

TWENTY-THIRD JUDICIAL CIRCUIT
JURY TRIAL PREPAREDNESS PLAN
Roanoke County Courthouse

October 15, 2020

General Requirements Before Resumption of Jury Trials

In consultation with the judges of this circuit, local sheriffs, clerks of the circuit courts, public health officials, and stakeholders, the following criteria have been considered in this plan to resume jury trials:

- 1) To ensure the health and safety of all participants in a jury trial: The jurors, litigants, witnesses and Courthouse employees as well as other members of the public accessing the Courthouse. This will be accomplished through prescreening, use of personal protective equipment (PPE), social distancing, cleaning and disinfecting surfaces and maintaining air quality.
- 2) To ensure the Constitutional and statutory rights of the parties, including but not limited to the right to a jury trial, the right to a speedy trial, the right to a public trial, the right to confrontation, and the rights of crime victims.
- 3) To ensure that the parties have a full and fair opportunity to litigate the case in as normal a fashion as possible.
- 4) To ensure that the jurors and other participants feel comfortable both with the health and safety measures and with any modifications that have been necessary so that they are not distracted and can fully focus on the case.

Authorities Consulted

Supreme Court of Virginia Orders of Judicial Emergency in Response to Covid-19 Emergency:
<http://www.courts.state.va.us/news/items/covid/scvemergencyorders.pdf>

Virginia Governor Ralph S. Northam Executive Orders: <http://www.virginia.gov/coronavirus/>

16VAC25-220 EMERGENCY TEMPORARY STANDARD – Infectious Disease Prevention:
SARS-CoV-2 Virus that Causes COVID-19

Guidance Document for Judges and Clerks Re: Standard Adopted by the Safety and Health
Codes Board of Labor and Industry

Stakeholders Consulted

This plan has been developed in consultation with the Judges of the 23rd Circuit, the Clerk of the Circuit Court, the Roanoke County Sheriff's Department, the Western Virginia Regional Jail, the Roanoke County Courthouse Facilities Management Department, and the Maintenance Department.

General Information and Protocols

1) Preparation of the Facility and Staff

The Roanoke County Courthouse is located in downtown Salem, Virginia. The Courthouse is a two-story building. The first floor houses the public entrances and security stations, the General District Court with two courtrooms, and the General District Court Clerk's office. The second floor contains the Circuit Court with three courtrooms, the Circuit Court Clerk's Office, and the Commonwealth's Attorney's Office.

There is one public entrance into the Courthouse and at least two other entrances for staff. There are signs at each entrance alerting entrants that masks are required upon entry to the courthouse (Attachment A). Deputies will question all entrants, both public patrons and jurors, regarding potential exposure to COVID or temperature over 100.4 degrees. Failure to answer these questions, or an answer that confirms a risk of exposure, results in being denied entrance to

the courthouse. Signage at the doors communicates these policies to the public. Any person who is refused entry into the building by reason of a COVID-related risk will receive instructions about how to contact the Court or the office with which he or she had business to inform them of the situation.

There is a main staircase leading from the first to second floors and two elevators serving both floors. Public restrooms are available on each floor. Two unisex restrooms are located directly next to each jury room and are restricted to jury use only. The Roanoke County Jail is located directly next to the courthouse and secure, with restricted and enclosed access.

Masks or face coverings shall be required for anyone entering the courthouse, except for individuals who have a medical condition that prevents them from safely wearing a mask or face covering. Masks must be worn at all times in the courthouse by everyone who does not have such a condition unless specifically excused by a judge in accordance with the specific policies discussed below. If someone does not have a mask or face covering, one will be provided to them.

There are strategically placed sanitization stations around the courthouse that provide access to extra/replacement masks and hand sanitizer. Jurors and all participants in the jury trial will also have access to restrooms where they can safely wash their hands. Jurors who wish to bring their own hand sanitizer will be permitted to keep a small individual bottle of hand sanitizer on their person throughout the trial as well.

Access to the upper floor can be accomplished using a public stairway. Further, the entrance and the stairway have been marked off with clear traffic patterns to ensure proper social distancing. Alternatively, two elevators are available to the public. The elevators are well-marked with signs limiting elevator occupancy to no more than two riders and reminding users that social distancing is required. Security personnel will be directing the public to the stairway to

encourage its use over the elevator. Jurors will be asked to refrain from using courthouse elevators, unless medically necessary, in order to maintain proper social distancing.

Seating outside the courtroom is marked to indicate where witnesses and members of the public should sit to ensure social distancing can be maintained. Arrival of witnesses will be staggered but no more than one witness shall be permitted in a witness room at a time. The witness room shall be cleaned between uses. To encourage social distancing between individual jurors, any time jurors must walk through the courthouse, movement will be restricted to ensure that proper social distancing can be maintained. All movement of jurors will be accompanied and monitored by Sheriff's Deputies.

II) HVAC

All conditioned air is pulled through pleated MERV 8 filters and large bag filters. The pleated filters are replaced every three months, and the bag filters are replaced yearly. Though resources are a significant issue, we are investigating the installation of UV lights in all air handlers for additional filtration. The Roanoke County HVAC system meets CDC standards.

