

IN THE MUNICIPAL COURT OF MARIETTA, COBB COUNTY

STATE OF GEORGIA

CITY OF MARIETTA
MUNICIPAL COURT
CLERK'S OFFICE

2020 MAY 26 P 1:18

**IN RE: Declaration of Judicial Emergency and
Adoption of Guidelines for Municipal Court Operation
Date: May 26, 2020**


CLERK OF COURT

**ORDER DECLARING JUDICIAL EMERGENCY AND
ADOPTION OF COUNCIL OF MUNICIPAL COURT JUDGES OF GEORGIA'S BEST PRACTICES AND
GUIDELINES FOR OPERATION OF MUNICIPAL COURTS DURING THE COVID-19 RECOVERY**

WHEREAS, the Governor has determined that a Public Health State of Emergency exists in the State of Georgia due to the spread of the Coronavirus/COVID-19, and whereas that state of emergency constitutes a "judicial emergency" pursuant to O.C.G.A. § 38-3-60 et seq., see O.C.G.A. § 38-3-60 (2).

WHEREAS, pursuant to O.C.G.A. § 38-3-61, the Honorable Harold D. Melton, Chief Justice of the Supreme Court of Georgia, ORDERED AND DECLARED a Statewide Judicial Emergency in the State of Georgia on March 14, 2020. The nature of this emergency is the continued transmission of Coronavirus/COVID-19 throughout the State and the potential infection of those who work in or are required to appear in our courts.

WHEREAS, the Honorable Chief Justice Harold D. Melton, Georgia Supreme Court declared on May 11, 2020, an extension of the Statewide Judicial Emergency through Friday, June 12, 2020 at 11:59 PM and ordered that all Georgia Courts shall continue to operate under the restrictions set forth and courts should consider the most specific current public health guidance provided by the federal Centers for Disease Control and Prevention (CDC), the Georgia Department of Public Health (DPH), and local health departments;

WHEREAS, it is necessary and proper to adopt guidelines to ensure public safety and protect the health of the general public, litigants, court personnel, lawyers, and all others whom the court comes in contact, in keeping with general public health guidelines and the Order of Chief Justice Melton;

NOW THEREFORE, pursuant to O.C.G.A. § 38-3-61, The Honorable Chief Judge Roger J. Rozen of the Municipal Court of Marietta, Cobb County Georgia, DOES HEREBY declare a Judicial Emergency in the City of Marietta until Friday, June 12, 2020 at 11:59 PM. This Court shall continue to operate under the restrictions set forth in the initial Georgia Supreme Court Chief Justice's Order Declaring Judicial Emergency of March 14, 2020 as extended of April 6, 2020, and as extended and modified on May 11, 2020.

This Court shall continue the use and increase the use of technology to conduct remote judicial proceedings as a preferred alternative to in-person proceedings, both to ensure that essential court functions are continued and to conduct non-essential proceedings to limit the backlog of such matters when the judicial emergency is terminated. The Court may compel the participation of litigants, lawyers, witnesses, and other essential personnel in remote judicial proceedings, including civil non-jury trials and

other non-jury adjudicative proceedings, where allowed by court rules (including emergency amendments thereto). Such proceedings, shall however, must be consistent with public health guidance, must not impose undue burdens on participants, and must not be prohibited by the requirements of the United States or Georgia constitutions or applicable statutes or court rules.

In civil and criminal proceedings, parties may expressly consent on the record to remote proceedings not otherwise authorized and affirmatively waive otherwise applicable legal requirements. The Court shall ensure the public's right of access to judicial proceedings and, unless affirmatively waived in the record, a criminal defendant's rights to confrontation and open courtrooms.

Pursuant to the Georgia Supreme Court's Second Order Extending Declaration of Statewide Judicial Emergency on May 11, 2020, this Court may conduct essential and non-essential in-person judicial proceedings, but only in compliance with public health guidance and with the requirements of the United States and Georgia constitutions and applicable statutes and court rules, including the public's right to access to judicial proceedings and a criminal defendant's rights to confrontation and open courtrooms.

The Court hereby adopts and includes as part of this Order by reference the Best Practices and Guidelines for Operating Municipal Courts During the COVID-19 Recovery. These guidelines address how in-court proceedings generally and particular types of proceedings will be conducted to protect the health of litigants, lawyers, judges, court personnel, and the public. These guidelines were adopted and published by the Council of Municipal Court Judges of Georgia and are attached hereto as Exhibit "A". This Order and the adopted guidelines shall be prominently posted at courthouse entrances and on court and government websites of the City of Marietta, Georgia to provide advance notice to litigants, lawyers, and the public.

This Judicial Emergency shall terminate on June 12, 2020, at 11:59 PM, unless otherwise amended or extended.

Should the state of emergency extend beyond the period indicated above or should the nature of the emergency otherwise require modification or extension, a determination of available alternative remedies for the conduct of court business will be made as necessary, and a corresponding order will be entered and distributed in accordance with Georgia law.

