

# Court Operations and Proceedings During Coronavirus





Working Group 1 Annual Meeting - Thursday, October 28, 2020

Voices From the Bench: Exploring the  
Judicial Perspective for 2020 and Beyond

*Court Operations and Proceedings During Coronavirus*

General Resources

National Center for State Courts, “Coronavirus and the Courts” (with links to state court COVID-19 sites): <https://www.ncsc.org/newsroom/public-health-emergency>

Administrative Office of the U.S. Courts, Coronavirus (COVID-19): Response and Recovery (with links to federal court COVID-19 sites):  
[https://www.uscourts.gov/news/2020/07/02/coronavirus-covid-19-response-and-recovery#COVID\\_recovery](https://www.uscourts.gov/news/2020/07/02/coronavirus-covid-19-response-and-recovery#COVID_recovery)

Sample Guidelines, Orders, and Protocols

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MAY 28, 2020  
  
CLERK US DISTRICT COURT  
DISTRICT OF ARIZONA  
  
BY s/ M. Everett DEPUTY

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

In the matter of

CONTINUING COURT OPERATIONS  
UNDER THE EXIGENT  
CIRCUMSTANCES CREATED BY  
CORONAVIRUS DISEASE (COVID-19)

GENERAL ORDER 20-26

WHEREAS, the COVID-19 (Coronavirus Disease) outbreak remains a national public health emergency; and the Judges of the United States District Court for the District of Arizona continue to balance the various interests implicated by the COVID-19 public health emergency, and find that the current guidance of public health officials allows for a modification in court operations to permit the resumption of limited in-court proceedings;

NOW THEREFORE, the United States District Court for the District of Arizona, orders the following effective immediately:

**Flagstaff Courthouse**

1. The COVID-19 virus being very prevalent in Apache, Navajo and Coconino Counties which are all served by the Flagstaff Courthouse, the partial closure of that courthouse set forth in GO 20-16 and extended through GO 20-19 and GO 20-25 is extended through and including Tuesday, June 30.
2. Given the limited space available for jury selection in the Flagstaff Courthouse, all jury trials in Flagstaff are postponed through July 31, 2020.
3. VTC and telephonic proceedings are authorized to occur in the Flagstaff Courthouse to the full extent authorized by the CARES Act upon the required findings of the

designated district judge or the Chief Judge or his designee.

4. Civil Violations Bureau cases in Flagstaff, Kingman, Page, and the Grand Canyon may proceed if the number of persons involved in such matters is reduced to comply with CDC guidelines.

### **Yuma Courthouse**

1. The Yuma Courthouse having recently dealt with exposure to COVID-19, and the number of new cases of COVID-19 having recently spiked in Yuma County, the limited authorization to conduct proceedings set forth in GO 20-15 is extended through and including Tuesday, June 30.
2. VTC and telephonic proceedings are authorized to occur in the Yuma Courthouse to the full extent authorized by the CARES Act upon the required findings of the designated district judge or the Chief Judge or his designee.
3. Multi-defendant proceedings such as operation streamline remain canceled until further notice.
4. Civil Violations Bureau cases may proceed if the number of persons involved in such matters is reduced to comply with CDC guidelines.

### **Tucson and Phoenix Courthouses**

1. As of June 1, 2020, the moratorium on hearings and on jury and other trials in the Tucson and Phoenix Courthouses is partially lifted. Nevertheless, only those jury trials, whether criminal or civil, set forth as Exhibits A and B in the accompanying Administrative Order of the Court shall occur in June and July in the Tucson and Phoenix Courthouses. All jury trials shall proceed according to the requirements set forth later in this order.
2. Initial Appearances, preliminary hearings, detention hearings, changes of plea and sentencings and all other matters involving detained persons shall continue to occur from CoreCivic by video-teleconference or teleconference, to the extent possible, as authorized by the CARES Act.
3. VTC proceedings in criminal cases will be given priority over requests for VTC

access in civil cases should capacity limits be approached.

4. Multi-defendant proceedings such as operation streamline and the Court's flip-flop calendar remain canceled until further notice.
5. Grand Jury proceedings in the Phoenix and Tucson Courthouses shall not resume prior to June 16 in Phoenix and June 17 in Tucson subject to further postponement depending upon public health developments. Further, prior to the resumption of grand jury operations within the courthouse, the United States Attorney shall review with and receive the approval of the Court on how to conduct such operations pursuant to adequate social distancing standards and other CDC protocols.
6. Civil Violations Bureau cases may proceed if the number of persons involved in such matters is reduced to come into compliance with CDC guidelines.
7. Evidentiary hearings and change of plea hearings for out-of-custody defendants may proceed if the hearings can be held in compliance with CDC guidelines. Such hearings should be scheduled, if possible, within the time scheduled for each judges' VTC block. If not possible, scheduling for the in-person hearing should be coordinated with the Clerk of Court so as to facilitate efficient use of space and resources.

#### **Public Access to Courthouses Within the District of Arizona**

The public may be admitted to the courthouses according to the following conditions and under the following specified circumstances:

1. All non-case related activities remain canceled. This cancellation includes naturalization ceremonies, mock trials, CLE events, school tours, and all other non-case related gatherings. Small attorney-admission ceremonies for a number of persons in compliance with CDC guidelines may be scheduled with the Court.
2. The customer service counters in the Clerk's Offices in Phoenix, Tucson, and Yuma shall remain closed to the public through Friday, June 12, 2020, unless otherwise ordered.
3. No person who is or should be subject to isolation or quarantine is authorized to

enter the courthouse.

4. No person who has a fever, cough, sore throat, shortness of breath, unusual muscle pain, recent loss of taste or smell, nasal congestion or a runny nose (unless due to known allergies) is authorized to enter the courthouse.
5. No person shall be admitted to the courthouse without a mask, which shall be worn at all times while in the courthouse. Cloth masks are acceptable. Repeat visitors to the Court, including attorneys, will be expected to provide their own masks. Masks shall be provided to potential jurors and other one-time visitors to the Court who have not brought their own masks. Other tenants of the courthouse or those coming to interact with such tenants shall provide their own masks.
6. All persons shall maintain a distance of at least six feet between themselves and other persons.
7. No more than four persons shall be on an elevator at any one time.
8. No more than two members of the public at any one time shall be admitted to the Flagstaff Courtroom consistent with GO 20-16.

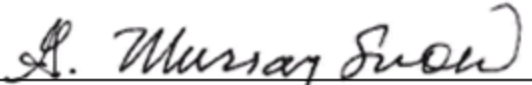
### **Protocols for Hearings and Jury Trials**

1. All persons attending hearings or trials shall wear masks. During in-court proceedings, a judge may authorize removal of masks or face coverings for purposes of witness testimony, defendant identification, making an appropriate record or other reasons as deemed necessary by the judge provided that appropriate social distancing or other protective measures are followed.
2. Except in multi-defendant cases, no more than one attorney and one client or client representative shall sit at counsel table at any one time. They shall be appropriately socially distanced.
3. Public seating areas in courtrooms will be marked with an “X” on the bench to designate places in which persons may sit. Persons may not sit closer than such designations.
4. No more than ten persons can be seated in the public seating area of the courtroom

at any one time. This number may be diminished if the needs of the jury and/or the parties require the use of part or all of the public seating area in the courtroom.

5. Stanchions will be set up within the courtroom to maintain adequate social distancing between the bench, the jury box, and that section of the public seating area that must be converted to a jury box to accommodate social distancing within the jury.
6. During trial the jury shall use both jury rooms adjacent to the courtroom in assembling and during breaks to promote social distancing. Each juror shall be assigned to one of the two jury rooms. In Tucson, jury trials shall be held in the Special Proceedings Courtroom and Courtroom 5B, with juror access to the jury rooms associated with Courtrooms 5A and 5B. In Phoenix, jury trials shall be held in courtrooms 505 or 604, with juror access to the jury rooms on the corridors of those two courtrooms.
7. At the end of the trial, the Court shall close the courtroom and the jury shall conduct its deliberation in the courtroom.

DATED this 28<sup>th</sup> Day of May, 2020.

  
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G. Murray Snow  
Chief United States District Judge

MAY 28, 2020

CLERK US DISTRICT COURT  
DISTRICT OF ARIZONA  
BY s/ M. Everette DEPUTY

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

**IN RE: COURT OPERATIONS BASED ON CIRCUMSTANCES CREATED BY  
CORONAVIRUS DISEASE (COVID-19)**

**ADMINISTRATIVE ORDER**

1. Other than trials, all civil matters that can proceed telephonically or in person without any other technical resources or assistance, that can also be conducted according to the social distancing guidelines set forth herein and in GO 20-26, can proceed at the discretion of the judge and in the judge's assigned courtroom if not otherwise scheduled. Only two trials can occur at any one time in any courthouse, whether they be civil or criminal trials. In Tucson, all trials shall be held in either the Special Proceedings Courtroom (SPC) or Courtroom 5B. In Phoenix, all trials shall proceed in either courtrooms 505 or 604. As a matter of course, other evidentiary hearings which are required to proceed in the interests of justice shall also be held in these designated courtrooms. Necessary exceptions must be coordinated with the Clerk of Court as far in advance as possible. Limitations in the use of other courtrooms are required due to the necessity of maintaining criminal VTC proceedings, the limited space in which juries can be selected, and limitations on where they can assemble after selected, the availability of staff in the courthouse, the cost and time involved in sanitizing courtrooms and the availability of courtrooms.
2. As of June 1, 2020, the moratorium on hearings and on jury and other trials in the Tucson and Phoenix Courthouses is partially lifted. Nevertheless, only those jury trials, whether criminal or civil, set forth as Exhibits A and B to this Administrative Order shall occur in June and July 2020 in the Phoenix and Tucson Courthouses. All jury trials shall proceed according to the requirements set forth later in this order and in General Order 20-26.
3. To the extent limitations in VTC capacity exist, all felony criminal matters take precedence

over all civil matters. Civil jury trials shall take precedence over other civil matters.

4. Judges and parties shall use questionnaires to pre-screen potential jurors for bias, hardship, availability and for those whose jury service would substantially and materially affect the public welfare in an adverse manner. Such persons whose selection might affect the public welfare include but are not limited to, those who report a COVID-19 diagnosis, symptoms, or notification by a public health official of exposure to COVID-19, those who reside with those who are highly vulnerable to COVID-19, or those who are healthcare professionals or first responders for whom there is a present extraordinary need.
5. The judge and the parties, in coordination with the jury office, should meet sufficiently in advance of trial and after return of the jury questionnaires to agree upon jurors that can be excused so as to limit the number of potential jurors that need to be brought into the courthouse, while maintaining a representative jury pool.
6. In Phoenix, all jury selections, whether of criminal or civil juries, shall proceed in either the SPC, which is preferred, or, if necessary, the jury assembly room. In Tucson, all jury selections shall occur in the SPC. In Flagstaff, jury selection shall occur in the courtroom.
7. The Phoenix SPC seats a maximum of 43 potential jurors using appropriate social distancing. The Tucson SPC seats a maximum of 46 potential jurors using appropriate social distancing. The maximum number of potential jurors using appropriate social distancing for the Flagstaff courtroom shall be determined and provided to the judges. If the number of prospective jurors to be brought into the courthouse cannot be reduced to 43 in Phoenix, 46 in Tucson, or the capacity in Flagstaff, the Court will inform the clerk's office as soon as possible to make the jury assembly room, or an alternate location, available.
8. Not more than one jury shall be selected per day in each courthouse.
9. Once the jury is selected the jury trial may proceed in one of the courtrooms specified in paragraph 1 above.
10. To provide the necessary social distancing both jury rooms adjacent to that courtroom shall be used to allow the jury to assemble and take necessary breaks during trial. In Tucson,

when the SPC is used for trial the attached jury room is sufficiently large to accommodate social distancing.

### **Courthouse Employee Protocols**

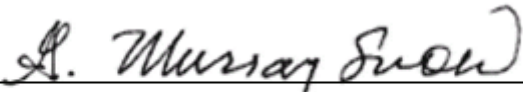
Once the number of COVID-19 cases in each community in which there is a federal courthouse has dropped low enough to warrant a phased return to work, federal employees shall begin to resume their normal work routines subject to the following protocols, conditions and requirements:

1. Working Teams – The supervisor of each working unit shall divide into two teams those employees who have been working remotely but whose normal work location is the courthouse. In designating the teams, supervisors shall take into account those employees who are vulnerable, otherwise exposed, who live with high-risk persons or who otherwise require special considerations or accommodation. For the time being, those persons should not be assigned to either team but should be authorized to continue working remotely. Remote staff will be available for deployment to the courthouse in the event that on-site staff are limited in their ability to come to work.
2. On the first week of the phased return, one of the two teams shall return to work at the courthouse, the other will remain working remotely. The next week, the second of the two teams will work at the courthouse while the first team returns to remote work. This alternating work pattern shall remain in place until it is deemed safe for all employees to return to work, or until the public health situation requires other adjustments. During the period of the alternating work teams, personnel will not be able to work exclusively for the judges to whom they are normally assigned.
3. Health Certification. Each morning when signing on to her or his computer screen, each employee working in the courthouse shall have to certify that he or she does not have a fever, cough, chills, sore throat, shortness of breath, difficulty breathing, unusual muscle aches, recent loss of taste or smell, nasal congestion or a runny nose that he or she is not sure is attributable to allergies.
4. All employees shall wash or sanitize their hands frequently. Employees should wash hands

every time they go into or come out of a group environment and every several hours while they are in such an environment.

5. All employees shall maintain a distance of six feet between themselves and their co-workers and shall implement measures that facilitate social distancing. For example, employees shall continue to meet telephonically where possible, and shall keep necessary in-person meetings brief.
6. All employees shall wear masks while in any public area of the courthouse, or whenever they are within the proximity (closer than six feet) to any other employee.
7. Gloves will be made available in the clerk's office, probation office, pretrial services office, and every courtroom so as to be accessible to all employees and members of the public who wish to use them.

DATED this 28<sup>th</sup> day of May, 2020.

  
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G. Murray Snow  
Chief United States District Judge

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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF ARIZONA**

In the matter of:

COURT OPERATIONS UNDER THE  
EXIGENT CIRCUMSTANCES CREATED  
BY COVID-19 AND RELATED  
CORONAVIRUS

**GENERAL ORDER 20-3**

This General Order is being issued in response to the recent outbreak of Coronavirus Disease 2019 (COVID-19) and the well-documented concerns surrounding this virus. The President of the United States has declared a public health emergency in response to the spread of the COVID-19 virus and the Governor of the State of Arizona has declared a public health emergency throughout the state. In order to protect public health through the aim of reducing the size of public gatherings, as well as balancing the fair administration of justice, **effective immediately:**

1. Unless otherwise ordered, all trials and hearings which require the presentation of evidence, including witness testimony, that are currently scheduled between the dates of March 18, 2020 and April 10, 2020 before the United States Bankruptcy Court for the District of Arizona, are vacated and will be reset by order of the Judge assigned to the case. All associated pre-hearing and pre-trial deadlines will likewise be reset to track the rescheduled trial date.

2. All other hearings, unless otherwise ordered or unless otherwise stated herein, which are calendared between March 18, 2020 and April 10, 2020, shall remain on calendar but shall be conducted telephonically, with no live appearances permitted in the courtrooms. Parties are to follow each judge's procedures regarding telephonic appearances, which information is available at the following link: <http://www.azb.uscourts.gov/procedures>.

3. All mediations scheduled between March 18, 2020 and April 10, 2020 shall be conducted telephonically or reset to a later date by the judge assigned to the settlement.

4. All non-case related events currently scheduled to be conducted in the Bankruptcy Court courthouses within the District of Arizona are cancelled pending further notice.


This Order does not affect other aspects of Bankruptcy Court operations within the District of Arizona. Parties are advised to closely monitor the Court's website at the following link to stay apprised of future developments impacting Bankruptcy Court operations and case administration: <http://www.azb.uscourts.gov/>.

This General Order may be vacated, amended, or extended as necessary.

**IT IS SO ORDERED.**

Dated this 18 day of March, 2020.

