hearings</u> Use Starleaf or Zoom videoconferencing, rather than transport</p> <ul style="list-style-type: none"> <li>▪ Courts Coordinator to serve as host and liaison to the jail, until those duties can be handed off to the judges' offices staff</li> <li>▪ Rotation for Reserved Use of Video Equipment: <ul style="list-style-type: none"> <li>- Tuesday – Judge Larry A. Baldwin (8:30 to 1:00)</li> <li>- Thursday - Judge John G. Breakfield (8:30 to 1:00)</li> <li>- Friday – Judge B.E. Roberts (8:30 to 1:00)</li> </ul> </li> </ul>	

	<p><u>Arraignments</u>  Reset all previously scheduled calendars for the remainder of 2020</p> <ul style="list-style-type: none"> <li>▪ Re-create a Master AOC Calendar that starts with jury trials and Arraignments <ul style="list-style-type: none"> <li>- Scheduled in consultation with Courts Coordinator and the Master AOC Calendar</li> <li>- Endeavor to keep any previously noticed arraignment dates</li> </ul> </li> <li>▪ Reduced Calendar Sizes and Extra Days <ul style="list-style-type: none"> <li>- Scheduled Tuesdays to Fridays, with staggered report times</li> <li>- Start with backlog of cases that were cancelled</li> </ul> </li> <li>▪ Traffic Bureau Division <ul style="list-style-type: none"> <li>- Judges to work with Courts Coordinator and Solicitor to determine new dates for new citations</li> <li>- Solicitor to provide new dates to law enforcement</li> </ul> </li> </ul>	
JURY TRIALS	<p>Prioritize cases where defendant is in jail</p> <p><u>Scheduling</u>  Reset all previously scheduled calendars for the remainder of 2020</p> <ul style="list-style-type: none"> <li>▪ Re-create a Master AOC Calendar that starts with jury trials</li> <li>▪ No more than two judges conducting jury trials at a time, whether State or Superior Court</li> <li>▪ 4 total trial weeks per judge</li> </ul> <p><u>Jury Selection and Deliberations</u>  TBD</p>	Beginning August 2020