Pursuant to O.C.G.A. § 38-3-63" **IT IS ORDERED** that the Chief of Police for the City of Marietta shall post this Order on his public notification site and at the entrance of the Marietta Police/Court Building;

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 Therese Barnes, the Clerk of the Supreme Court of Georgia, at barnest@gasupreme.us;

IT IS FURTHER ORDERED that the undersigned shall immediately notify and serve a copy of the order on the judges, prosecutors, and clerk within the jurisdiction of Marietta Municipal Court and on the clerks of the Georgia Court of Appeals and the Georgia Supreme Court, and the Cobb County Bar Association, such service to be accomplished through reasonable means to assure expeditious receipt; and,

IT IS FURTHER ORDERED that the undersigned shall give notice of the issuance of this Order to the affected parties, counsel for the affected parties, and the public by publishing upon the City of Marietta Municipal Court website, and shall be posted prominently upon all entrances to the City Of Marietta Municipal Court and offices of the City of Marietta Municipal Court Clerk, the City of Marietta Municipal Court Probation, and the City of Marietta Municipal Court Prosecutor.

IT IS SO ORDERED, this 26th day of May, 2020.

A handwritten signature in black ink, appearing to read 'ROZEN', written over a horizontal line.

ROGER J. ROZEN, Chief Judge
Marietta Municipal Court



Council of Municipal Court Judges

Council of Municipal Court Judges Best Practices & Guidelines for Operating Municipal Courts During the COVID-19 Recovery

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District Five
Judge Tiffany Carter Sellers
Judge Parag Shah

District Six
Judge J. Kristi Lovelace
Judge Clayton Davis

District Seven
Judge Robert Cowan
Judge Nathan Wade

District Eight
Judge Joseph Sumner
Judge Dexter Wimbish

District Nine
Judge Pamela Boles
Judge Claude Mason

District Ten
Judge Graham McKinnon
Judge Ryan S. Hope

With the gradual expansion of services offered by the Courts, certain guidelines will have to be followed in order to ensure the safety of both the Court staff and the public that come in contact with the Courts. Given the diversity of the Municipal Courts, it is impossible to create a one-size-fits-all policy that will suit big city and small city Courts alike. However, there are certain principles that apply across the board. These guidelines and best practices are presented by the Council of Municipal Court Judges in order to help each Court create its own individual policy conducting business during COVID-19 recovery.

We recognize that resources vary widely throughout the State and not all of these best practices will be available in every Court but they should be followed to the extent practicable.

PERSONNEL/STAFF

- Implement staggered shifts for all possible workers and/or implement teleworking for all possible workers;
- Discourage workers from using other workers' phones, desks, offices, or other work tools and equipment;
- Where possible, stagger workstations to avoid employees standing adjacent to one another or next to each other. Where six (6) feet of separation is not possible, consider spacing options that include other mitigation efforts with increased frequency of cleaning and sanitizing surfaces;
- Require all employees to wear face coverings at all times;
- Consider temperature checks of employees upon entering work each day; and
- Require workers who exhibit signs of illness to not report to work or to seek medical attention.

NOTIFICATION

The standard notification for hearings for defendants and other witnesses and necessary parties will need to be modified.

At a minimum, in addition to the standard information regarding date, time, and location of the hearing, include information about how to contact the Court to request an automatic 30-60 day continuance in the event that the noticed party:

- is a member of an immune-compromised population (or living in a household with someone who is immune-compromised);
- if they are over 65; and
- if they have small children and do not have child care.

You may want to include information about interpreters or other reasonable and necessary accommodations so that people know how to request an interpreter or other accommodations ahead of time to avoid an unnecessary trip to the building. Consider having a separate calendar for those who need interpreters to avoid additional trips to the Courthouse for the interpreter.

Council of Municipal Court Judges

Individuals who feel uncomfortable leaving their homes during the pendency of the Shelter-in-Place order should be allowed a courtesy reset upon request.

COURTROOM MANAGEMENT

Low-Density Population

Governor Kemp's Executive Order dated April 23, 2020 provides certain guidelines to ensure the safety of individuals required to be in proximity to one another for business purposes. The Executive Order does not allow for any municipal government to allow gatherings of persons outside their residence who do not reside together, with only limited exceptions.

In order to meet with those exceptions, the following is necessary:

- Maintain a six (6) foot distance between individuals who do not reside together.
- Do not schedule more individuals to arrive at the Courtroom (including staff) than the dimensions of the courtroom can accommodate to allow a six (6) foot distance between the individuals.
- Calculate this by measuring the square footage of the seating area of the room. There should be no more than one defendant for every six (6) square feet of space.
- Consider a maximum of 25 people total per session considering the allowance per the formula.

Staggered Scheduling

Although it is common practice in most Courtrooms under normal circumstances to have large calendar calls, under these unusual circumstances, stagger the arrival of defendants and other necessary individuals so that there are not a large number of individuals arriving at the same time. For example, if your Courtroom can accommodate twelve (12) people, do not schedule your normal fifty (50) person calendar for 8:30 a.m. Schedule the first 12 for 8:30, the second 12 for 10:00, and so on.

Screening

Consider having some sort of screening process for individuals before they enter your Courtroom.