FOR THE COURT:

  
Honorable Brenda Moody Winery, Chief Judge

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF ARIZONA**

**Videoconference Hearing Guidelines**

**IMPORTANT REMINDER:** Persons participating in court proceedings are reminded that photographing, recording, and rebroadcasting court proceedings in any way, for any purpose, including, but not limited to, “screen shots” and streaming, is absolutely prohibited. Violation of these prohibitions may result in sanctions which may include, among others, denial of entry to or restricted entry to future hearings.

**Before Every Videoconferencing Court Session**

- Connect your device to power.
- Turn off all audio disruptions on all devices/computers in the room (phones, messaging alerts, email alerts, etc.).

**Zoom Support and Guidance**

It is not necessary to establish an account with Zoom in order to participate in videoconference hearings. Individuals unfamiliar with Zoom may access articles as well as instructional videos at <https://support.zoom.us/hc/en-us>. Instructions for video settings can be accessed at <https://support.zoom.us/hc/en-us/sections/200521865-Video>. Instructions for audio settings can be accessed at <https://support.zoom.us/hc/en-us/sections/200319096-Audio>. The Court recommends that participants become familiar with Zoom controls for attendees well in advance of any scheduled hearing. An overview of attendee controls can be found at <https://support.zoom.us/hc/en-us/articles/200941109-Attendee-controls-in-a-meeting>.

You can participate in a Zoom videoconference hearing through an internet browser (Chrome is recommended) located on a computer or other internet-connected device (e.g. smartphone or tablet). Due to functionality limitations with smartphones and tablets, the Court strongly suggests that videoconference appearances be made on a computer.

1. You may download and install the Zoom desktop client for Windows or Mac at <https://zoom.us/support/download>.
2. You may download and install the Zoom Mobile App for iPhone/iPads at <https://support.zoom.us/hc/en-us/articles/201362993-Getting-Started-with-iOS>; or for Android devices at <https://support.zoom.us/hc/en-us/articles/200942759-Getting-Started-with-Android>.
3. You also have the option to attend a Zoom hearing, without installing any Zoom software, using the Zoom web client. Instructions for the Zoom web client can be accessed at <https://support.zoom.us/hc/en-us/articles/214629443-Zoom-web-client>. Participants accessing a hearing via the Zoom web client may be required to sign up for a Zoom account.

## Required Equipment for Participation in Zoom Videoconference Hearings

Attorneys, parties, witnesses, and any other interested parties who wish to enter an appearance or address the Court (“Participants”) must appear at Zoom videoconference hearings via the Zoom for Government videoconference platform. In order to participate in a Zoom videoconference hearing (with video and audio), each Participant must have the following:

1. Access to a computer or other internet-enabled device equipped with:
  - a. a camera capable of sending and receiving video via Zoom; and
  - b. a microphone and speakers capable of sending and receiving audio via Zoom or telephone; and
  - c. internet browsing software that will accommodate Zoom; and
  - d. a stable internet connection with bandwidth sufficient to support Zoom.

More information regarding equipment and system requirements can be found at [https://support.zoom.us/hc/en-us/articles/201362023-System-requirements-for-Windows-macOS-and-Linux#h\\_a79491c9-bcd0-4ce5-97a2-3739971edf59](https://support.zoom.us/hc/en-us/articles/201362023-System-requirements-for-Windows-macOS-and-Linux#h_a79491c9-bcd0-4ce5-97a2-3739971edf59).

Participants who do not have a computer or internet-enabled device equipped with a microphone and speakers capable of sending and receiving audio via Zoom, may access the audio via a telephone using the AT&T teleconference line. Participants using cellular telephones are responsible for ensuring adequate service for consistently clear audio during the hearing.

Participants who lack the required equipment are to contact the judge’s courtroom deputy as soon as possible for further instructions. The contact information for the courtroom deputy can be found on the judge’s procedures page at <https://www.azb.uscourts.gov/procedures>.

## Testing your Equipment/Connecting with the Court

You may be required to conduct a test of your audio and video equipment prior to a videoconference hearing. Please consult the Scheduling Order or the Notice of Videoconference Hearing for the date and time of the test.

You can find a short video instructing you on how to join and configure your video and audio at <https://www.youtube.com/watch?v=-s76QHshQnY&feature=youtu.be>. Ensure that your equipment is ready to conduct the test and only test with the same equipment you intend to use on the day of the videoconference hearing.

## Participation in a Videoconference Hearing

Participants may join the videoconference hearing through the Zoom platform, using one of the following options:

1. **Participation via Zoomgov.com:** Participants may join the videoconference hearing by navigating to <https://www.zoomgov.com/>. Click on “Join a meeting,” then enter the hearing ID and passcode. The hearing ID and passcode can be found in the Scheduling Order or the Notice of Videoconference Hearing. You may also receive an email with the hearing ID and passcode. Zoom will then automatically download and launch.
  - a. Ensure that your full name (First & Last Name) is displayed for the record.
  - b. Microphones are to be on mute when not addressing the Court.
2. **Participation via Hearing Link:** Participants may join the videoconference hearing by clicking on the link for the hearing, after which Zoom will automatically download and launch. The

hearing link can be found in the Scheduling Order or in the Notice of Videoconference Hearing. You may also receive an email with the hearing link.

- a. Ensure that your full name (First and Last Name) is displayed for the record.
- b. Microphones are to be on mute when not addressing the Court.

## Monitoring or Listening to a Videoconference Hearing

Interested parties that simply wish to monitor the videoconference hearing, without entering their appearance or addressing the Court or parties in any way, may observe through the Zoom platform or listen only via telephone, using one of the following options:

1. **Monitor via Zoomgov.com:** Any interested party may observe the videoconference hearing by navigating to <https://www.zoomgov.com/>. Click on “Join a meeting,” then enter the hearing ID and passcode. The hearing ID and passcode can be found in the Scheduling Order or the Notice of Videoconference Hearing. You may also receive an email with the hearing ID and passcode. Zoom will then automatically download and launch.
  - a. Thereafter, and for the duration of the hearing, the microphone is to be muted and the video is to be turned off. Instructions for muting the microphone and turning video off can be found at <https://support.zoom.us/hc/en-us/articles/200941109-Attendee-controls-in-a-meeting>.
2. **Monitor via Hearing Link:** Any interested party may observe the videoconference hearing by clicking on the hearing link. The hearing link can be found in the Scheduling Order or the Notice of Videoconference Hearing. You may also receive an email with the hearing link. Zoom will then automatically download and launch.
  - a. Thereafter, and for the duration of the hearing, the microphone is to be muted and the video is to be turned off. Instructions for muting the microphone and turning video off can be found at <https://support.zoom.us/hc/en-us/articles/200941109-Attendee-controls-in-a-meeting>.
3. **Listen via Telephone:** Any interested party may listen to the videoconference hearing by calling the AT&T teleconference line and entering the access code when prompted. The AT&T teleconference line and access code can be found in the Scheduling Order or the Notice of Videoconference Hearing.
  - a. Thereafter, and for the duration of the hearing, the caller is to mute their phone.

## Presenting Evidence in a Videoconference Hearing

Parties presenting evidence in a Zoom videoconference hearing will be sharing their screens with the Court. Instructions for sharing screens can be found at <https://support.zoom.us/hc/en-us/articles/201362153-Sharing-your-screen>.

## Recommendations

- Plug into a good power source prior to your Zoom hearing. Avoid using battery power only (laptops, etc.), in order to avoid battery shutdown during the hearing.
- Avoid using a mobile device if possible. Although tablets (e.g. iPads) and smartphones can be used, they offer limited functionality, and the performance is inferior.
- Connection via a hard-wire Ethernet cable is preferred, as it will always be faster and more reliable than Wi-Fi. Avoid using Wi-Fi if possible, however, if you must use Wi-Fi, make sure you are in close range to the Wi-Fi router.
- Avoid running any unnecessary applications besides Zoom, in order to conserve your computer’s processing power and networking.

- Zoom requires a stable internet connection, with sufficient bandwidth. Avoid sharing your network with others during the hearing if possible.
- Avoid poor camera positioning and poor lighting. Frame yourself so that you take up most of the screen and the camera is at eye level. Avoid having a bright light source, including windows, behind you.
- Avoid distracting real or virtual backgrounds. An example of a suitable virtual background is: <https://www.cand.uscourts.gov/wp-content/uploads/2020/04/ZoomGrey01.jpg>
- Avoid using an open microphone and speakers (such as are built into laptops, or a webcam microphone). Instead, use a good quality headset (headphones with microphone), which will help ensure that you can be heard and can hear others.
- Avoid noisy and echoing locations. Use of a headset will improve audio quality when this is unavoidable.

## Etiquette

Though held remotely, videoconference hearings constitute judicial proceedings. Formalities of a courtroom, including the following, will be observed:

- Participants must dress and conduct themselves as if they are in a physical courtroom.
- During the hearing, every participant must be located in a quiet, secure room that is free from audio and visual distractions.
- Participants must ensure their proper legal name (First and Last Name) is shown on the ID screen while in Zoom.
- Participants should be cognizant of the lighting in the room where they are located; avoid shadows, sitting in front of a window or having any light source visible on your screen. The best background is a solid background or wall. Use of an *appropriate* virtual background is acceptable for those not appearing from a business setting.
- Participants must mute their microphones when not speaking during the hearing.
- Participants may not use speakerphones.
- While testifying, witnesses must situate themselves in such a manner as to be able to both view the video feed and be seen by the Court.
- Participants are to look into the camera when speaking.
- While testifying, witnesses may not participate in or be subject to any direct or indirect communication with anyone other than with the examiner and/or the Court, and must not read from documents that have not been admitted into evidence (other than to address foundational questions). Parties and their counsel may communicate privately other than during the parties' examination.

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

DAVE KEARNEY, JAMES BARR, TONY  
TROSCLAIR, RONALD ROTHROCK,  
COURTNEY LOUGHREY, and KARA  
FINCH, on behalf of themselves and all  
others similarly situated,

Plaintiffs,

v.

BAYERISCHE MOTOREN WERKE  
AKTIENGESELLSCHAFT, and BMW of  
NORTH AMERICA, LLC,

Defendants.

Case No. 2:17-CV-13544-MCA-MAH

**PROTOCOL GOVERNING REMOTE DEPOSITIONS**

**I. SCOPE**

1. The procedures and protocols outlined herein shall govern any deposition in the above-referenced Action, whether party or non-party, that is conducted via video or internet video conference technology, and where the witness and one or more examining attorneys are in different physical locations at the time of the deposition (“Remote Deposition”).

2. Remote Depositions will be conducted in accordance with the Federal Rules of Civil Procedure and the Local Rules of this Court.

3. Pursuant to Federal Rule of Civil Procedure 30(b)(4) and (5), Remote Depositions shall be deemed to be taken before an appropriate officer even if the court reporter is not in the same physical location as the witness, provided that the court reporter attends the deposition by the same remote means as other Deposition Participants (defined below) and is able to hear and communicate with other Deposition Participants. The Parties agree that the court reporter may administer the oath remotely and that exhibits may be marked and entered into the record remotely.

4. This Protocol does not supersede, supplant, or in any way alter the terms of the Protective Order entered in this Action (the “Protective Order”). The Protective Order remains in effect and will govern the Remote Depositions conducted under this Protocol.

5. As used in this Protocol, the term “Deposition Participants” means all persons attending a Remote Deposition and includes, as applicable: (i) all Plaintiff counsel; (ii) all Defendant counsel; (iii) counsel for any third-party subpoenaed for deposition; (iv) the witness; (v) the witness’s counsel; (vi) in-house counsel for any party; (vii) the court reporter; (viii) the videographer; (ix) an interpreter, if necessary; and (x) any other participant agreed upon by the Parties.

6. Pursuant to Federal Rule of Civil Procedure 30, the deposition notice for any Remote Deposition shall identify the court reporting service that will host and record the Remote Deposition (the “Remote Deposition Vendor”) and contain a general description of how Deposition Participants may access the Remote Deposition.

## **II. REMOTE DEPOSITION PLATFORM**

7. The Remote Deposition will be hosted by the Remote Deposition Vendor’s remote deposition platform. Hosting and co-hosting privileges will not be given to any Deposition Participant aside from the Remote Deposition Vendor’s personnel assigned to the proceeding.

8. The party noticing the Remote Deposition will instruct the Remote Deposition Vendor to register Deposition Participants for the Remote Deposition in advance of the deposition, based upon a list of Deposition Participants, as provided by each party. Only Deposition Participants registered by the Remote Deposition Vendor will be permitted to enter the Remote Deposition, which will require a password.

9. Prior to the commencement of any Remote Deposition, the deposition witness may participate in a training with the Remote Deposition Vendor to familiarize himself or herself with the Remote Deposition Vendor's remote deposition platform. Counsel for the witness may attend this training. Any Deposition Participant may request a separate training from the Remote Deposition Vendor prior to the commencement of a Remote Deposition.

10. Prior to the commencement of a Remote Deposition, all Deposition Participants must confirm in writing that they: (i) have sufficient internet bandwidth to participate in the Remote Deposition; (ii) are not aware of any issues that would impair or interrupt their ability to participate in the Remote Deposition; and (iii) have tested the equipment that will be used to conduct the Remote Deposition and are sufficiently familiar with the Remote Deposition Vendor's remote deposition platform. In addition to the foregoing, prior to the commencement of a Remote Deposition, the witness shall also confirm in writing, through his or her counsel, that he or she has a suitable location for the deposition, including a quiet, well-lit, indoor location with a clean, neutral wall to use as a background.

11. Prior to a Remote Deposition, any Deposition Participant may request that the Remote Deposition Vendor arrange for virtual break-out rooms. Only those individuals registered for a particular virtual break-out room will be permitted into the virtual break-out room, with the exception of the Remote Deposition Vendor's technical personnel, as necessary.

12. Prior to or during a Remote Deposition, any Deposition Participant may request from the Remote Deposition Vendor access to RealTime transcription for use during the deposition.

13. The only recording of the Remote Deposition, whether audio or visual, will be through the Remote Deposition Vendor, which will record the Remote Deposition using the best

available technological means. The Parties and Deposition Participants may not use any other means, whether audio or visual, to record the Remote Deposition. The Parties will instruct the Remote Deposition Vendor to record only when the deposition is on the record.

14. The Parties agree that the fact that a deposition took place remotely, and was recorded remotely, is not a sufficient basis to prevent the recording of the Remote deposition from being admitted at trial with the same effect as the recording of an in-person deposition.

15. At least 24 hours prior to the commencement of the Remote Deposition, the Party that noticed the deposition must circulate an email to all registered Deposition Participants establishing an alternative means of communication among the Deposition Participants in the event that technical issues prevent them from communicating within the Remote Deposition Vendor's remote deposition platform.

16. To host a Remote Deposition, a Remote Deposition Vendor must have implemented adequate security measures to ensure the confidentiality of the Remote Deposition, video and audio feeds, and exhibits. These security measures include using tools such as a "virtual waiting room," which allows the court reporter to admit only individuals authorized to attend the deposition, and disabling the "record feature" in the Remote Deposition Technology for the witness and all Deposition Participants.

17. The Parties agree to confer in good faith regarding the start time for depositions. Unless otherwise agreed to by the Parties or ordered by the Court, Remote Depositions shall be conducted during normal business hours within the witness's local time zone and shall be subject to the aggregate time limitations set forth in Federal Rule of Civil Procedure 30(d)(1). Reasonable accommodations will be made if there are time differences among the locations where the witness and any deposition participant are located such that the deposition will not commence prior to 7:00

a.m. in the earliest time zone. If a party believes that more than seven (7) hours will be required to fairly examine a witness, or if technical difficulties impede the examining attorney's ability to fairly examine the witness in seven (7) hours, the Parties agree meet and confer about whether additional time should be allocated for that deposition. Where the witness has restrictions on the length of time he or she may sit for a Remote Deposition, the witness's counsel shall notify counsel for the noticing party in advance of the Remote Deposition so that the Parties may confer on a schedule to complete the deposition.

### **III. EXHIBITS**

18. Any document that may be used as an exhibit during the deposition shall be transmitted by the examining attorney to all Deposition Participants electronically through the Remote Deposition Vendor's remote deposition platform during the course of the Remote Deposition.

