

EASTERN DISTRICT OF MICHIGAN POLICIES AND PROCEDURES FOR JURY TRIALS

The following Rules of Conduct are in effect for the reopening of the Detroit, Flint, Ann Arbor, Bay City and Port Huron courthouses.

These jury trial policies and procedures are intended to apply to both civil and criminal cases in the Eastern District of Michigan during the pendency of the coronavirus emergency declared by the Judicial Conference. The Court will carefully monitor trials and make any necessary changes to this document to ensure the health and safety of all participants.

1. NOTIFICATION

Attorneys are responsible for notifying all attendees of these policies and procedures.

2. ATTENDANCE AND ENTRY

- A. All persons entering the courthouse will be required to answer health screening questions and have their temperatures checked.
- B. For any attendee who is traveling to the courthouse from out of state (e.g., attorneys, defendants, clients, victims, family members and witnesses), the domestic travel guidelines recommended by the Centers for Disease Control and Prevention (CDC) currently in effect will be followed by the Court. However, the Court may change its restrictions in response to pandemic conditions.
- C. Out-of-state unvaccinated attendees must have a COVID-19 test completed no more than three (3) days before travel in accordance with CDC guidelines.
- D. Unvaccinated attendees who are residents of the State of Michigan, but have traveled outside of the state within 10 days of the trial date, must follow the domestic travel guidelines from the CDC.
- E. Unvaccinated attendees must have a rapid COVID-19 test completed the day before the scheduled trial date. The rapid test results must be produced to gain entry into any courthouse in the Eastern District of Michigan.
- F. In Detroit, attorneys must enter the courthouse using the doors on the appropriate side of the building as indicated in the notice to appear.

- G. Attorneys must inform all attendees of the proper entrance to enter the courthouse.
- H. All attendees entering the courthouse are to wear a surgical grade facial mask. Statement masks and masks with emblems are not permitted in the courthouse. Masks must be worn at all times.
- I. Attorneys who do not pass the health screening will be asked to leave the building and are to contact chambers immediately.
- J. Attendees who do not pass the health screening will be asked to leave the building and are to contact the appropriate attorney immediately.
- K. Attorneys must ensure that attendees have their cell phone number in case they do not pass the health screening to enter the building. It is counsel's responsibility to inform the court if this situation occurs.
- L. In the Detroit courthouse, only two individuals are allowed to occupy an elevator car and must observe social distancing while inside. Elevator occupancy may vary at other courthouses.
- M. The Court will take appropriate action against anyone who violates these rules, or provides false or doctored information.

3. COURTROOM GUIDANCE

- A. Congregating in the hallways is not permitted. All attendees must leave the building immediately after trial has concluded for the day. Counsel is responsible for informing all attendees of these requirements.
- B. Attorneys and court staff must take all papers, exhibits, and belongings out of the courtroom each evening to ensure that all surfaces can be cleaned in the courtroom.
- C. All conference rooms (or other locations approved by the Court) must be emptied each afternoon of all papers, exhibits, and belongings, so that GSA or the cleaning contractor is able to thoroughly clean the area.
- D. Attorneys are responsible for ensuring that writs for custodial defendants and/or witnesses are issued and furnished to the U.S. Marshal's Service at least sixty days in advance of the trial date.
- E. Hand sanitizer, disinfectant wipes, and facial tissue will be available in each courtroom.

4. **PROSPECTIVE JURORS' VACCINATION STATUS**

The Jury Department is not screening prospective jurors as to their vaccination status.

5. **VOIR DIRE AND JURY TRIAL RELATED PREPARATIONS**

A. Social Distancing

To adhere to social distancing requirements, seated jurors will hear testimony and review evidence from the trial courtroom gallery.

The courtrooms will be set up to create a safe environment in which to conduct jury trials. The lectern and counsel tables will be rearranged for counsel and the defendant to be able to view the gallery, witness box and the judge.

B. Technology Needs

A member of the IT staff will be available at all times because of the increased technology needs.

C. Microphones for Jurors

It is not possible to provide enough portable microphones so that each member of the jury venire has their own microphone. For *voir dire*, each juror will be asked to stand, keep their mask on, and in a loud clear voice respond to the questions. If the prospective juror cannot be heard, he or she may be asked to approach the microphone lectern to speak.

D. Masks and Clear Face Shields

All trial participants must wear an approved mask, as defined by the CDC, in the courtroom (and everywhere else in the courthouse). A witness must be masked unless they are testifying, then they must wear a court-issued face shield.

E. Meeting Space

Conference rooms for parties may be identified and assigned in advance to enable counsel and their clients and witnesses to have private discussions. For defendants who are detained, a room in the U.S. Marshal's lock-up may be

designated for such private discussions.

F. Sidebar Conferences

Judges have the flexibility to conduct sidebar conferences at the bench, in chambers (if the chambers is unassigned), or using headsets.

G. Interpretation

A separate, socially distanced location will be designated in the *voir dire* and trial courtrooms for the interpreter. If needed, the Court may allow the defendant to privately communicate with their attorney with the assistance of an interpreter.

H. Public Viewing

The public and the media must be able to view a trial. It is the Court's intention to accommodate public viewing. Given the limitations of social distancing in the trial courtroom, especially with the jurors seated in the gallery, it is not safe to have family members and members of the public or media in the courtroom during the trial. Instead, video and audio of the trial will be available in a remote courtroom designated as the "public viewing courtroom." Court-approved masks and social distancing are required at all times. Due to limited seating capacity, and to ensure seating availability, family members must coordinate their attendance through counsel who will inform the judge's case manager. Members of the media must coordinate through the Public Information Officer, David Ashenfelter.

There may be instances when it is inappropriate to have the public and media observe portions of the trial. For those portions, the judge and his or her staff must work out a communication plan with the IT staff to stop the video or audio feed to the public viewing courtroom. The IT staff is also responsible for verifying throughout each day of trial that members of the public and media can adequately hear and see the trial in the public viewing courtroom.

6. EVIDENCE PRESENTATION

- A. Counsel will make opening statements and closing arguments, question a witness, and argue to the Court from counsel tables. In general, counsel should remain seated when questioning a witness to ensure that counsel is close enough to the microphone to be heard. Counsel may not approach a witness without permission from the Court.
- B. If possible, all documentary evidence will be provided electronically with no paper used in the courtroom.

- C. If it is necessary for a witness to review a paper document, the attorney should place any paper exhibits on the witness stand before the witness is called to testify.
- D. All physical evidence offered must be safely managed during the trial.
- E. Each party is responsible for packaging and removing all physical evidence at the end of each trial day.
- F. Any demonstrative exhibits must be displayed and shared electronically.

7. WITNESS TESTIMONY

- A. The Court will provide each witness the following in advance of his/her testimony:
 - 1) A clear plastic face shield
 - 2) Disinfecting wipes to use on the stand and microphone
 - 3) Hand sanitizer
- B. The Court will coordinate with counsel for witnesses to wait their turn to testify in the public hallways or in the attorney conference rooms. Witnesses must wear face masks at all times. Social distancing must be followed. The Court will provide disinfecting wipes in the attorney conference rooms.
- C. Witnesses are to refrain from walking in the hallways during breaks.

8. POSSIBLE ILLNESS DURING JURY TRIAL

The trial judge will determine how to proceed in the event of COVID-19 exposure or illness.

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