- Have a series of questions you ask each individual upon entry to the building, such as:
 - whether or not they have traveled to or from any areas in which COVID-19 is particularly active;
 - if they or anyone in their household have experienced symptoms of COVID-19; or
 - if they have been tested for the virus.
- If possible, their temperature can be taken and anyone with a fever higher than 100.4 degrees should be refused admission and their case continued.

Staging

Do not allow patrons to congregate in waiting areas or common areas. Design a process to ensure patron separation while waiting to be seated that can include:

- Floor markings;
- Outdoor distancing;
- Waiting in cars; or
- Utilization of tenting.

TYPES OF HEARINGS

Initial hearings, preliminary hearings, and bond hearings, have long been authorized by statute to be done by video conference. See O.C.G.A. 17-4-47. Consistent with Chief Justice Harold Melton's April 6, 2020 "Order Extending Declaration of Statewide Judicial Emergency," the use of video and teleconferencing is

The Council of Municipal Court Judges

encouraged “to reduce backlogs when the judicial emergency ends.” Municipal Court Rule 15.2 also allows for the expanded use of video conferencing to take pleas in criminal cases, conduct probation revocation hearings, and other cases.

Use of conference calls, computer programs such as WebEx, Zoom, Skype, Google, and others are relatively low-technological solutions that are widely available and inexpensive and can be used creatively for all sorts of hearings with the active and informed consent of all parties involved. When doing so, ensure compliance with the recordation required in Municipal Court Rule 26.

If your Court does not already have one, consider instituting a policy which would allow defendants to waive arraignment. When allowing defendants to do so, make sure that the policy ensures the preservation of all constitutional rights protected by the arraignment process.

COURTROOM MANAGEMENT

Protective Equipment

All courtroom staff should be properly equipped with masks and should be educated on and given the opportunity to wash their hands frequently. Equipment such as telephones and computer keyboards should not be shared.

If possible, handwashing or hand sanitizing stations should be available to both staff and the public. Suggestions include:

- Directing individuals to the sinks in the bathroom
- Separate sanitation stations,
- Frequently placed hand sanitizer dispensers, or
- Providing sanitizing wipes for people to disinfect surfaces they must touch, such as door handles, chair arms, and pens.

Enact policies and procedures to encourage Social Distancing for patrons and employees. Measures may include:

- Protective Plexiglass screens at service counters and at payment windows;
- Decals on the floor or aisles with messaging on Social Distancing;
- Signs throughout the Court giving visuals and information on Social Distancing;
- Allowing anyone who brings their own protective equipment to wear it;
- Providing masks for individuals who do not have their own;
- Allowing each individual who signs a document to retain the pen he or she uses to avoid cross-contamination.
- Disallowing the gathering of large groups in common areas like lobbies and parking lots.

Flow

Consider the route that people will take through your building and/or Courtroom. Enact policies and procedures that encourage Social Distancing, such as:

- Roping or taping off certain seating areas or hallways;
- Placing arrows on the floors to direct foot traffic; or
- Require people to enter through one door and exit through another.
- Coordinate with other stakeholders located in your building to maximize efficiency of effort.

The Council of Municipal Court Judges

Open Courtroom Concerns

Many individuals bring support persons when they come to Court. While this is normally encouraged in Georgia's open Courtrooms, this may prove difficult when ensuring the low-density population in the Courtroom to provide the necessary social distance safety requires. When possible, allow anyone in the Courtroom who wishes to be there, so long as the low-density population rules and Social Distancing rules are followed. When this is not possible, have a policy in place that limits the constrictions on an open courtroom. Consider having a live YouTube or Facebook or Zoom or other link that you can provide for individuals who want to see what is going on in the Courtroom. Consider rotating individuals in and out as quickly as possible.

SIGNAGE

Place a sign near the entry of the building/Courtroom and in other prominent places that states that individuals who have a fever or other symptoms of COVID-19 shall not enter the Courthouse.

Place a sign in prominent places reminding individuals to wash their hands frequently and to cover their mouths and noses when they cough and sneeze.

Use arrows and tape to direct the flow of foot traffic through the building.

SANITATION

Do your best to keep the Courtroom and the Courthouse sanitized at all times. Use disinfectant wipes and sprays on chairs, benches, tables, and other shared furniture and equipment between uses, including between each Court session.

Request that the bathrooms and other shared facilities be cleaned and sanitized regularly. Check to see that bathrooms are cleaned and well-stocked with soap and paper towels at all times.

Be sure to coordinate with the stakeholder located in the building with your Court to combine efforts.

GRANTS

Many of these measures cost money, which can be hard to come by. There are some grants available, notably some through the Georgia Emergency Management (email request) and the Department of Justice.

CONCLUSION

This is uncharted territory for all of us, and we are trying our best to come up with reasonable policies that take into account the needs of the Courts and the public while keeping everyone's safety in mind. If you have any further questions or concerns, please do not hesitate to contact the Council or your local district representative.

Sincerely,

*Judge Dale "Bubba" Samuels, President
Council of Municipal Court Judges*