19. Deposition exhibits shall be transmitted to all Deposition Participants in a manner that will enable them to review: (i) the entire contents of each exhibit; and (ii) all exhibits introduced during a Remote Deposition at any time during the Remote Deposition.

20. That a witness was provided with an electronic copy of an exhibit as part of a Remote Deposition shall not be a basis to object to the admissibility of that exhibit at trial.

### **IV. DEPOSITION CONDUCT**

21. Each Party's counsel (and counsel for the witness, if applicable) shall designate one attorney to be the only speaker during the Remote Deposition while the deposition is on the record. All other Deposition Participants, aside from the witness and Remote Deposition Vendor's personnel, as necessary, must set their audio on "mute" when the deposition is on the record. In addition, the witness shall enable "do not disturb" settings for all applications not in use on their

electronic devices, including but not limited to text message and e-mail notifications. While on the record, the applications that are necessary to connect to the Remote Deposition and to view marked exhibits shall be the only applications running on the electronic device that the witness uses to connect to the Remote Deposition.

22. During the deposition examination, the witness shall not be permitted to engage in private communications with any person, including any Deposition Participant, in any manner that is not recorded in the same manner as the deposition itself (i.e., no emails, text messages, WhatsApp messages, or any other type of electronic or in-person communication). Any Deposition Participant may make reasonable requests for recesses as customary in non-remote depositions, which shall be granted as customary in non-remote depositions. During any break in the deposition examination, the witness's counsel may communicate with the witness via telephone, email or any other means of communication allowable under the Federal Rules of Civil Procedure and the Local Rules of this Court. If a Deposition Participant becomes aware of any private conversations outside of those that are permitted or customary during breaks in non-remote depositions, they will immediately alert the conversing parties.

23. Unless and only if instructed to do otherwise by the Remote Deposition Vendor's personnel, the witness shall not put his or her videoconferencing window on mute or turn off his or her video camera during a Remote Deposition, except when the deposition is off the record.

24. Any Deposition Participant reserves the right to halt the deposition due to technical issues that prevent (i) the accurate transcription or video recording of the witness's testimony; (ii) the ability to remotely introduce or view exhibits; or (iii) a Deposition Participant from hearing audio or seeing video of the deposition. The Deposition Participants and the Remote Deposition Vendor will be allowed a reasonable opportunity to correct any such technical issues. If the issue

cannot be corrected, absent a protective order by the Court, deposing counsel shall have the right to decide whether to continue to conduct the Remote Deposition solely via telephone or to continue the deposition, either in-person (it permitted by then-existing health conditions imposed by the COVID-19 Pandemic) or remotely, at a later date or time, subject to the requirements of the Federal Rules of Civil Procedure. Any decision by deposing counsel to continue with an examination by telephone only shall not be cause for taking a second examination of the witness.

25. If the witness's counsel or in-house counsel is present in the same physical location as the witness during a Remote Deposition, such counsel shall either: (i) separately log into the remote deposition platform so that all Deposition Participants can both see and hear them; or (ii) ensure that a camera view is maintained at the witness's physical location that includes the witness, the witness's counsel and/or in-house counsel. The witness shall not wear a mask or otherwise obscure their face while testifying on the record.

26. Deposition Participants will make best efforts to conduct the Remote Deposition in a manner that allows deposing counsel to fully ask questions, all defending counsel to fully make any objections and fully ask any redirect questions, witnesses to complete their answers, and the court reporter to accurately transcribe the deposition, being mindful of audio delays and related challenges inherent in any video-conferencing platform.

27. All parties shall act in good faith to fulfill the letter and spirit of this Remote Deposition protocol. In the event that any issues in connection with a Deposition Participant or these Remote Deposition Protocols cannot be resolved consensually, subject to the Court's availability, the parties shall have the right to seek a telephonic hearing with this Court on an expedited basis.

DATED: August 5, 2020

/s/ Douglas H. Amster

Douglas H. Amster

Gene K. Kaskiw

**LEWIS BRISBOIS**

**BISGAARD & SMITH LLP**

One Riverfront Plaza, Suite 800

Newark, New Jersey 07102

Douglas.Amster@lewisbrisbois.com

Eric Y. Kizirian (*Pro Hac Vice*)

**LEWIS BRISBOIS**

**BISGAARD & SMITH LLP**

633 West 5th Street, Suite 4000

Los Angeles, California 90071

Eric.Kizirian@lewisbrisbois.com

Attorneys for Defendants

BMW of North America, LLC and

Bayerische Motoren Werke

Aktiengesellschaft

Respectfully submitted,

/s/ Joseph H. Meltzer

Joseph H. Meltzer

Melissa L. Troutner

Donna Siegel Moffa

Tyler S. Graden

**KESSLER TOPAZ**

**MELTZER & CHECK, LLP**

280 King of Prussia Road

Radnor, PA 19087

Telephone: (610) 667-7706

jmeltzer@ktmc.com

mtroutner@ktmc.com

dmoffa@ktmc.com

tgraden@ktmc.com

James E. Cecchi

Lindsey H. Taylor

**CARELLA, BYRNE, CECCHI,**

**OLSTEIN, BRODY & AGNELLO, P.C.**

5 Becker Farm Road

Roseland, New Jersey 07068

Telephone: (973) 994-1700

jcecchi@carellabyrne.com

ltaylor@carellabyrne.com

Jason H. Alperstein

Mark J. Dearman

Christopher C. Gold

**ROBBINS GELLER**

**RUDMAN & DOWD LLP**

120 East Palmetto Park Road

Suite 500

Boca Raton, Florida 33432

Telephone: (561) 750-3000

jalperstein@rgrdlaw.com

mdearman@rgrdlaw.com

cgold@rgrdlaw.com

*Attorneys for Plaintiffs and the proposed Classes*

**IT IS SO ORDERED.**

DATED: \_\_\_\_\_

\_\_\_\_\_  
THE HONORABLE MICHAEL A. HAMMER  
UNITED STATES MAGISTRATE JUDGE

## Introduction

On June 1, 2020, Chief Judge Barbara M. G. Lynn in the Northern District of Texas conducted a federal jury trial using special precautions in light of COVID-19. Despite the many obstacles the Court faced in completing a jury trial during a worldwide pandemic, the experience seemingly demonstrates that it is possible to conduct such a trial safely and fairly. The Court took many measures for the safety of all participants, attempting to ensure that everyone at the trial felt safe and could focus on the merits of the case rather than concerns about coronavirus. This handbook describes the experience and the safety measures put in place.

## Jury Selection

The first hurdle to conducting a jury trial during the coronavirus pandemic was seating a representative jury.

Three weeks before trial, the Court mailed jury summonses, “ability to participate” forms,<sup>1</sup> and confidential questionnaires<sup>2</sup> to 99 potential jurors.<sup>3</sup> The “ability to participate” form included not only the usual questions about eligibility and exemptions (e.g., asking whether the juror resides in the Division), but also about hardships related to coronavirus. Specifically, the form allowed jurors to indicate if they had been heavily impacted by coronavirus because (1) they or a family member were particularly at risk; (2) they had childcare or eldercare issues caused by coronavirus; or (3) they were a healthcare worker or someone who came into close contact with coronavirus patients because of work. The form also asked jurors to indicate whether, during jury service, they would want to wear a face covering, would not want to wear a face covering, or were indifferent. The confidential questionnaire contained additional questions about the case being tried (e.g., familiarity with potential witnesses) as well as questions related to coronavirus, such as whether the juror had tested positive for coronavirus, if the juror would be willing to inform the Court if he or she was feeling ill, and how the juror felt about people who did or did not wear face coverings in public.<sup>4</sup>

The response rate from potential jurors was favorable given the circumstances. Of the 99 questionnaires mailed to potential jurors, the Court eventually received 78 responses (though some were not received until the day of jury selection). Another three jurors notified Jury Services that they had moved out of the District, for a total response rate of over 80%.

Approximately 10 days before trial, the Court used a secure website to provide counsel with potential jurors’ “ability to participate” forms and confidential questionnaires.<sup>5</sup> Based on the information provided in those materials, the Court asked the parties to agree on a list of jurors who should be excused prior to jury selection. The parties proposed excusing about 30 jurors, most of which the Court accepted. The

<sup>1</sup> This form is attached as Exhibit A. The coronavirus-related questions are on Page 1.

<sup>2</sup> This questionnaire is attached as Exhibit B. The coronavirus-related questions are on Pages 4–6.

<sup>3</sup> The Court initially ordered a pool of 100, but after the names were drawn, a check of the National Change of Address registry revealed that one juror had moved out of the Division, so only 99 potential jurors presumably received questionnaires.

<sup>4</sup> Under the circumstances, the Court was flexible in allowing counsel to add questions to the questionnaire. Having now had the chance to review the potential jurors’ responses, it is apparent that some of the questions were repetitive and did not prompt any particularly informative responses. In future trials, the Court will likely remove some of these questions, such as those asking how the juror felt about other people wearing face coverings in public.

<sup>5</sup> Forms and questionnaires received less than 10 days before trial were provided to counsel as soon as they were received. Counsel were under strict instructions to keep the jurors’ names and contact information confidential and to not contact the jurors by any method. Counsel were allowed, however, to research the potential jurors, including their social media sites, so long as the research was limited to public information.

parties appeared to be relatively generous in determining who to excuse, and they agreed to excuse several potential jurors who the Court likely would not have excused without agreement. The parties also requested follow-up information for several potential jurors about issues raised in their responses, such as whether a college student's class schedule conflicted with the trial<sup>6</sup> or the specific nature of a potential juror's concern about coronavirus. The Court created its own list of other jurors to contact regarding similar issues. Court staff made the follow-up phone calls to collect the necessary information and reported back to the parties, after which additional jurors were excused prior to the day of jury selection.

Culling the list of potential jurors in this way prior to jury selection allowed the Court to minimize the number of people who would have to appear at the courthouse, and ensured that none of those present had severe health risks.<sup>7</sup> Once excuses were granted, the Court was left with approximately 48 potential jurors who had responded to the summons and were expected to come to the courthouse for jury selection.

The Friday before jury selection, Jury Services randomized that group of 48 jurors. Normally the randomization would occur when the jurors checked in, but it was instead done in advance to minimize complications and contact on the day of jury selection. The potential jurors were then divided into three groups for jury selection. When the jurors called the Jury Services phone line after 3:00 p.m. on Friday, they received instructions based on their group number. Group 1 (jurors 1-16) was instructed to report at 7:45 a.m. Group 2 (jurors 17-32) was instructed to report at 11:00 a.m. Group 3 (the remaining jurors) was instructed to report at 2:15 p.m.

The recorded message informing jurors of their reporting times also instructed them to take their temperatures before leaving home. If they had a fever or otherwise felt ill, they were told to inform Jury Services and instructed not to come to the courthouse. The Clerk's Office obtained temperature strips in case any potential juror did not have a thermometer, but they did not need to be used. Ultimately, only three jurors called in sick on the day of jury selection, and only one of them had a fever.

<sup>6</sup> The Court was stricter in granting excuses to students than it otherwise would have been. Most of the students in the pool were taking online classes that were recorded and could be "made up" at a later date. Generally, the Court did not consider that a sufficient excuse to miss jury service in these circumstances.

<sup>7</sup> The Court offered to conduct jury selection remotely, via a web-based platform, which would have eliminated the need for anyone except the seated jurors to come to the courthouse. The Court would have made appropriate arrangements to accommodate any potential jurors who lacked the technology needed to participate. Ultimately, the Court decided against this option for this trial because the parties did not both agree to it, but doing so in the future remains a possibility, particularly with all parties' agreement.

When jurors arrived,<sup>8</sup> they were provided with a mask if they did not already have one and directed to the jury room. Yellow “social distancing” dots were placed on the ground, ensuring jurors remained at least six feet apart while standing in line for check-in. The employee working the check-in table was separated from potential jurors by a portable plexiglass shield placed on the table.



Tables were placed at the front of the room for Chief Judge Lynn and each of the parties. Rolling plexiglass panels were lined up in front of the tables to separate them from the potential jurors. Chairs for the jurors were spaced throughout the room to allow at least six feet between each participant. Before each session, the chairs were cleaned and disinfected, and juror numbers were clipped to the chairs to indicate which juror was assigned to which chair. Staff also placed a bag in each juror’s chair; each bag had a face shield with cleaning supplies,<sup>9</sup> gloves, a water bottle, a disposable juror badge, and instructions about social distancing and safe practices.

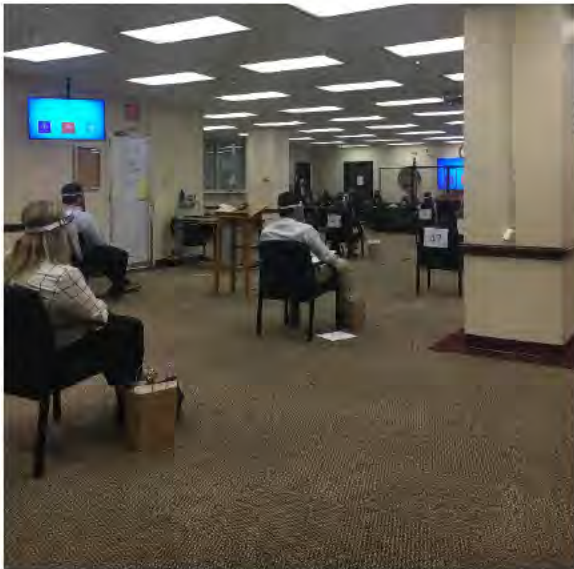


<sup>8</sup> Documents related to jury selection have been combined and attached as Exhibit C. Pages 1–3 describe the Court’s protocols. Pages 4–6 include pictures of the jury selection room and the protective equipment purchased by the Court. Pages 8–9 are the instructions for jurors while attending jury selection.

<sup>9</sup> The Clerk’s office obtained face shields from [REDACTED]

Once all jurors for a particular group had arrived, Jury Services gave them the usual jury orientation, including playing the jury video. The Court budgeted one hour for that process, after which Chief Judge Lynn and the parties arrived in the jury room to conduct *voir dire*.

Jurors were asked to wear the face shields provided to them instead of masks during jury selection, particularly when they were being questioned individually. Two podiums with microphones were placed in the room among the jurors.<sup>10</sup> The podiums were placed at least six feet away from any chair, and were placed in two different areas of the room to minimize the number of people a potential juror would have to pass to reach a podium. Most jurors were able to speak from their seats, but jurors were asked to use the microphones if there was a lengthy exchange or if the juror was soft spoken or near the back of the room. The microphones had microphone covers that ideally would be changed after each speaker.



The Court conducted most of the *voir dire* and then gave each side 15 minutes to conduct their own *voir dire*. The Court's *voir dire* included not only the usual issues, such as the burden of proof and the presumption of innocence, but also a section on coronavirus. The Court told the potential jurors about all of the measures it was taking (and would take throughout the trial) to ensure their safety. The Court also asked the jurors if there were any additional precautions that would help them feel safer. All but one participant felt the safety precautions were sufficient.<sup>11</sup> Each *voir dire* session lasted for approximately 90 minutes.

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Chief Judge Lynn obtained her face shield from

<sup>10</sup> Normally a court security officer would carry a portable microphone from juror to juror, so the stationary microphones reduced the contact between jurors and court personnel.

<sup>11</sup> One potential juror initially said she was satisfied with the safety measures, but later, under questioning from one of the parties, said coronavirus concerns would likely prevent her from focusing on the trial due to risk to her parents. That juror was excused.

At the close of each session, the Court instructed all jurors to call the Jury Services phone line after 7:00 p.m. that evening to learn whether they had been selected for the jury.<sup>12</sup> The Court also asked all jurors to be especially cautious about potential exposure to coronavirus as they went about their daily lives outside of the courthouse until they were released from jury service, so that they could be as protective as possible of their fellow jurors. The Court then released all of the jurors for the day except those who either the Court or the parties wanted to follow up with individually. Those jurors were asked to approach a microphone one at a time to answer questions, after which they were released. Once all jurors from a group were released, the Court heard and ruled on any challenges for cause. This allowed the Court to keep a running tally of the number of eligible jurors as the day progressed. After that process had been completed for Group 3, the Court gave the parties time to make their peremptory strikes. Ultimately, the Court was left with a sufficient number of eligible jurors that it was able to seat 12 jurors and 2 alternates. The Court also placed an additional 2 potential jurors “on call” in case any of the selected jurors did not return to the courthouse the next day.

