

MAR 02 2022

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia**APPENDIX 8****Plan for Jury Trials
(Updated March 2, 2022)**

Since the national emergency relating to the COVID-19 pandemic was first declared on March 13, 2020, this Court has remained open and operating, adjusting restrictions and protocols based on current local health conditions. Jury trials were generally suspended at the outset of the pandemic, with criminal trials resuming in March 2021 and civil trials resuming in June 2021 on a limited basis.¹ Jury trials were suspended briefly again from December 31, 2021, until February 7, 2022.² The Court remains committed to maximizing its capacity to conduct jury trials while taking all necessary measures to protect the health and safety of prospective jurors, trial participants, and jurors. The updated plan for conducting jury trials set forth below was developed in consultation with health and safety experts and refined through the Court's experience in conducting trials. Adjustments will continue to be made as necessary.

1. JURY SELECTION

- a. **Staggered Jury Selections.** Jury selections for trials scheduled to start the same week may be staggered to ensure appropriate social distancing for prospective jurors.
- b. **Health Screening.** Prior to the day of jury selection, prospective jurors are advised that they should not report to the Courthouse under certain circumstances, including if they are experiencing common COVID-19 symptoms or have had recent known exposure to COVID-19, and should instead contact the Jury Office for further instructions. Contactless temperature kiosks are available at all Courthouse entrances for prospective jurors to check their temperatures upon arrival on the day of jury selection.
- c. **Masks Required.** Prospective jurors and all other participants in the jury selection process are required to wear a face mask that covers the nose and mouth, except as directed by the presiding Judge. Prospective jurors may be provided with masks by the Court. Counsel and parties may be provided with clear facial masks as determined by the presiding Judge. In addition to face masks, clear face shields covering the full face may be worn over the face mask.
- d. **Venire Panel.** The Jury Office will direct an appropriate number of prospective jurors, randomly selected from among those qualified, to appear on the day of jury selection, as per regular practice and this Court's Jury Selection Plan. Upon arrival, prospective jurors report to the Jury Office and, after being checked in, are assigned to a

¹ See *In Re: Limited Resumption of Criminal Jury Trials in Light of Current Circumstances Relating to the COVID-19 Pandemic*, Standing Order No. 21-10 (BAH) (Mar. 5, 2021).

² See *In Re: Postponement of Jury Trials and Closing of Public Access to Clerk's Office in Light of Current Circumstances Relating to the COVID-19 Pandemic*, Standing Order No. 21-83 (BAH) (Dec. 30, 2021); *In Re: Further Postponement of Jury Trials and Closing of Public Access to Clerk's Office in Light of Current Circumstances Relating to the COVID-19 Pandemic*, Standing Order No. 22-04 (BAH) (Jan. 20, 2022).

designated courtroom, a conference room, or the jury assembly area to await further instructions. The presiding Judge is given a panel sheet that lists the prospective jurors within each room in random order.

- e. Locations. During the jury selection process, prospective jurors may be seated in two or more courtrooms and/or conference rooms to ensure appropriate social distancing at all times. The presiding Judge and the parties may remain in one of those courtrooms (“primary courtroom”) with a group of prospective jurors. A member of the court staff is present in each room used to facilitate the jury selection process by assisting and directing prospective jurors.
- f. Visual Capabilities. If multiple courtrooms or conferences are used during general questioning, video screens in each location will allow all prospective jurors to see the presiding Judge and trial participants in the primary courtroom. Trial participants will be able to see prospective jurors in the other rooms.
- g. Excused Prospective Jurors. Prospective jurors excused for cause following individual questioning are directed either to leave the Courthouse or to check in with the Jury Office for further instructions.
- h. Final Selection. After individual questioning, qualified prospective jurors in the venire panel are directed by court staff to designated seating for the final stages of jury selection, including the exercise of preemptory challenges.

