

COVID 19 COURTROOM PROCEDURES FOR JURY TRIALS

Judge Jeffrey W. Hendriks (October 2020)

Currently, the Chief Judge of the 19th Judicial Circuit is allowing only trials that will take one day exclusive of jury selection. That is, one day allowed for jury selection and one day allowed for the actual jury trial.

Currently, we are only able to conduct jury selection in Courtroom 1D, the large courtroom. Because this courtroom needs to be shared by 5-6 other judges for jury selection each week, each judge will only be allowed to pick one jury trial per jury trial week.

If your case involves the potential for a trial longer than one day, the case will be continued to another docket.

Jury Selection

- 25 jurors will be brought into the courtroom 1D using the audience. All these jurors will be at least 6 feet from each other and 6 feet from all other participants. They will be masked.
- For the Court's Instructions – All jurors (25) will be present for the initial instructions for the Court. At the conclusion of the Court's Questions/Instructions :
- If requested by the parties:
 - After the court has conducted general questioning of the panel, all but 10 jurors will be excused (to Jury Assembly or outside for fresh air).
 - These 10 jurors will be repositioned at least 10 feet from each other and 10 feet from all other participants. They will each lower their masks when questioned by an attorney (however, each juror will still have on the face shield).
 - The jurors will be cautioned that they may not cough or sneeze, and shouting is prohibited.
 - Upon completion, those 10 will leave and 10 more will take their place.
 - Once all jurors are questioned the process of selection will take place.
 - The jurors chosen will return to the courtroom (masked) to be sworn and receive instructions.
 - Jurors uncomfortable with the process will be accommodated.

Trial Procedures - Generally

- The defendant may wear a face shield but must remain seated at a designated position at counsel table throughout the trial unless testifying.
- Defendant and counsel shall provide a method be able to speak privately while remaining properly distanced to allow for the trial to continue uninterrupted, preferably a headset.

- Lawyers will question from either, 1) counsel table, or 2) using the fixed podium provided for each side (two podiums per courtroom). Lawyers stand when speaking in court.
- Gloves and hand sanitizer will be available.
- Any time that audience seating is completely closed to spectators, the proceedings will be streamed to another courtroom for viewing by potential observers.
- Prior to jury selection, the parties should confer as to admissibility of evidence.
- The Court will make every attempt to receive stipulations from the parties on any issue that can be agreed upon.
- It is preferable that any paper evidence or photos be digitized for viewing on a screen. Unless otherwise ordered, evidence will not be published by passing exhibits to the jury for inspection.
- Jurors will be provided clean, sanitized pens and notepad for note-taking. No other person will touch these items until collected at the end of the trial.

Conduct of Evidentiary Portion of Trial

- Jurors will be masked during the trial.
- The witnesses will wear a face shield. They will remain on the witness stand while offering testimony.
- Attorney's approaching the bench will put on a mask and stand at a designated spot in front of the bench. The "white noise" will be turned on allowing the conversation to be private.
- When handling exhibits, precautions should be taken. Sanitizer will be available and should be used immediately before and after handling exhibits.

Jury Deliberations

- Jurors will remain masked. A room will be prepared so the jurors will be 6 feet apart.
- Gloves and hand sanitizer will be available for use when jurors handle exhibits.

For the courtroom to function properly, there may be times when a judge, lawyer or witness should be allowed to remove his or her face covering. This is permissible in two scenarios. Both scenarios apply to judges and other persons in the courtroom.

The presiding judge, of course, controls the situation.

First, if the unmasked person is **wearing a face shield.**

Second, at the discretion of the presiding judge a witness/party or attorney (or judge) may take a mask off for purposes of creating a clear record, for identification, or for other reasons, and that the person is **at least ten feet from the nearest person in the courtroom, does not cough or sneeze, and is not shouting.**