Before jury selection, one of the parties expressed concern that the response rate would be low, especially among certain demographic groups, and that the available jurors would not be a “fair cross-section” of the community. However, these fears proved unsubstantiated. A table summarizing the demographic information of the jury pool as a whole, those who returned questionnaires, those who attended jury selection, and the seated jury (with alternates) is included below. Overall, there were no significant differences between these groups. Non-Hispanic whites comprised approximately 50% of each group other than the seated jury. The percentage of African Americans at each stage hovered around 15–20% but jumped to 36% of the seated jury. The percentage of Hispanics was fairly consistent at each stage at 21–30%. In a sample size as small as this, these kinds of minor variations are normal and most likely attributable to random chance. Even the seemingly large demographic shift in the seated jury is not unusual for a group of 14, since the addition or removal of one or two members of a given demographic will significantly influence the jury’s profile.

Women represented between 57% and 69% of each group, suggesting that men and women in the jury pool were about equally likely to actually attend jury selection and providing no evidence of a gender-based disparate impact from coronavirus on jury participation.

Finally, the average age was 40.2 for the jury pool as a whole, 40.6 for those who returned questionnaires, 40.1 for those who attended jury selection, and 38.1 for those on the jury. The fact that these numbers are so strikingly similar is essentially coincidental, but based on these statistics, there is no evidence to suggest that coronavirus has altered the age distribution of those able to participate in jury trials.

	<b>In Jury Pool</b>	<b>Returned Questionnaires</b>	<b>Attended Jury Selection</b>	<b>Seated Jury</b>
<b>Men</b>	35%	31%	41%	43%
<b>Women</b>	65%	69%	59%	57%
<b>Total</b>	100%	100%	100%	100%

<sup>12</sup> The jurors were informed they would be told one of three things. (1) They were selected for the jury and needed to appear the following morning at 8:00 a.m. (2) They had not been selected for the jury and their service was complete. (3) Call back the following Monday night for further instructions. The third option would have been necessary only if there were not enough eligible jurors remaining after all cause strikes, in which case the Court planned to combine the panel with jurors called for jury service the following week.

	<b>In Jury Pool</b>	<b>Returned Questionnaires</b>	<b>Attended Jury Selection</b>	<b>Seated Jury</b>
<b>White</b>	51%	48%	51%	36%
<b>Hispanic</b>	29%	30%	24%	21%
<b>African American</b>	15%	16%	20%	36%
<b>Asian American</b>	5%	6%	5%	7%
<b>Total</b>	100%	100%	100%	100%
<b>Average Age</b>	40.2	40.6	40.1	38.1

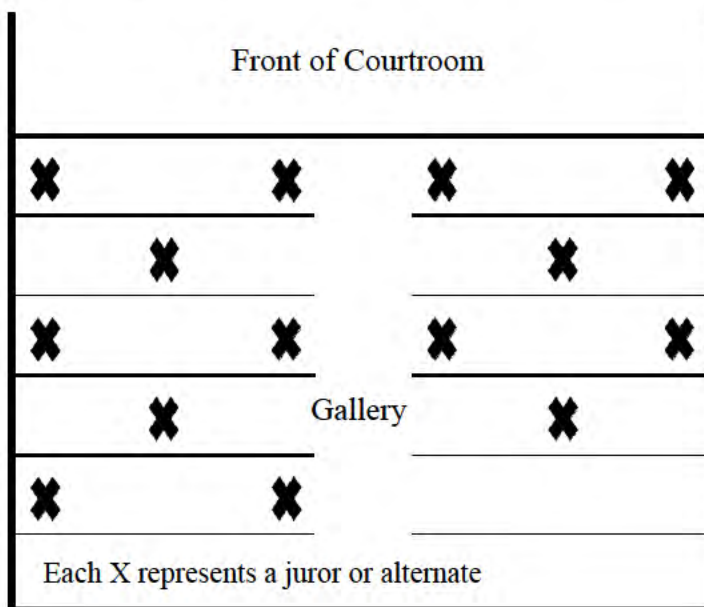
## Trial

Conducting the trial presented its own unique challenges. To meet those challenges, the Court reoriented the courtroom and enacted new safety protocols. The week prior to the trial, the Court held a hearing with counsel to discuss these changes and to answer any questions counsel had. The Court also issued an Order memorializing the changes, providing the parties with a brief summary of the safety precautions that would be used at trial. That Order is attached as Exhibit D.

Before trial begins, all participants (including jurors, counsel, and Court staff) should be instructed to take their temperatures every day before they leave for the courthouse. If someone has a fever, they should be told to call the Court, but they should not come to the courthouse. As mentioned previously, Chief Judge Lynn gave these instructions to potential jurors prior to jury selection, but in future trials she would instruct all trial participants to take their temperatures every day.<sup>13</sup>

The morning after jury selection, all 14 of the selected jurors arrived at the courthouse as requested. They rode elevators to Chief Judge Lynn's courtroom on the 15th floor, with a maximum of 2 people at a time in each elevator.

To facilitate social distancing, jurors sat in the gallery instead of in the jury box. A maximum of two jurors were seated on each bench, and seating was staggered in a "checkerboard" pattern so that no juror sat directly behind any other juror (this is depicted in a diagram below). Papers with juror numbers were placed on the benches prior to trial so that each juror would know where to sit when first entering the courtroom. Ideally, jurors should be lined up prior to entry into the courtroom so that the jurors sitting closest to the walls are able to enter first and do not have to pass jurors seated near the aisle. The Court again reminded jurors before they left for the evening that they should be as protective of their fellow jurors as possible by limiting their potential exposure to illness.



<sup>13</sup> If funding were available, it might be a good idea to have everyone's temperatures taken as they enter the building, but doing so was not feasible for this trial.

The witness testified from a seat in the jury box rather than the witness stand. This allowed the witness to enter the courtroom from the jury room, keeping the witness away from the central aisle and the seated jurors. The jury box was surrounded on two sides<sup>14</sup> by rolling plexiglass panels, and a new microphone was installed so the witness could clearly testify. To pass an item to a witness, counsel would place the item on the ledge in front of the jury box and go back to the lectern. Only then would the witness retrieve the item from the ledge. The jury box—including the witness’s seat, the microphone, and the plexiglass wall—was cleaned after each witness’s testimony.



Counsel seats and the lectern were rotated 180 degrees so that counsel would face toward the jurors in the gallery. To ensure Chief Judge Lynn could monitor behavior even when the lawyers had their backs to her, the Court installed a camera at the back of the courtroom that streamed video from the jurors’ perspective to a monitor on the bench.



<sup>14</sup> The side facing the gallery and the side facing counsel table.



That camera also facilitated public access to the trial. Because the jurors were seated in the gallery, there was essentially no space for spectators. Using the camera at the back of the courtroom, however, the Court simulcast the proceedings to another courtroom down the hall where members of the public were able to observe the proceedings.

Everyone in the courtroom wore gloves and a face covering (either a mask or plastic shield). The only exception was the testifying witness.<sup>15</sup> After a witness took the stand, he or she would remove his or her mask for the duration of the testimony. This procedure allowed jurors to view the witness's face and help assess his or her credibility. Because the witness was testifying behind plexiglass and was more than six feet from any other person, the risk to participants was minimized.



<sup>15</sup> There was one other short exception when everyone in front of the bar removed their masks to allow a witness to attempt to identify the defendant.

Jurors generally liked to wear face shields rather than masks, and several indicated that they preferred it when the attorneys also wore face shields. At least one juror felt it was difficult to understand some of the attorneys because of their masks and preferred to see the attorneys' faces.

The Court offered to defense counsel the courtroom's ListenTalk devices (which are normally used by interpreters) to communicate with co-counsel and the defendant while maintaining their distance from each other. Defense counsel preferred a messaging program on their laptops for ongoing communications.

All microphones had microphone covers on at all times. Ideally, microphone covers should be changed after each user. This was especially important for testifying witnesses since they were not wearing masks while using the microphone. The crew that cleaned the jury box between witnesses replaced the microphone cover.

To maintain appropriate social distancing, bench conferences were not permitted. In the few instances in which the parties needed to address an issue with the Court outside the jury's hearing, the Court excused the jurors for a break or counsel emailed the Court. If email communication is necessary, all participants should ensure that any necessary record is made at the next break.

The Court also generally did not allow physical exhibits to be passed to the jurors. Most exhibits were displayed electronically on screens facing the gallery. On two occasions, one party requested that the jurors be given a copy of a transcript. The Court allowed the party to create a copy of the transcript for each juror and required that the person distributing the copies wear gloves, but the use of this procedure should be limited to the extent possible.

Because the jury room was too small to permit social distancing, the jurors took breaks and deliberated in another courtroom across the hall. The Court entered a partial sequester order and provided box lunches (sandwiches) so that jurors did not have to leave the floor during the day. The Order is attached as Exhibit E.

Before releasing the jurors to deliberate and excusing the alternates, the Court asked each juror individually if he or she was feeling well and was prepared to proceed. All jurors responded they were, so the Court released the alternates.

During deliberations, the Court provided the jury with a sanitized laptop computer and instructed the parties to provide a single flash drive containing electronic versions of all admitted exhibits. The foreperson used the laptop to access any exhibits the jurors wanted to review.<sup>16</sup> The laptop was connected to a large rolling screen in the deliberation room so that the other jurors could see the exhibits while maintaining appropriate distance from each other. Jury deliberations lasted several hours, and the jury asked two questions before reaching a verdict.

### **Post-Trial**

After the jury announced its verdict, the foreperson raised his hand and told the Court that the other members of the jury had asked him to express their appreciation for the Court and all of the safety measures that it had put into place. All of the jurors said they felt very safe throughout the trial and were thankful for everything the Court had done.

<sup>16</sup> The Court reminded the jury prior to deliberating that it would be wise to choose a foreperson who would be comfortable with operating the computer.

The Court also asked the jurors to complete an optional post-trial questionnaire. All jurors did so. The questionnaire asked about the jurors' experience, particularly as it related to the coronavirus pandemic and the Court's safety measures. Again, all jurors expressed their satisfaction. Suggestions for improvement were minor (e.g., smoke breaks or water bottles in court).<sup>17</sup> The Court also visited with the jurors in person and expressed gratitude for their service.

## **Conclusion**

Conducting the first federal jury trial under coronavirus precautions was a massive undertaking. It involved at least 17 people in the Clerk's Office, countless other personnel, and weeks of planning. It required an enormous expenditure of resources, including essentially a full day of *voir dire*, three courtrooms, and countless staff going above and beyond the call of duty. But the lessons learned made it worthwhile. This trial showed that jury trials are possible even amidst the coronavirus pandemic, and the wheels of justice can continue to turn, but the tangible and intangible costs are very high and require scheduling negotiations between Judges so that court systems are not overburdened.

<sup>17</sup> Anonymized versions of the completed questionnaires are attached as Exhibit F.

# **Exhibit A**

Ability to Participate Form



Printed Name: \_\_\_\_\_

Participant Number (located on your summons: \_\_\_\_\_)

Please make any changes to the name or address on your summons form:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Daytime Phone: \_\_\_\_\_

Evening Phone: \_\_\_\_\_

### ABILITY TO PARTICIPATE IN JURY SERVICE

Everyone who receives a jury Summons must **complete this Ability to Participate in Jury Service form and the Jury Information Form at the bottom of your Summons. Unless you fit into a category under part 6. of this form, you must also complete the Confidential Questionnaire.** Return by mail, fax to (214) 753-2279, or email to [DallasJury@txnd.uscourts.gov](mailto:DallasJury@txnd.uscourts.gov). Attach additional pages as necessary to explain your answers. **Failure to submit all documents as instructed will cause delays.** Please contact the clerk's office if you need assistance. Thank you.

#### Dates of Potential Service: June 1, 2020 through June 12, 2020

1. If selected, **I WILL BE ABLE TO SERVE AS A JUROR**, with jury selection beginning June 1, 2020, through June 12, 2020, AND (please check all that apply):
  - a. \_\_\_\_\_ I will want to wear a protective face covering
  - b. \_\_\_\_\_ I will not want to wear a protective face covering
  - c. \_\_\_\_\_ I have no opinion regarding a protective face covering and will wear one if asked
2. **I WISH TO BE POSTPONED** from jury service because of effects of the COVID-19 pandemic (please check all that apply and explain).
  - a. \_\_\_\_\_ I or someone in my household is at high risk for complications from contracting COVID-19 disease because of age, medical condition, or other characteristic.
  - b. \_\_\_\_\_ I have childcare or eldercare issues that will make it difficult for me to serve.
  - c. \_\_\_\_\_ I am a healthcare worker directly involved with the treatment of the COVID-19 disease, or I work in another field that puts me in direct contact with people who have been diagnosed with COVID-19.

Please explain in detail below any request for postponement in part 2. above related to the COVID-19 pandemic.

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3. **I WISH TO HAVE MY JURY SERVICE POSTPONED** during the above referenced time period because:
  - a. \_\_\_\_\_ I have prepaid travel plans, and my money cannot be refunded (please enclose supporting documentation).  
 When did you make the reservations? \_\_\_\_\_ When are you leaving? \_\_\_\_\_  
 When are you returning? \_\_\_\_\_ When will you be available? \_\_\_\_\_
  - b. \_\_\_\_\_ I have an important commitment that would prevent me from serving during the service period. Please explain and give the date or dates you could not be available: \_\_\_\_\_  
 \_\_\_\_\_
  - c. \_\_\_\_\_ I have a medical procedure/appointment that would prevent me from serving during the service period. Please provide the date or dates of the medical procedure/appointment: \_\_\_\_\_

4. **I WISH TO BE EXCUSED** from jury service for an indefinite time because:

- a. \_\_\_\_\_ I have active care of a child or children **under ten years of age and I am not employed** outside my home. My service would require leaving the child or children without adequate supervision.  
**My children's ages are:** \_\_\_\_\_
- b. \_\_\_\_\_ I am caring for an aged or infirm person, and **I am the only person** able to provide this care. State the relationship of the person for whom you are caring, the person's age and nature of the infirmity: \_\_\_\_\_

\_\_\_\_\_

5. **I WISH TO BE EXCUSED** from jury service for an indefinite time because:

- a. \_\_\_\_\_ I am over 70 years of age and **I do not wish to serve**. State your age and date of birth: \_\_\_\_\_
- b. \_\_\_\_\_ I am a licensed medical doctor and actively practice medicine in the State of Texas.
- c. \_\_\_\_\_ I am currently enrolled as a full-time student of a public or private secondary school or an accredited college or university. State the name of the educational institution and **enclose a copy of your class schedule** indicating the number of enrollment hours, expected graduation date and whether or not you intend to enroll in summer courses:

\_\_\_\_\_

\_\_\_\_\_

6. **I AM NOT QUALIFIED** to serve as a juror because:

- a. \_\_\_\_\_ I am not a citizen of the United States.
- b. \_\_\_\_\_ I have a charge pending against me for the commission of, or have been convicted of, a crime punishable by imprisonment for more than one year. Please state the date and nature of the offense: \_\_\_\_\_
- \_\_\_\_\_
- c. \_\_\_\_\_ I am incapable by reason of mental or physical infirmity to render satisfactory jury service. Please explain. **Please provide a statement from your doctor stating you are unable to serve.** \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- d. \_\_\_\_\_ I am under the age of 18.
- e. \_\_\_\_\_ I do not reside in the Dallas Division. State your county of residence: \_\_\_\_\_  
**(The counties of the Dallas Division are Ellis, Hunt, Johnson, Kaufman, Navarro, and Rockwall.)**
- f. \_\_\_\_\_ I am unable to speak the English language and am incapable of understanding what will be said in court. (*Yo no puedo hablar la lengua Inglés, y yo soy incapaz de entender lo que se dice en la corte.*)

If there is anything else the Court should know that would impact your ability to serve as a fair and impartial juror, please explain:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**IMPORTANT:** If you have requested to be postponed or excused, you must still appear for jury selection on the date you are instructed unless you receive notice that your request for postponement or excuse has been granted.