2. TRIALS

- a. Location. The number of trials that may be conducted at one time in the Courthouse is not subject to a specific limit, but capacity for trials is necessarily limited by the available space, as each trial may require the use of at least two courtrooms, as detailed below.
 - i. Civil Trials: Civil jury trials, including jury selections, are generally conducted using the presiding Judge’s courtroom and a second courtroom. Both courtrooms are used during jury selection, and during the trial, the second courtroom may serve as the jury room. Seating for the public and media is provided in the primary courtroom or, as necessary, via a video feed to other space(s) in the Courthouse.
 - ii. Multi-Defendant Criminal Trials: Multi-defendant criminal jury selections and trials may take place in the Ceremonial Courtroom, and scheduling of such jury selections and trials is done through the master trial calendar. An additional courtroom will be used as necessary during jury selection and as a jury room during trial. Public access may be provided via a video feed to other space(s) in the Courthouse.
 - iii. Single Defendant Criminal Trials: Jury selections in single-defendant criminal cases generally are conducted using two courtrooms. The presiding Judge may reserve the Ceremonial Courtroom for jury selection and may also reserve the Ceremonial Courtroom for trial; however, multi-defendant trials will be given

priority in scheduling the Ceremonial Courtroom. Public access may be provided via a video feed to other space(s) in the Courthouse.

b. Scheduling. Trials using the Ceremonial Courtroom are scheduled in accordance with a master trial schedule developed by the Court, giving priority to criminal trials with detained defendants and accounting for additional factors, including length of pretrial detention, numbers of witnesses from out of town, and previously set trial dates. Regardless of whether the Ceremonial Courtroom is used, upon receiving notice of a confirmed jury selection and trial date, the Clerk's Office will identify and reserve a secondary courtroom to be used during that trial.

c. Requirements of Trial Participants.

- i. All trial participants, including jurors, witnesses, parties, attorneys, and court staff, will be asked to conduct a daily self-health screening before coming to court and are requested to use the temperature screening kiosks available at the entrances to the courthouse.
- ii. At the beginning of each trial day, the presiding Judge should remind all persons in the courtroom to notify the courtroom deputy clerk (or other designated court staff) immediately if the person experiences symptoms consistent with COVID-19 or learns of exposure to an individual who has tested positive for the virus, with assurance that the person's identity will be kept confidential.
- iii. All trial participants must wear face masks during trial proceedings, except as directed by the presiding Judge. Face shields may be worn over the face masks if desired. Jurors will be provided with face masks by the Court. The defendant and any testifying witness may be required to wear a court-provided clear protective facial mask, which may also be provided to counsel and other trial participants.
- iv. Attorneys and any assistants will remain at or near their assigned counsel table and podium throughout the trial, except as directed by the presiding Judge. To maintain social distancing requirements, each trial team may be asked to limit the number of people at counsel table. Additional members of a trial team will be able to view a video feed of the proceedings from another courtroom or conference room.
- v. Bench conferences may be held by using the court-provided private intercom system, when available.
- vi. Private communications between counsel and client are facilitated by use of the court-provided private intercom system.

d. Courtroom Safety Adaptations.

- i. Trial courtrooms are reconfigured in accordance with expert advice, *see* Appendix 2 (internal use only, not publicly available). Seats for jurors are designated and marked to ensure physical distancing of at least three or up to

six feet. Likewise, seating at each counsel table may be limited. Jurors and up to four alternate jurors will be seated at designated spots in the courtroom.

- ii. Plexiglass barriers have been installed in front of witness boxes and other places.
- iii. The seating assignments for trial participants and the placement of plexiglass barriers have been determined to optimize sight lines to the extent possible and consistent with health and safety protocols.
- iv. The air circulation within trial courtrooms has been tested and approved, and air filters have been enhanced.

e. Jurors.

- i. Jury deliberations may take place in a designated courtroom to allow for appropriate physical spacing and privacy.
- ii. Instructions are provided to jurors to report to the courtroom deputy possible exposure to COVID-19 and/or any potential symptoms immediately.

- f. Additional Health and Safety Precautions. Hand sanitizer dispensers are located throughout the courthouse. Capacity in restrooms throughout the courthouse is limited to 50% (with signs), and jurors are advised of hand hygiene protocols and to wear face coverings in restrooms. Capacity in elevators is limited. Enhanced cleaning protocols are in place throughout the courthouse.

3. **MODIFICATIONS TO PLAN:** Judges and court staff will monitor and observe operation of this plan and make recommendations for adjustments as needed.

(Issued: July 15, 2020; Updated: August 11, 2020; November 17, 2020; March 4, 2021, December 13, 2021; March 2, 2022)