I hereby declare under the penalty of perjury that my answers are true and correct to the best of my knowledge, information, and belief.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

# **Exhibit B**

Confidential Questionnaire

## JUROR QUESTIONNAIRE

### General Instructions

Please fill out the attached questionnaire when you receive it and **return it no later than May 21, 2020**. You may return it by mail using the enclosed postage paid envelope, email it to **DallasJury@txnd.uscourts.gov**, or fax it to **214-753-2279**. Please read carefully the attached **Federal Juror Instructions** and follow the additional instructions.

This questionnaire is designed to help simplify and expedite the jury selection process. The purpose of these questions is to determine whether prospective jurors can impartially decide a case based upon the evidence presented at trial and the instructions on the law given by the presiding judge. You are sworn to give true and complete answers. Please answer all the questions to the best of your ability.

Please keep in mind that there are no right or wrong answers, only complete and incomplete answers. Complete answers are far more helpful than incomplete answers. Unless the question states otherwise, the fact that a particular question is asked does not imply that the subject matter of the question is an issue in the case for which you are being considered. As you read the questions, you should not draw any inferences about the issues that will be decided. You are instructed not to discuss the questionnaire with anyone. The only exception is if you need help in filling out the questionnaire, as discussed in the next paragraph. You should not use the internet or do any research about matters covered in the questionnaire, and you should not speculate about what case it involves.

Please print or write your answers clearly in blue or black ink. You must answer all the questions to the best of your ability. If you do not understand a question or do not know the answer, please write "I do not understand" or "I do not know" in the space provided for the answer. If you believe that any of the questions do not apply to you, please write "Not Applicable" or "N/A" in the space provided. **Do not leave any question unanswered**. It is important that the answers be your own individual answers. You may not get help from others unless you are incapable of writing your own answers. If that is the case, state the name, address and relationship to you of the person who helped you, and state why their help was needed. If you need more space for your responses or wish to make further comments regarding any of your answers, please continue your answer in the margin next to the question. Do not write on the back of any page. **PLEASE PRINT LEGIBLY. You must sign the affirmation page.**

**\*\*After filling out the questionnaire, please place a "C" before any answers you deem confidential.**

**\*\*HOWEVER YOU MUST FILL OUT EVERY ANSWER COMPLETELY\*\***

### CONFIDENTIAL QUESTIONNAIRE

First Name and Last name \_\_\_\_\_  
(For example: John Smith)

Date & Place of Birth: \_\_\_\_\_ County of Residence: \_\_\_\_\_

Marital Status: \_\_\_\_\_

1. What is your race? \_\_\_\_\_

2. What is your income? \_\_\_\_\_

3. How long have you lived at your present address? \_\_\_\_\_

4. List any other places where you have lived in the last five years (city, state and how long in each place). \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. Do you own or rent your place of residence? \_\_\_\_\_

6. What is the last grade of school, including college or graduate school, that you finished? \_\_\_\_\_

\_\_\_\_\_

7. If you attended college, and, if applicable, graduate school, provide the name of the college and graduate school and major area of study, and degree(s), if any. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

8. Describe your employment, including stating the name of your employer, your job responsibilities and length of time so employed. If retired or unemployed, state your principal occupation when employed. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Last Name only: \_\_\_\_\_

\*\*\*\*\*MAKE SURE YOU FILLED OUT PAGE 1 OF 7 COMPLETELY

9. If applicable, list the name of your spouse / life partner, and describe that person's occupation or employment and job duties. If retired or unemployed, state that person's principal occupation when employed. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
10. List the names and ages of your children and stepchildren, if any, and the name, age, and date of death of any deceased children. As to any children over the age of 18, describe their occupation or identify the school they are attending. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
11. If you have served in the Armed Forces:  
(a) total years served \_\_\_\_\_ (b) branch \_\_\_\_\_ (c) last rank \_\_\_\_\_
12. Listed below are items concerning leisure time activities:  
(a) Hobbies \_\_\_\_\_  
(b) Clubs, groups, unions or other organizations \_\_\_\_\_  
(c) Newspapers or magazines you read regularly \_\_\_\_\_  
(d) Favorite TV program \_\_\_\_\_
13. What three (3) people do you admire the most? \_\_\_\_\_  
The least? \_\_\_\_\_
14. What book did you read last? \_\_\_\_\_
15. If you do not object to doing so, state your political preference, if any. \_\_\_\_\_
16. If you do not object to doing so, state your religious preference, if any. \_\_\_\_\_
17. Describe any prior jury service you have had, including whether it was a grand jury or a civil or criminal jury and where and when your service took place, and the outcome.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- If you have served on a jury, were you the foreperson? \_\_\_\_\_

Last Name only: \_\_\_\_\_

\*\*\*\*\*MAKE SURE YOU FILLED OUT PAGE 2 OF 7 COMPLETELY

18. Describe any experience you, a close friend or a family member, ever had as a plaintiff or defendant in a lawsuit, including where, when, type of case and the outcome. If yes, please state specifically if the U.S. government was a party. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

19. Have you or a member of your family ever worked or volunteered for a governmental entity? If so, provide details. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

20. Is any member of your immediate family a lawyer, police officer, other law enforcement agent or connected to the legal or law enforcement professions? If so, state the nature of the connection or relationship. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

21. Have you, a member of your family, or a close friend ever been arrested or convicted of a crime? If so, please provide the details. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

22. Have you, a member of your family, or a close friend ever been a defendant in a criminal case? If so, please provide the details, including the outcome of the proceeding. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

23. Have you, a member of your family, or a close friend ever served time in prison? If so, please provide details. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

24. Have you, a member of your family, or a close friend ever been the victim of a crime? If so, please provide details. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Last Name only: \_\_\_\_\_

\*\*\*\*\*MAKE SURE YOU FILLED OUT PAGE 3 OF 7 COMPLETELY

25. Have you, a member of your family, or a close friend ever been involved as a witness, complainant, or accused in a court proceeding of any kind? If so, please provide the details. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

26. Have you ever received legal training of any kind? If so, what was that training? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

27. Do you own a firearm? \_\_\_\_\_

28. Are you or a close relative a member of the NRA? \_\_\_\_\_

29. Do you or a close family member receive Social Security? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

30. State your views on gun control: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

31. Of the names listed below, please circle any and all you think you might know:

Aldric Roberson

Denzle Daniel Green

Tara Shakeithia Paris

Joshua Nino de Guzman

Heather Camune

Christopher Loboda

32. Have you received a test for COVID-19? If so, when? \_\_\_\_\_

\_\_\_\_\_

Last Name only: \_\_\_\_\_

\*\*\*\*\*MAKE SURE YOU FILLED OUT PAGE 4 OF 7 COMPLETELY

33. Have you requested to be tested for COVID-19 and been denied the test? \_\_\_\_\_

34. Have you or a close friend or family member had COVID-19? Who and when? \_\_\_\_\_

35. Have you traveled recently? If so, where? \_\_\_\_\_

36. From which sources do you typically get your news? \_\_\_\_\_

37. Do you use public transportation? \_\_\_\_\_

38. Are you willing to abide by any rules the Court instructs you to regarding social distancing during trial if you are selected as a juror? \_\_\_\_\_

39. Are you willing to notify the Court immediately if, during trial, you feel ill OR are exposed to anyone feeling ill? \_\_\_\_\_

40. Have you made statements on any social media (Facebook, Instagram, Twitter, etc.) related to the COVID-19 crisis? If yes, what were your statements? \_\_\_\_\_

41. In your opinion, are there general characteristics (such as gender, race, age, political party) that make people more or less likely to be comfortable in public places at present? If so, what characteristics make a person more likely to go into public? Less likely? \_\_\_\_\_

42. If you see a person wearing a mask in a public place, such as the grocery store, what are your thoughts about that person? \_\_\_\_\_

Last Name only: \_\_\_\_\_

\*\*\*\*\*MAKE SURE YOU FILLED OUT PAGE 5 OF 7 COMPLETELY

43. If you see a person in a public place and he or she is not wearing a mask, what are your thoughts about that person? \_\_\_\_\_

\_\_\_\_\_

44. Should wearing a mask in public be something that is a personal choice? Why or why not?

\_\_\_\_\_

\_\_\_\_\_

45. When is the last time you have worked? If you have not worked, what have you been doing over the last few months? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

46. Have you worn any protective materials when you have left your residence over the last few months? \_\_\_\_\_

\_\_\_\_\_

47. Do you have strong views about wearing a mask or gloves? What are they? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

48. What are your views about stay at home orders? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

49. State any and all reasons why you could not serve on a jury during the week of June 1, 2020:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*\*\*\*\*MAKE SURE YOU FILLED OUT PAGE 6 OF 7 COMPLETELY

**SIGN YOUR FULL NAME BELOW**

---

**JUROR'S FULL SIGNATURE (FIRST AND LAST NAME)**  
(For example: JOHN A. SMITH)

# **Exhibit C**

## Jury Selection Administrative Protocol

U.S. District Court  
Northern District of Texas

Notes for Processing Jurors During COVID-19 Pandemic

1. Facility

At the screening station, jurors are given large plastic bags for their belongings. Any juror who arrives without a face covering or mask is given one.

*Voir dire* is done in either a central jury assembly room or in the largest courtroom available. (In one division, a state court auditorium will be used.) Staff will have pre-marked the seats where jurors are to sit. Each marked seat has a juror supply bag placed on it (see description in 3. below).

Signs are posted throughout each courthouse, and markers on the floors remind people to stay at least 6 feet away from each other. Only two people are permitted on an elevator at one time.

Screens (plexiglass or acrylic) are installed for jury check-in and in the courtrooms.

All microphones are covered with disposable covers. The witness microphone is to be sanitized between witnesses, and disposable covers are to be replaced.

Each courtroom layout is to be evaluated. In most courtrooms, jurors are seated in the gallery. The jury box serves as the witness stand. Microphones and monitors on counsel tables and on the podium are turned around so that the attorneys face the gallery. Although the attorneys' backs are to the judge, the judge can see attorney on a monitor on the bench. (A camera at the back of the courtroom will provide the video feed.)

Jurors view evidence during trial from monitors that face the gallery.

Jury deliberation is done in either a large courtroom or the central jury assembly room, depending on the division.

Attorneys are instructed to submit all exhibits electronically in advance. No exhibits are handed to jurors. The jurors pull up exhibits electronically in the deliberation room (courtroom or jury assembly room).

Defense attorneys are equipped with ListenTalk transceivers/receivers to communicate with each other and with the defendant during the proceeding.

Hand sanitizers are placed throughout the building and in the courtroom. Extra masks and gloves are available in the courtroom.

Proceedings (including *voir dire*) are broadcast into a nearby courtroom or other large room for visitors.

See Attachment A for examples of items mentioned above.

## 2. Selection

A prescreening “Ability to Serve” form is used to minimize the number of people who must report in person. (Thus far, seven separate panels have been ordered in four divisions. See Attachment B for the “Ability to Serve” form for the Dallas division.)

When called to report through AJIS, jurors are reminded of all COVID-19 restrictions in place at the courthouse and are instructed to stay home if they are not feeling well, are running a fever, have been exposed to anyone who is ill, etc.

Juror instructions that are used in orientation are attached for the Dallas division. (See Attachment C.)

## 3. Supplies

Juror supply bags are prepared for both grand and petit jurors (paper bag with handles) that include:

- a. A letter regarding social distancing instructions and a parking form (if needed for the division)
- b. Water bottle(s)
- c. Acrylic face shields (for petit jurors only to be used in *voir dire*)
- d. Adhesive juror badge (we are only using disposable badges now)
- e. CDC flyer on safe practices
- f. Mini tissue packet
- g. Alcohol wipe packets
- h. Gloves (if required by the presiding judge)
- i. Certificate of attendance (for petit jurors who participate in *voir dire*; selected jurors will be given individualized certificates at the end of trial)

## 4. Check-in Process

The jury clerk, wearing a mask or face shield, is positioned at a check-in desk behind a plexiglass screen that allows a juror to show the jurors’ driver’s license and summons. The jury clerk scans the juror’s attendance from a report rather than from the summons.

The jury clerk shows the juror where to sit using a laminated seat map chart. The jury clerk marks off each juror’s position on the chart as the juror is seated.

## 5. Breaks

Breaks are staggered. Staff monitor the breaks to ensure physical distancing. Signs are posted on restrooms to indicate maximum capacity.

## 6. Snacks and Lunch

All juror snacks are packaged and presorted to minimize touching the items.

The presiding judge determines in advance whether to order a partial sequester. If partially sequestered by court order, a light lunch is ordered and delivered to the jury deliberation room at the designated time.

## 7. Cleaning

Cleaning is done before and after each courtroom proceeding and each juror orientation and selection.

(We still do not have a firm courtroom cleaning protocol negotiated with GSA. GSA is taking direction from GSA headquarters, and they require an RWA for any cleaning that is considered “above standard.” Thus far, contract cleaning personnel have been cooperative, but this may change as the agencies in our building return to work in the coming weeks.)

## Attachment A

### Items Purchased for Jury Trials



Acrylic room dividers (specs are attached as Attachment D) in courtroom; witness stand moved to jury box; monitors facing the gallery enable jurors to see evidence



Floor markers; hand sanitizer



Bags packed for jurors



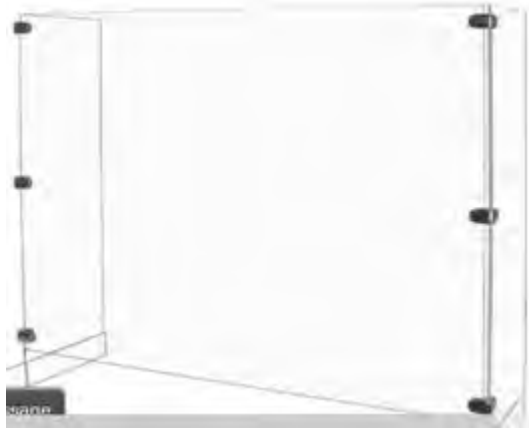
Bags for juror personal items (to be used for x-ray screening and to keep personal items segregated in bins during *voir dire*)



Face shield for *voir dire* (will be used without mask)



Microphone covers



Acrylic shield for juror check-in desk



Jury assembly room set up for *voir dire*

U.S. District Court for the Northern District of Texas  
Dallas Division

Instructions for Jurors

The United States District Court for the Northern District of Texas appreciates your participation in jury service. The Court wants you to know that we are aware of your health concerns during these challenging times. We are committed to your safety and will take every reasonable precaution to protect your health, as well as that of the parties, lawyers, and Court staff during jury selection and trial. You will be paid a \$50.00 attendance fee for each day you are required to report for jury duty. You will also receive reimbursement at a rate of 57.5¢ a mile for transportation from your house to the courthouse.

- Upon arrival, you received a paper bag that includes several items. The bags were prepared by staff following strict protocols more than 72 hours ago.
- **Please immediately put on the gloves and plastic face shield provided in your bag.** Once the plastic face shield is in place, you may lower your face covering that is underneath the shield. Please wear the face shield and gloves during your jury service unless instructed otherwise by the judge. If you need a larger pair of gloves, please ask the jury clerk.
- Please locate the adhesive “Juror Badge” in your bag. Stick the badge on the upper left side of your chest so that it is visible to all. Please do not take the badge off until you are dismissed for the day.
- Please locate the large numbered card in your bag. This number should match your seat number. If it does not, please notify a clerk’s office staff member. You will hold this card up during voir dire when responding to questions.
- The judge will dismiss you for breaks and at the end of the day. Court staff will give you additional instructions as needed.
- Your bag includes a bottle of water. If you need additional water during the day, please notify a clerk’s office staff member. Do not drink from a water fountain.
- When you leave for the day, please take the bag and its contents with you, or discard the bag in a trash receptacle.

To inhibit the spread of respiratory disease, physical distancing will be strictly enforced. Please follow all directions to maintain a minimum amount of space—at least 6 feet—between yourself and other people.

While at the courthouse, we ask you to do the following:

- Please look for floor tape, barricade tape and temporary signs in the hallway outside the courtroom, jury room, and bathrooms, for guidance.

- Please avoid touching the chairs in front of you. If you are empaneled to hear the case and report to a courtroom tomorrow, please avoid touching the bench in front of you.
- No more than two people should be on an elevator at a time. A clerk's office employee will be at the elevators to assist you if you are required to go up to the courtroom.
- When exiting this room or a courtroom for breaks, you must exit in order, starting with the last row in the back of the room to the first row, left side, then right side, until all jurors have exited. The doors will be propped open for you; please do not touch the door.
- Only two people will be permitted in the restroom located through the kitchen door at the front of the room at a time. Restrooms are also available across the lobby of this building. Please wait outside as needed to limit the number of people in a restroom at once. Disinfectants will be available for your personal use. Please thoroughly wash your hands as directed by posted signs.
- When you arrive back in this room or a courtroom following a break, please wait at a safe distance away for your turn to sit down.

High contact surfaces will be routinely wiped down using an EPA approved disinfectant that is effective against COVID-19. Examples of high contact surfaces include: handrails, doorknobs, water faucets and handles, elevator buttons, sinks and toilets, restroom stall handles, and push plates.

This room and courtrooms are thoroughly cleaned before your arrival and will be cleaned again after you leave in preparation for the following day.

If at any time during the day you observe something that you believe is potentially harmful to you or to another person, immediately notify a clerk's office staff member or the judge. We take your personal safety very seriously, and we appreciate your cooperation.

ATTACHMENT C  
**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS**



Please make any changes to the name or address  
printed on your summons form:

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Daytime Phone: \_\_\_\_\_

Evening Phone: \_\_\_\_\_

**ABILITY TO PARTICIPATE IN JURY SERVICE**

Everyone who receives a jury Summons must **complete this Ability to Participate in Jury Service Form and the Jury Information Form at the bottom of your Summons. Unless you fit into a category under 5. or 6. of this form, you must also complete the Confidential Questionnaire.** Return by mail, fax to (214) 753-2279, or email to [DallasJury@txnd.uscourts.gov](mailto:DallasJury@txnd.uscourts.gov). Attach additional pages as necessary to explain your answers. **Failure to submit all documents as instructed will cause delays.** Please contact the Clerk's Office if you need assistance. Thank you.

**Dates of Potential Service: June 1, 2020 through June 12, 2020**

1. If selected, I **WILL BE ABLE TO SERVE AS A JUROR**, with jury selection beginning June 1, 2020 through June 15, 2020, **AND** (please check all that apply):
  - a. \_\_\_\_\_ I will want to wear a protective face covering
  - b. \_\_\_\_\_ I will not want to wear a protective face covering
  - c. \_\_\_\_\_ I have no opinion regarding a protective face covering and will wear one if asked
2. I **WISH TO BE** postponed from jury service because of effects of the COVID-19 pandemic (please check all that apply, and explain).
  - a. \_\_\_\_\_ I or someone in my household is at high risk for complications from contracting COVID-19 disease because of age, medical condition, or other characteristic.
  - b. \_\_\_\_\_ I have childcare or eldercare issues that will make it difficult for me to serve.
  - c. \_\_\_\_\_ I am a healthcare worker directly involved with the treatment of the COVID-19 disease, or I work in another field that puts me in direct contact with people who have been diagnosed with COVID-19.

Please explain in detail below any request for postponement in 2 above related to the COVID-19 pandemic.

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3. **I WISH TO HAVE MY JURY SERVICE POSTPONED** during the above referenced time period because:

- a. \_\_\_\_\_ I have prepaid travel plans, and my money cannot be refunded (please enclose copy of supporting documentation).  
When did you make reservations? \_\_\_\_\_  
When are you leaving? \_\_\_\_\_ When are you returning? \_\_\_\_\_  
When will you be available? \_\_\_\_\_
- b. \_\_\_\_\_ I have an important commitment that would prevent me from serving during the service period. Please explain and give the date or dates you could not be available:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- c. \_\_\_\_\_ I have a medical procedure/appointment that would prevent me from serving during the service period. Please provide the date or dates of the medical procedure/appointment:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. **I WISH TO BE EXCUSED** from jury service for an indefinite time because:

- a. \_\_\_\_\_ I have active care of a child or children **under ten years of age and I am not employed** outside my home. My service would require leaving the child or children without adequate supervision.  
**My children's ages are:** \_\_\_\_\_
- b. \_\_\_\_\_ I am caring for an aged or infirm person, and **I am the only person** able to provide this care. State the relationship of the person for whom you are caring, the person's age and nature of the infirmity:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. **I WISH TO BE EXCUSED** from jury service for an indefinite time because:

- a. \_\_\_\_\_ I am over 70 years of age and **I do not wish to serve**.  
State your age and date of birth: \_\_\_\_\_
- b. \_\_\_\_\_ I am a licensed medical doctor and actively practice medicine in the State of Texas.
- c. \_\_\_\_\_ I am currently enrolled as a full-time student of a public or private secondary school or an accredited college or university. State the name of the educational institution and **enclose a copy of your class schedule** indicating the number of enrollment hours, expected graduation date and whether or not you intend to enroll in summer courses:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. **I AM NOT QUALIFIED** to serve as a juror because:

- a. \_\_\_\_\_ I am not a citizen of the United States.
- b. \_\_\_\_\_ I have a charge pending against me for the commission of, or have been convicted of, a crime punishable by imprisonment for more than one year. Please state the date and nature of the offense:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- c. \_\_\_\_\_ I am incapable by reason of mental or physical infirmity to render satisfactory jury service. Please explain. **Please provide a statement from your doctor stating you are unable to serve.**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- d. \_\_\_\_\_ I am under the age of 18.
- e. \_\_\_\_\_ I do not reside in the Dallas Division.  
State your county of residence: \_\_\_\_\_  
**(The counties of the Dallas Division are Ellis, Hunt, Johnson, Kaufman, Navarro, and Rockwall.)**
- f. \_\_\_\_\_ I am unable to speak the English language and am incapable of understanding what will be said in court. (*Yo no puedo hablar la lengua Inglés, y yo soy incapaz de entender lo que se dice en la corte.*)

If there is anything else the Court should know that would have an impact on your availability to serve as a fair and impartial juror, please explain briefly:

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---

**IMPORTANT:** If you have requested to be postponed or excused, you must still appear for jury selection on the date you are instructed unless you receive notice that your request for postponement or excuse has been granted.

I hereby declare under the penalty of perjury that my answers are all true and correct to the best of my knowledge, information, and belief.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Participant Number  
(located on summons)



Clear Acrylic Room Divider - 1 Panel - 6' 2"H x 3' 4"L

1 Review

100% of respondents would recommend this to a friend

\$597.95

-

1

+

ADD TO CART

Other Sizes

Customers also shopped for



DESCRIPTION

Section off areas of your room and still have an unobstructed view of activity on the other side with Clear Acrylic Room Divider. The clear room divider is made of 3/16" thick OPTIX acrylic, a non-yellowing, lightweight and highly impact-resistant material that is three times stronger than standard double-strength window glass. In addition to separating spaces, the room divider serves as an attractive markerboard surface, allowing you to write notes directly on the surface. The sturdy extruded aluminum channel framing prevents warping and instability year after year. Roll the panel into place with ease on the self-leveling casters. The Clear Acrylic Room Divider comes backed by a three-year warranty.

Key Features

- Allows sectioning of rooms without obstructing the view
- Made of extremely durable acrylic
- Doubles as a markerboard surface
- Wet erase markers work best

Clear Acrylic Room Divider - 3 Panels - 6' 2"H x 10'L | [REDACTED]



## Clear Acrylic Room Divider - 3 Panels - 6' 2"H x 10'L



1 Review

✓ 100% of respondents would recommend this to a friend

\$1,640.95

−

1

+

ADD TO CART

Other Sizes



### Customers also shopped for



### DESCRIPTION ▾

Section off areas of your room and still have an unobstructed view of activity on the other side with [REDACTED] Clear Acrylic Room Divider. The clear room divider is made of 3/16" thick OPTIX acrylic, a non-yellowing, lightweight and highly impact-resistant material that is three times stronger than standard double-strength window glass. In addition to separating spaces, the room divider serves as an attractive markerboard surface, allowing you to write notes directly on the surface. The sturdy extruded aluminum channel framing prevents warping and instability year after year. Roll the room divider into place with ease on the self-leveling casters. The [REDACTED] Clear Acrylic Room Divider comes backed by a three-year warranty.

### Key Features

- Allows sectioning of rooms without obstructing the view
- Made of extremely durable acrylic
- Doubles as a markerboard surface
- Wet erase markers work best



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Wall-Mounted Room Dividers

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Clearance

### Room Type

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Preschool Classroom  
Elementary Classroom  
Middle/High School Classroom  
Cafeteria & Food Service  
Hallway & Common Area  
Library & Media Center

### Categories

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Desks  
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AV Equipment  
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## 6' 2" H Healthy Safeguard Clear Room Divider - One Panel (3' 4" L)

★★★★★

[Write a review](#)

[Post a question](#)

[Start a Live Chat](#)

- Provides an unobstructed view of a room or area.
- Separates room but still keeps people connected.
- Easy to move with locking wheels.

**\$629.88**

MSRP: ~~\$1,325.00~~

You Save: \$695.12 (52%)

[Calculate Shipping](#)

[On Sale](#)

Share: [Email](#) [Pinterest](#)

### Select Options:

Number of Panels: **One Panel (3' 4" L)**

Add a multi-unit connector?

Quantity:

[Add to Cart](#)

[Specifications](#) [Description](#) [Product PDFs](#)

Number of Panels	1
Panel Material	Acrylic
Frame Material	Aluminum channel frame w/ black anodized finish
Hinges:	Full length, position-control
Casters:	3" rubber swivel casters (locking)
Other Info	Made in the USA Compatible with wet erase and liquid chalk markers
Warranty:	3-year
Storage Dimensions:	28" W x 40" D
Length	3' 4"
Height	6' 2"
Product Weight (Lbs)	55
Assembly:	Ships Assembled (Large QTY orders, some assembly is

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★★★★★



0  
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9  
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9  
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## Questions

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1-9 of 9 Questions

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Louise 2 days ago

Can the panel be order in custom size.

1  
answer



Account



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### Room Dividers & Portable Partitions

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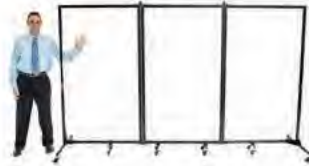
### Promotions

[On Sale](#)[Ships in 24](#)[Clearance](#)

### Room Type

[Infant & Toddler Room](#)[Preschool Classroom](#)[Elementary Classroom](#)[Middle/High School Classroom](#)[Cafeteria & Food Service](#)[Hallway & Common Area](#)[Library & Media Center](#)

### Categories

[Chairs](#)[Desks](#)[Tables](#)[AV Equipment](#)[Classroom Rugs](#)[Dry Erase Boards & Whiteboards](#)[Bulletin Boards & Letter Boards](#)[View More](#)[Portable Room Dividers Buying Guide](#)[Home](#)[Room Dividers & Portable Partitions](#)[Portable Room Dividers](#)[6' 2" H Healthy Safeguard Clear Room Divider](#)[Three Panels \(10' L\)](#)

## 6' 2" H Healthy Safeguard Clear Room Divider - Three Panels (10' L)

★★★★★

[Write a review](#)[Post a question](#)[Start a Live Chat](#)

- Provides an unobstructed view of a room or area.
- Separates room but still keeps people connected.
- Easy to move with locking wheels.

**\$1,640.99**MSRP: ~~\$3,644.99~~

You Save: \$2,000.01 (55%)

[Calculate Shipping](#)[On Sale](#)Share: [Email](#) [Pinterest](#)

### Select Options:

Number of Panels: **Three Panels (10' L)**Quantity: [Add to Cart](#)[Specifications](#)[Description](#)[Product PDFs](#)

Number of Panels	3
Panel Material	Acrylic
Frame Material	Aluminum channel frame w/ black anodized finish
Hinges:	Full length, position-control
Casters:	3" rubber swivel casters (locking)
Other Info	Made in the USA Compatible with wet erase and liquid chalk markers
Warranty:	3-year
Storage Dimensions:	28" W x 40" D
Length	10'
Height	6' 2"
Product Weight (Lbs)	120
Assembly:	Ships Assembled (Large QTY orders, some assembly)

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★★★★★

[0 Reviews](#)[9 Questions](#)[9 Answers](#)

## Questions

[Post a question](#)

1-9 of 9 Questions

Sort by: Most helpful answers ▾

Louise 2 days ago

Can the panel be order in custom size.

1  
answer

# **Exhibit D**

Trial Protocol Order

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

<b>UNITED STATES OF AMERICA,</b>	§	
	§	
<b>Plaintiff,</b>	§	
	§	
<b>v.</b>	§	<b>NO. 3:19-CR-245-M</b>
	§	
<b>TIMOTHY BERNARD TANNER,</b>	§	
	§	
<b>Defendant.</b>	§	

**ORDER REGARDING PROTOCOLS FOR JURY SELECTION AND TRIAL**

The Court held a hearing on May 27, 2020, to discuss jury selection and trial protocols. This Order formalizes the protocols discussed at that hearing.

Jury selection will occur in the jury room of the Earle Cabell Federal Building.<sup>1</sup> The Court sent detailed juror questionnaires to potential jurors. As discussed at the hearing, the parties conferred and agreed to excuse many of the jurors in advance of *voir dire*, thus minimizing the number of people who will need to appear in person. The remaining jurors appearing in person will be spaced to maintain at least six feet of distance between each person. To facilitate that spacing, the jurors will be separated into groups, with one group at a time coming into the jury room for *voir dire* at different scheduled times. All jurors will wear gloves and face shields during *voir dire*. All other participants will wear gloves and face shields or masks.

During trial, everyone in the courtroom will wear gloves and face shields or masks, except the witness on the stand. To testify, witnesses will sit in the jury box, and will be behind

<sup>1</sup> The Court offered to conduct jury selection remotely via a web-based platform, making arrangements for any juror who did not have the technological capability to access the platform, but the Defense objected.

a rolling plexiglass screen. Additional plexiglass screens will be available in the courtroom as necessary.

Witnesses will enter and leave via the jury room to minimize contact with other participants. The jury will be seated in the gallery, at least six feet apart from one another.<sup>2</sup> The lectern for counsel will be facing the gallery. The Court will allow defense counsel to use the interpreter headsets in the courtroom to communicate with the Defendant while maintaining adequate distance between one another.

The jury will take breaks and deliberate in a spacious, nearby courtroom that will allow jurors to remain much more than six feet apart at all times. Exhibits will not be passed to the jury, but may be displayed on screens throughout the courtroom. For deliberations, counsel shall provide a computer with nothing on it and a thumb drive containing electronic versions of the exhibits so that the foreperson can display exhibits on a screen as necessary.

**SO ORDERED.**

May 28, 2020.

  
BARBARA M. G. LYNN  
CHIEF JUDGE

<sup>2</sup> The Court will also allow spectators to sit in the gallery if it is possible to do so while maintaining six feet of distance between everyone at all times. If necessary for social distancing, the Court will make another room in the courthouse available for spectators and will simulcast the proceedings to that location.

# **Exhibit E**

Partial Sequester Order

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

UNITED STATES OF AMERICA,

v.

TIMOTHY BERNARD TANNER (1),

Defendant.

§  
§  
§  
§  
§  
§  
§

Case Number: 3:19-CR-00245-M


**ORDER**

It is ORDERED that the jury in the above styled and numbered cause be sequestered from the time they report to the jury room each day until released by the court at the end of each day. This partial sequestration will continue until a verdict is reached and the jury is formally discharged by the court or until further order of the court.

Pursuant to this order, while the jury is kept together and not allowed to separate, the reasonable cost of meals incurred by the jury during court recesses will be paid by the clerk of court in compliance with juror fee regulations issued by the Judicial Conference of the United States.

**SO ORDERED.**

May 31, 2020.

  
BARBARA M. G. LYNN  
CHIEF JUDGE

# **Exhibit F**

## Post-Trial Juror Questionnaires

## POST-TRIAL QUESTIONNAIRE

Name (Optional) \_\_\_\_\_

1. Is this your first experience serving as a juror in federal court? yes

If not, when did you previously serve? \_\_\_\_\_

2. What, if anything, should we do to improve generally the experience of jurors in this court?

No improvement / very good quality of experience.

3. Did you like the trial schedule? yes

If you would have preferred another, what would it have been? \_\_\_\_\_

4. Did you take notes during trial? yes

If so, did you find that helpful? \_\_\_\_\_

5. Write 2 or 3 sentences reflecting how you feel about your jury service. I really

enjoyed listening and learning about jury trials.  
I felt empowered and learned a lot in a short  
period of time. I liked the whole process.

6. Upon reflection, tell us how you felt about the health and safety measures we employed. Should we have done more or less? If you believe we should have done more or less, describe specifically all you believe we should have done.

You have done a fantastic job of making sure  
our health + safety were of concern. You went  
above and beyond to be accommodating.

Please make any other comments or suggestions that you believe would be helpful to the Court, court personnel, the attorneys, and the parties, but DO NOT express particular comments about the result of this case or how you reached your verdict.

The Government Lawyers could have done a better job of communicating the issues of the case.

The Judge was very helpful & detailed with everything

8. Would you be willing to be interviewed on a confidential basis by a person not associated with the case about your experiences? NO

9. What comments would you care to make to the attorneys about things they could do to improve their trial performance. The government lawyers could

have shown a little more enthusiasm in presentation.

The govt lawyers could have done better

communicating w the jurors

## POST-TRIAL QUESTIONNAIRE

Name (Optional) \_\_\_\_\_

1. Is this your first experience serving as a juror in federal court? yes

If not, when did you previously serve? \_\_\_\_\_

2. What, if anything, should we do to improve generally the experience of jurors in this court?

Allow bottle of water during the trial

3. Did you like the trial schedule? yes

If you would have preferred another, what would it have been? \_\_\_\_\_

4. Did you take notes during trial? yes

If so, did you find that helpful? yes

5. Write 2 or 3 sentences reflecting how you feel about your jury service. \_\_\_\_\_

I was honour to serve on the jury. Everyone was respectful of different opinions

6. Upon reflection, tell us how you felt about the health and safety measures we employed. Should we have done more or less? If you believe we should have done more or less, describe specifically all you believe we should have done.

You and your staff went over & beyond the call of duty to help me feel safe. Thank you for the bottom of my heart because I was treated fairly by leaders during this pandemic as a essential employee. Thank you again!

7. Please make any other comments or suggestions that you believe would be helpful to the Court, court personnel, the attorneys, and the parties, but DO NOT express particular comments about the result of this case or how you reached your verdict.

Please allow parking for your juror so we don't have to pay. Many were furlough

8. Would you be willing to be interviewed on a confidential basis by a person not associated with the case about your experiences? yes

9. What comments would you care to make to the attorneys about things they could do to improve their trial performance. \_\_\_\_\_

Please collect all evidence to plead your case. Not everyone opinions

POST-TRIAL QUESTIONNAIRE

Name (Optional)

1. Is this your first experience serving as a juror in federal court? yes

If not, when did you previously serve? \_\_\_\_\_

2. What, if anything, should we do to improve generally the experience of jurors in this court?

Nothing, I was very impressed. Thank you.

3. Did you like the trial schedule? It was fine.

If you would have preferred another, what would it have been? \_\_\_\_\_

4. Did you take notes during trial? yes.

If so, did you find that helpful? yes.

5. Write 2 or 3 sentences reflecting how you feel about your jury service. I felt

honored to serve. Makes me proud of our Justice System.

6. Upon reflection, tell us how you felt about the health and safety measures we employed. Should we have done more or less? If you believe we should have done more or less, describe specifically all you believe we should have done.

I think the court and Judge  
went above and beyond to  
ENSURE the safety of all involved.  
Thank you again.

7. Please make any other comments or suggestions that you believe would be helpful to the Court, court personnel, the attorneys, and the parties, but DO NOT express particular comments about the result of this case or how you reached your verdict.

No comment.

8. ~~\* The lunch lady and our~~  
~~office were VERY kind and helpful.~~  
Would you be willing to be interviewed on a confidential basis by a person not associated with the case about your experiences?

9. What comments would you care to make to the attorneys about things they could do to improve their trial performance. Wear Shields when  
Speaking and Speak up.  
We wanted to see their faces.

POST-TRIAL QUESTIONNAIRE

Name (Optional) \_\_\_\_\_

1. Is this your first experience serving as a juror in federal court? yes

If not, when did you previously serve? \_\_\_\_\_

2. What, if anything, should we do to improve generally the experience of jurors in this court?

NO Every thing was great

3. Did you like the trial schedule? yes it was nice

If you would have preferred another, what would it have been? \_\_\_\_\_

4. Did you take notes during trial? yes

If so, did you find that helpful? yes

5. Write 2 or 3 sentences reflecting how you feel about your jury service. \_\_\_\_\_

I liked the people that I met and the food was good.

6. Upon reflection, tell us how you felt about the health and safety measures we employed. Should we have done more or less? If you believe we should have done more or less, describe specifically all you believe we should have done.

C Every thing was okay.

7. Please make any other comments or suggestions that you believe would be helpful to the Court, court personnel, the attorneys, and the parties, but DO NOT express particular comments about the result of this case or how you reached your verdict.

I think every thing was Okay

8. Would you be willing to be interviewed on a confidential basis by a person not associated with the case about your experiences? NO

9. What comments would you care to make to the attorneys about things they could do to improve their trial performance. NUN. every thing was

Okay.

## POST-TRIAL QUESTIONNAIRE

Name (Optional) \_\_\_\_\_

1. Is this your first experience serving as a juror in federal court? Yes

If not, when did you previously serve? \_\_\_\_\_

2. What, if anything, should we do to improve generally the experience of jurors in this court?

Everything was perfect.

3. Did you like the trial schedule? Yes

If you would have preferred another, what would it have been? \_\_\_\_\_

4. Did you take notes during trial? Yes

If so, did you find that helpful? absolutely

5. Write 2 or 3 sentences reflecting how you feel about your jury service. I felt very

honored to be here, to do my civic duty. It  
seems we see the light @ the end of the  
tunnel.

6. Upon reflection, tell us how you felt about the health and safety measures we employed. Should we have done more or less? If you believe we should have done more or less, describe specifically all you believe we should have done.

Everything was handled perfectly.

Please make any other comments or suggestions that you believe would be helpful to the Court, court personnel, the attorneys, and the parties, but DO NOT express particular comments about the result of this case or how you reached your verdict.

A place to smoke during break would be appreciated

8. Would you be willing to be interviewed on a confidential basis by a person not associated with the case about your experiences? of course
9. What comments would you care to make to the attorneys about things they could do to improve their trial performance. \_\_\_\_\_

Bring more evidence

## POST-TRIAL QUESTIONNAIRE

Name (Optional) \_\_\_\_\_

1. Is this your first experience serving as a juror in federal court? Yes

If not, when did you previously serve? \_\_\_\_\_

2. What, if anything, should we do to improve generally the experience of jurors in this court?

Nothing

3. Did you like the trial schedule? Yes

If you would have preferred another, what would it have been? \_\_\_\_\_

4. Did you take notes during trial? Yes

If so, did you find that helpful? Yes

5. Write 2 or 3 sentences reflecting how you feel about your jury service. first

time jury duty. Judge Lynn did an  
exceptional job. I felt safe and comfortable.

6. Upon reflection, tell us how you felt about the health and safety measures we employed. Should we have done more or less? If you believe we should have done more or less, describe specifically all you believe we should have done.

health and safety were exceptional.

7. Please make any other comments or suggestions that you believe would be helpful to the Court, court personnel, the attorneys, and the parties, but DO NOT express particular comments about the result of this case or how you reached your verdict.

—

8. Would you be willing to be interviewed on a confidential basis by a person not associated with the case about your experiences? —
9. What comments would you care to make to the attorneys about things they could do to improve their trial performance. —

the defendant was stopped on suspicion  
of DUI. After review of police tape  
defendant was not screaming, which is

## POST-TRIAL QUESTIONNAIRE

Name (Optional) \_\_\_\_\_

1. Is this your first experience serving as a juror in federal court? Yes

If not, when did you previously serve? \_\_\_\_\_

2. What, if anything, should we do to improve generally the experience of jurors in this court?

Everything that was Great - Great Exp.

3. Did you like the trial schedule? Yes

If you would have preferred another, what would it have been? \_\_\_\_\_

4. Did you take notes during trial? Yes

If so, did you find that helpful? Yes

5. Write 2 or 3 sentences reflecting how you feel about your jury service. Great Duty

to serve the Court system. Open my eyes in a  
New perspective of the Law + its workings

6. Upon reflection, tell us how you felt about the health and safety measures we employed. Should we have done more or less? If you believe we should have done more or less, describe specifically all you believe we should have done.

Couldn't of had been any better.

Please make any other comments or suggestions that you believe would be helpful to the Court, court personnel, the attorneys, and the parties, but DO NOT express particular comments about the result of this case or how you reached your verdict.

None

8. Would you be willing to be interviewed on a confidential basis by a person not associated with the case about your experiences? No.

9. What comments would you care to make to the attorneys about things they could do to improve their trial performance. Be better prepared.

## POST-TRIAL QUESTIONNAIRE

Name (Optional) [REDACTED]

1. Is this your first experience serving as a juror in federal court? NO

If not, when did you previously serve? [REDACTED]

2. What, if anything, should we do to improve generally the experience of jurors in this court?

Everything was great

3. Did you like the trial schedule? Yes

If you would have preferred another, what would it have been? \_\_\_\_\_

4. Did you take notes during trial? Yes

If so, did you find that helpful? Yes

5. Write 2 or 3 sentences reflecting how you feel about your jury service. \_\_\_\_\_

I feel great to serve as a jury duty.

I enjoy to be part of a great jury group.

6. Upon reflection, tell us how you felt about the health and safety measures we employed. Should we have done more or less? If you believe we should have done more or less, describe specifically all you believe we should have done.

All of the safety are great

no issues

7. Please make any other comments or suggestions that you believe would be helpful to the Court, court personnel, the attorneys, and the parties, but DO NOT express particular comments about the result of this case or how you reached your verdict.

All was great no issue

8. Would you be willing to be interviewed on a confidential basis by a person not associated with the case about your experiences? no issue

9. What comments would you care to make to the attorneys about things they could do to improve their trial performance. It would have been

nice to have more evidence, such as DNA  
and figure prints on

## POST-TRIAL QUESTIONNAIRE

Name (Optional) \_\_\_\_\_

1. Is this your first experience serving as a juror in federal court? Yes

If not, when did you previously serve? \_\_\_\_\_

2. What, if anything, should we do to improve generally the experience of jurors in this court?

4 \_\_\_\_\_

3. Did you like the trial schedule? Yes - I had no issues with it

If you would have preferred another, what would it have been? \_\_\_\_\_

4. Did you take notes during trial? Yes

If so, did you find that helpful? Yes it was very helpful

5. Write 2 or 3 sentences reflecting how you feel about your jury service. \_\_\_\_\_

I am honoured to have served as a juror  
I ~~am~~ <sup>have</sup> felt safe and secure

6. Upon reflection, tell us how you felt about the health and safety measures we employed. Should we have done more or less? If you believe we should have done more or less, describe specifically all you believe we should have done.

The health and safety measures  
employed ~~is~~ <sup>were</sup> are very well organised  
and could not have been any better.

7. Please make any other comments or suggestions that you believe would be helpful to the Court, court personnel, the attorneys, and the parties, but DO NOT express particular comments about the result of this case or how you reached your verdict.

---

---

8. Would you be willing to be interviewed on a confidential basis by a person not associated with the case about your experiences? No

9. What comments would you care to make to the attorneys about things they could do to improve their trial performance. \_\_\_\_\_

They could bring in more evidence, facts.  
to support their the claim.

---

POST TRIAL QUESTIONNAIRE

Name (Optional) \_\_\_\_\_

1. Is this your first experience serving as a juror in federal court? yes

If not, when did you previously serve? \_\_\_\_\_

2. What, if anything, should we do to improve generally the experience of jurors in this court?

N/A

3. Did you like the trial schedule? yes

If you would have preferred another, what would it have been? N/A

4. Did you take notes during trial? yes

If so, did you find that helpful? video and transcripts

5. Write 2 or 3 sentences reflecting how you feel about your jury service. \_\_\_\_\_

I was nervous about the process. After a couple days I felt better.

6. Upon reflection, tell us how you felt about the health and safety measures we employed. Should we have done more or less? If you believe we should have done more or less, describe specifically all you believe we should have done.

The judge and the entire staff did a GREAT job.

Everything was done w/ our health & safety in mind.

JOB WELL DONE!!

7. Please make any other comments or suggestions that you believe would be helpful to the Court, court personnel, the attorneys, and the parties, but DO NOT express particular comments about the result of this case or how you reached your verdict.

Thx Thanks for breakfast & lunch. MR. Davis made  
me feel safe and he was very welcoming.

8. Would you be willing to be interviewed on a confidential basis by a person not associated with the case about your experiences? yes
9. What comments would you care to make to the attorneys about things they could do to improve their trial performance. \_\_\_\_\_

The state's evidence was TRASH!! It was very clear  
they were unprepared.

Defense Team were very knowledgeable and proved their case.  
Best of luck to all.

## POST-TRIAL QUESTIONNAIRE

Name (Optional) \_\_\_\_\_

1. Is this your first experience serving as a juror in federal court? yes

If not, when did you previously serve? \_\_\_\_\_

2. What, if anything, should we do to improve generally the experience of jurors in this court?

Nothing el would suggest to improve on.

3. Did you like the trial schedule? yes

If you would have preferred another, what would it have been? \_\_\_\_\_

4. Did you take notes during trial? yes

If so, did you find that helpful? the notes were helpful

5. Write 2 or 3 sentences reflecting how you feel about your jury service. I felt

that it is important and our civil duty. I  
appreciated the experience. Thank you!

6. Upon reflection, tell us how you felt about the health and safety measures we employed. Should we have done more or less? If you believe we should have done more or less, describe specifically all you believe we should have done.

I felt that the health + safety measures that  
were employed were wonderful! I felt  
safe in and outside of the courtroom.  
I believe you all went above and  
beyond to protect us + others in the  
court room.

7. Please make any other comments or suggestions that you believe would be helpful to the Court, court personnel, the attorneys, and the parties, but DO NOT express particular comments about the result of this case or how you reached your verdict.

N/A

8. Would you be willing to be interviewed on a confidential basis by a person not associated with the case about your experiences? No

9. What comments would you care to make to the attorneys about things they could do to improve their trial performance. I believe not talking

monotone and actually having emotion  
behind their voice. ~~and not being~~

POST TRIAL QUESTIONNAIRE

Name (Optional) \_\_\_\_\_

1. Is this your first experience serving as a juror in federal court? Yes

If not, when did you previously serve? \_\_\_\_\_

2. What, if anything, should we do to improve generally the experience of jurors in this court?

Thought everything went well, I felt comfortable

3. Did you like the trial schedule? It was good

If you would have preferred another, what would it have been? \_\_\_\_\_

4. Did you take notes during trial? Yes

If so, did you find that helpful? Yes

5. Write 2 or 3 sentences reflecting how you feel about your jury service. I have a lot

of self pride in being able to perform this civil duty. I  
am grateful for this experience that I can use in my  
classroom.

6. Upon reflection, tell us how you felt about the health and safety measures we employed. Should we have done more or less? If you believe we should have done more or less, describe specifically all you believe we should have done.

Health and safety measures were above and  
beyond what I would have needed to feel  
comfortable. Very grateful for the face shield,  
I do not like the masks

7. Please make any other comments or suggestions that you believe would be helpful to the Court, court personnel, the attorneys, and the parties, but DO NOT express particular comments about the result of this case or how you reached your verdict.

N/A

8. Would you be willing to be interviewed on a confidential basis by a person not associated with the case about your experiences? Yes
9. What comments would you care to make to the attorneys about things they could do to improve their trial performance. \_\_\_\_\_

Having factual evidence will make or break a case.

# Guiding Principles for Post-Pandemic Court Technology

A pandemic resource from CCJ/COSCA

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Each year more than 83 million cases are filed in the nation's courts. Prior to the COVID-19 pandemic, in almost all cases, tens of millions of court users had no choice about whether to visit a courthouse to resolve their case; they were required to appear in person. The pandemic forced state courts to figure out how to maintain access to justice while keeping court users, the public, and court employees safe. Courts improvised in-the-moment solutions built upon existing continuity plans and have shown remarkable creativity, resourcefulness, and willingness to embrace new technologies. Over the last 120 days, courts have shared ideas, innovations, and problem solving across jurisdictions and should be commended for their commitment to keeping the legal system running.

This national emergency led state courts to embrace online platforms like never before. To varying degrees before the pandemic, courts had been using online processes like electronic filing, online case management, video- and teleconference hearings, online payment platforms, text message notifications, and Online Dispute Resolution (ODR). These technologies acted as gateways to modernization that this pandemic has accelerated. As a direct result of the pandemic, courts have improved their business processes and increased access for court users by deploying remote services to conduct essential functions and provide greater flexibility for court users and staff alike. While some of these solutions have been tested and proven for years, the disruptive pandemic expedited the courts' use of them and resistance to change.

With all of the advancements, courts should not just rest on the accomplishments of the past quarter but should view this moment as an extraordinary opportunity to deliver better justice. Courts have often felt insulated from the pressures of the private marketplace that has forced many businesses to adapt to new technology, but court users are demanding advancements and choosing to take their disputes elsewhere. To better serve court users, we must modify decades-old court procedures put in place before laptops, email, text messages, or even the Internet – many times even the mechanical typewriter. Courts now have a unique opportunity to leverage creative thinking, seize on an emergency-created receptivity to change, and adopt technology to create long-term and much-needed improvements.

The COVID-19 pandemic is not the disruption courts wanted, but it is the disruption that courts needed: to re-imagine and embrace new ways of operating; and to transform courts into a more accessible, transparent, efficient, and user-friendly branch of government. Institutional inertia should not end this transformation once the pandemic passes. The process of developing new business processes and technologies to better meet the

needs of court users and staff should continue, and courts must be willing to adjust as necessary in response to user input and experience. This moment in history marks a unique opportunity to create long-term and much-needed change for state courts.

Technology is not a panacea. It does not and should not replace the fundamentally human character of justice. However, it provides a unique opportunity for courts to ensure that all parties to a dispute—regardless of race, ethnicity, gender, English proficiency, disability, socio-economic status or whether they are self-represented—have the opportunity to meaningfully participate in court processes and be heard by a neutral third-party who will render a speedy and fair decision.

The technological improvements made recently provide benefits beyond this pandemic, as these same solutions allow state courts to prepare disaster plans to maintain court operations during other challenges, such as power outages, natural disasters, or cybersecurity attacks. As court processes become increasingly intertwined with technology, disaster plans must create redundancies to address situations that may specifically impact mission-critical technologies.

In consideration of all of this, the Post-Pandemic Planning Technology Working Group of the Conference of Chief Justices/Conference of State Court Administrators recommends that state courts consider the following six key principles as they embrace technology:

## **1. Ensure principles of due process, procedural fairness, transparency, and equal access are satisfied when adopting new technologies.**

Although adopting new technologies may allow courts to become more efficient, it is imperative that the principles fundamental to the court are preserved when processes go online. Courts should:

- Ensure parties receive proper notice of a case. This includes adapting statutes and court rules to allow for electronic service and other tech-friendly options.
- Include plain language procedural and substantive legal information for all parties at various stages of their cases, so that users can access easy-to-understand and relevant information in real time.
  - This is true within both traditional in-person court processes and in online court processes.
  - Within online systems specifically, court users need access to plain language legal information directly from the court website or court-annexed online dispute resolution (ODR) platform easily and without having to toggle between multiple websites or additional sources of information.
- Design systems that connect litigants to available legal help and, if applicable, develop solutions where attorneys can participate fully with their clients during remote hearings or ODR.

- Live chat for the public, chatbots, telephone hotlines, and other interactive features allow court users to ask questions to self-help court staff and outside attorneys and to locate available legal referrals on court websites, within ODR platforms, and within remote hearing platforms.
- Courts should design systems that allow for multiple users to access case files and legal information; and for online negotiations that specifically accommodate the use of breakout rooms.
- In ODR, facilitate court or staff review of proposed agreements and orders prior to hearings or enforcement.
  - Once reviewed and confirmed by a judicial officer, orders should be fully enforceable.
  - Parties should maintain the same rights to appeal whether a judge resolves the case via ODR or in a traditional court process. For ODR specifically, cases that do not resolve through online systems should proceed through an in-person court process in a timely manner.

## 2. Focus on the user experience.

Courts should implement technology that is designed to meet the needs of all users and reduce barriers to access. Court users should include not only judges, clerk and court staff, but also attorneys, self-represented litigants, community partners, researchers, and the public. In particular, courts should:

- Ensure that online services are mobile responsive, compatible with the most used browsers, and easy for users to provide the necessary information to advance their cases. In the era of paper, this meant giving court users easy access to a plethora of court forms. Today, as remote services become more available, this means finding easy ways to collect data from users in a way that facilitates the transfer of that data across the court system.
- Look to the impact the innovation would have on underserved communities and ensure their perspectives and needs are effectively addressed in design and functionality. Implement technologies only after carefully considering the benefits, costs and burdens on court users and ways to bridge the digital divide.
- Ensure accessibility.
  - Comply with the Americans with Disabilities Act, applicable state laws and regulations and commonly accepted accessibility guidelines related to accommodations for persons with disabilities. This requires ensuring the compatibility of online platforms with screen-reading software, confirming that web pages can be easily magnified, and using video technology that integrates closed captioning.
  - Reduce barriers for individuals with limited English proficiency by designing systems that allow for online translation and remote live

interpretation. Offer online tools in whatever languages are commonly spoken in the populations being served. Consider creating videos and spoken language assistance to address the needs of people with low literacy, American Sign Language as well as limited English proficiency.

- Make non-protected court case records and documents publicly available online and, where appropriate, enforce confidentiality requirements for information, pleadings, proceedings, negotiations, and communications in online settings.
- Provide alternatives such as telephone or SMS texting services, to ensure information is available to the broadest range of communities, including those without internet access.
- Avoid requiring users to pay additional costs to use technology or remote services and streamline the process for obtaining civil fee waivers.
- Accommodate the payment of fees and fines via electronic, telephone, or community pay point (such as gas stations, grocery, or convenience stores) eliminating the requirement for individuals to come to courthouses to make payments. Be mindful of unbanked court users; and consider payment options from credit card and/or electronic wallet options (like Venmo, Apple Pay, PayPal) as well as cash through community pay points.

### 3. Prioritize court-user driven technology.

The speedy release and adoption of court technology—with room for modification and iteration—has been especially important during this pandemic, where emergency court closures have forced courts to make rapid technology decisions relating to teleworking software, hardware, and remote hearing platforms. Going forward, courts should make intentional technology decisions, based on the needs of and feedback from a range of diverse court users. While the experiences of other courts can provide valuable insights, it is essential that courts analyze court user and their own business needs in making technology choices that will respond to local problems and maximize return on investment.

The court user experience should drive innovation and the transitioning of traditionally in-person processes online where appropriate. Courts should focus on implementing technology improvements that better serve both court users and staff; and as such, are open to working with public/private entities to achieve desired innovation. Technology vendors should be included collaboratively to ensure a common understanding of the business problems being addressed and user needs.

In addition, courts should collaborate with one another to define needs to achieve efficiencies with vendors. Requiring technology customization for institutional local court cultures is likely to increase the cost of products and processes. Courts should consider collaborating on a local or regional basis to standardize requirements and leverage negotiations with vendors. The tendency to regard each court as a unique business problem permits vendors to charge bespoke prices for what may be across-the-board very similar solutions.

Courts often look to off-the-shelf products developed by private companies. While many can be quickly customized and implemented, some platforms can require costly modifications to align with existing court rules and procedures. Courts in this instance need to make informed choices between standardization, which facilitates the use of off-the-shelf solutions, or customization, which provides tailored products but compromises the hoped-for savings in choosing an off-the-shelf product. Gaps between court needs and vendor offerings have often created challenges. Some may not fully integrate with the court's other systems, resulting in user frustration and duplication of staff effort. In some instances, products have been implemented that are not designed for court users, resulting in low levels of adoption and use. Wherever practicable, state courts should explore platforms that allow for increased flexibility when implementing off-the-shelf software, should explore choices in operational processes, and should simplify the training process. This avoids simply replicating decades-old paper processes with a digital substitution, or "paving the cow path."

To avoid these pitfalls, courts should:

- Clearly define what user challenges and business problem(s) the court is trying to solve before settling on a specific technology.
  - During this analysis, the court should review and adjust business processes to reduce redundancy and eliminate unnecessary steps.
  - Map current processes and determine which elements can be eliminated or combined and/or consider how existing processes can be re-imagined to better meet user needs.
  - Review established court technologies to assess whether they can be re-purposed (to avoid "re-inventing the wheel") and/or whether a new technology will be necessary to solve the business problem at hand.
- During the design phase, test the anticipated new process with real users, with an emphasis on external stakeholders.<sup>1</sup>
  - This review can also highlight when and where court users can and should receive legal information within new technologies.
  - Review existing court administrative orders, procedures, rules, and cultural habits to identify those that should be modified or eliminated to conform with more modern, technologically innovative processes.

<sup>1</sup> See, e.g., Hagan, Margaret. "Participatory Design for Innovation in Access to Justice." *Daedalus* 148, no. 1 (2019): 120–27. [https://doi.org/10.1162/DAED\\_a\\_00544](https://doi.org/10.1162/DAED_a_00544); Aldunate, Guillermo, Margaret Hagan, Jorge Gabriel Jimenez, Janet Martinez, and Jane Wong. "Doing User Research in the Courts on the Future of Access to Justice." *Legal Design and Innovation*. Stanford, CA, July 2018. <https://medium.com/legal-design-and-innovation/doing-user-research-in-the-courts-on-the-future-of-access-to-justice-cb7a75dc3a4b>; Maier, Andrew, and Sarah Eckert. "Introduction to Remote Moderated Usability Testing, Part 2: How." 18F, US General Services Administration agency, November 20, 2018. <https://18f.gsa.gov/2018/11/20/introduction-to-remote-moderated-usability-testing-part-2-how/>; 18F. "18F Methods: A Collection of Tools to Bring Human-Centered Design into Your Project." US General Services Administration, 2020. <https://methods.18f.gov/>; O'Neil, Daniel X, and Smart Chicago Collaborative. *Civic User Testing Group as a New Model for UX Testing, Digital Skills Development, and Community Engagement in Civic Tech*. Chicago: The CUT Group, 2019, <https://irp-cdn.multiscreensite.com/9614ecbe/files/uploaded/TheCUTGroupBook.pdf>; and Hagan, Margaret. "Community Testing 4 Innovations for Traffic Court Justice." *Legal Design and Innovation*, 2017. <https://medium.com/legal-design-and-innovation/community-testing-4-innovations-for-traffic-court-justice-df439cb7bcd9>.

- Issue competitive requests for information or proposals (RFIs/RFPs) that invite and empower vendors to propose solutions that are responsive to court users' needs, rather than promoting specific products. Leverage the creativity and expertise of vendors, without letting vendors determine court technology priorities.
- Explore low-code development and application platforms that allow for a more flexible approach to implementing off-the-shelf software.

## 4. Embrace flexibility and willingness to adapt.

Cost-effective technology design is achieved by doing three important things:

- Identifying the technology solution only after clearly articulating the business problem that the technology will address, informed by user input and experience;
- Solving the business problem by proposing user-experience based solutions; and
- Testing for success at each step.

This approach, pioneered in Silicon Valley, is an on-going process that shapes technology solutions through multiple versions of a product until the goal is achieved; and even then, technologies can continue to be improved to better meet the changing law and user needs. Agility maximizes return on scarce court technology dollars by spotting and avoiding expensive mistakes early in development. This process also identifies opportunities to streamline and simplify court operations through available technology choices as the design progresses.

Put another way, courts should adopt an agile approach to piloting innovation and technology. This means a willingness to test and adapt, anticipating that changes will be required after the initial launch. It means being willing to try things and fail. It also means being willing to jettison technologies or court processes that do not deliver intended benefits and/or cause unanticipated harms. By identifying small failures in assumptions quickly, expensive mistakes can be avoided, corrections will be easier to make, and overall success is more likely.

- Start with a minimum viable product, pilot test, learn from user experience, and identify needed features. This will allow courts to learn how the technology works in practice, which will inform how to improve future versions and releases; and will likely result in more cost-effective innovation.
- Neither the minimum viable product nor the updates that follow should affect fundamental due process.
- Every version of a technology product under development is examined and reexamined to avoid “scope creep” and assure the product remains oriented to the project goal, including considerations of due process, procedural fairness, transparency, and equal access.
- Be open to public/private partnerships, including with civil legal aid offices, law

school technology innovation labs, charities, community organizations, non-profits, start-up technology ventures, private vendors, and large law firms to accomplish what is required.

## **5. Adopt remote-first (or at least remote-friendly) planning, where practicable, to move court processes forward.**

Courts should implement technology that is deliberately designed to allow court staff, judicial officers, and external court users to advance court processes remotely where appropriate, while respecting the fundamental court processes that will always be best served by live participation. Courts should ensure that the needs of external court users are paramount in all decisions.

In particular, courts should:

- Build supportive infrastructure around remote work practice for court staff, judicial officers, probation and pre-trial officers, self-help staff, court-annexed mediators, and interpreters. This will require courts to promulgate the necessary employee and human resources remote policies, as well as to set the expectation for good home internet connections and quiet working space for court staff to allow for court business to continue remotely.
- Move as many court processes as possible online. This will not only facilitate the resolution of legal issues during the pandemic, but will also reduce the inconvenience and burden of in-person processes including taking time off work, getting childcare, and/or commuting far distances to courthouses once the risk of COVID-19 has passed.
- Allow for remote attendance at hearings (by either telephone or video) and ensure that court staff and court users are provided with the training, plain language instructions, and resources necessary to participate effectively.
- Identify options for those without meaningful and/or limited access to the Internet or equipment required to participate in court processes remotely. To bridge the digital divide, courts should allow participation via telephone or court- or community-based kiosks.

## **6. Take an open, data-driven, and transparent approach to implementing and maintaining court processes and supporting technologies.**

As courts seek to improve their effectiveness through online services, they should collect data to monitor and evaluate new processes and technologies to determine success and address any challenges, while also maintaining appropriate data management protocols. Specifically, courts should:

- User-test technology with the public during development. Ensure the system meets user needs, including accessibility, ease of use, and language.

- Establish baseline metrics from existing processes/systems.
- Collect data at frequent intervals. Monitor the effectiveness of online services as compared to baseline metrics. Ensure collected data helps court leaders accurately assess the technology's impact on the identified business problem and make any necessary adjustments.
- Protect personal identifying information (PII) in the use and reporting of court data.
  - When working with vendors, courts should consider who owns the case, configuration, and usage data; the parameters and timeframes for the transfer or destruction of this data; and restricting vendor and third-party usage of data.
  - Use the RFI/RFP bidding process to specify requirements relating to data collection, legal information and limited English proficiency/disability accessibility.
  - Work to provide transparency while balancing the privacy and safety needs of litigants, witnesses and jurors.
- Evaluate all technology innovations to aid with continuous improvement and, when resources permit, consider working with third-party evaluators to conduct external review.
- Share developed technologies (for free or limited cost, if practicable) and lessons learned from court technology projects with other courts.
- Prepare for costs associated with continuous improvement. Develop and follow through with sustainability and maintenance plans for all technology innovations. Budget anticipated future costs to modify technology due to changes in the law or user needs over time.

Technology has played a critical role in the courts' response to the pandemic. As courts begin to resume some in-person proceedings and to consider a post-pandemic world, courts must not leave the technological advances behind but instead use these guiding principles to build upon the success of the past months to better serve court users and provide greater equal access to justice for all.