III) Cleaning Protocols

Public areas in the courthouse, including common areas, elevators, restrooms, courtrooms, and jury rooms, will be cleaned regularly multiple times throughout the day. Courtroom bailiffs already clean the witness stand with disinfectant between each witness. Additional cleaning staff will be available for all jury trials, with instructions to clean all high-touch surfaces, approximately every two hours. Specifically, the courtroom and jury room will be cleaned in the morning, during the lunch break, and in the evening. After the evening cleaning, the courtroom will be sealed until the following morning. Mid-trial cleaning procedures are further discussed in the "Recess and Meal Breaks" section below.

IV) Jury Lists and Summons

In appropriate civil cases, and in an effort to lessen the number of jurors required for trial, the court may discuss with counsel and/or the parties the availability of three-person jury trials as contemplated by Va. Code Ann. § 8.01-359(D) and summary jury trials as contemplated by Va. Code Ann. § 8.01-576.2.

The Clerk of Court shall consult with the Court to determine the appropriate number of jurors to be summoned for each Term of Court. Factors to be considered will include the number of juries scheduled and the nature of the cases; the current prevalence of COVID-19 in the community and any evidence of community spread or “hot spots”; and any data obtained with regard to appearance rates and requests to be excused from prior terms of Court.

It is anticipated that the number of summonses sent to potential jurors will increase to prevent the jury pool from being too small. In advance of any trial, all prospective jurors shall receive an informational package containing proper safety protocols and guidelines for both jury service and entry to the courthouse.

The summons will describe steps the courthouse has taken to mitigate the risk to the public, litigants, and employees. The summons will require that jurors “self-screen” by completing and responding to an additional screening questionnaire, consistent with the “Covid-19 Screening Questionnaire” (Attachment B). The summons will also include a questionnaire to determine if a potential juror is in a high-risk category (Attachment C). Finally, a URL will be included directing potential jurors to this plan. Requests to be excused from jury service will be liberally granted to jurors for good cause and jury service may be deferred to a later date if a juror claims to be in a high-risk category or involved in the care of someone who is in a high-risk category.

Approximately seven days prior to trial, each summonsed juror will be contacted by phone to remind them of their required appearance and to prescreen them. Prescreening questions will be determined by the latest advice from the CDC and VDH and will include any current symptoms, exposure to others with symptoms or a positive test, recent travel and whether they have any special childcare or family member care issues due to the pandemic. Any juror who expresses concern will be directed to call the Clerk's Office, and the Clerk's office will report all screening results to the Clerk. Any juror whose answers indicate a current health risk will be notified by the Clerk not to report and will be replaced by the next juror to be summonsed.

V) Pretrial Conferences

A mandatory pretrial conference will be held by telephone or video conferencing at least two days prior to each scheduled jury trial. At a minimum, the Court will address the jury selection process, the use of alternates, the scheduling of witnesses and the handling of exhibits. Counsel are expected to have conferred prior to this conference to discuss stipulations, agreed exhibits and any outstanding pretrial issues. All parties will be required to certify at the pretrial conference that the case is ready for trial, that all sides have made every good faith effort to resolve the case, that they have considered alternatives to a jury trial, and that they have read this plan. This will mitigate the risk of a last minute settlement or continuance and forestall the need to bring in a group of potential jurors only to have the case not move forward.

Trial Process

I) Trial Scheduling

Only one jury trial will be held in the courthouse at a time. No additional jury trial will begin until any prior jury is concluded and jurors, counsel, etc. have left the courthouse. A

thorough cleaning of all relevant areas, including the courtroom, all high touch areas, the jury room, and juror bathrooms, will be completed before any additional jury trial.

II) Jury Arrival/Assembly

Prospective jurors will be summonsed on a staggered basis. Depending on the number of potential jurors (which will depend on the length and other specifics of the trial) prospective jurors will be summonsed to appear at times staggered throughout the day. No group of prospective jurors shall be larger than twenty persons. For example, one group would be summonsed to appear at 9:00 am, one at 11:30 am, and one at 1:30 pm. The jurors in each group will be randomly selected. This will enable the jurors to maintain better social distance and limit their exposure to other potential jurors.

When jurors arrive at the courthouse, they will be asked a series of questions that mirror the screening questionnaire to determine if they or someone they have come in close contact with has been exposed to the Covid-19 virus. Their temperature will also be taken at this time. Entry shall be denied to any prospective juror with a temperature exceeding 100.4 degrees. Other patrons coming into the courthouse on any days with a jury trial will be treated identically to prospective jurors. As discussed above, masks will be required and provided for those who do not have one. Refusal to wear a mask will result in deferment.

After the jurors have been screened at the courthouse entrance, they will be brought directly to the Circuit Court courtroom number five (Attachment D), where seats will be marked to ensure that jurors maintain social distancing of at least 6 feet. If necessary, deputies may require individuals attempting to enter the Courthouse for other reasons to return to the street and delay their admittance. All employees should use the employee entrance and not attempt to enter through the public entrance. The number of jurors in any single room will be limited so that social distancing can be maintained at all times. If there are more jurors than one jury room or

courtroom can hold, an additional room or rooms will be provided in order to maintain social distancing. Because courtroom five will be used as a jury room under this plan, the adjacent jury room to courtroom five will be utilized for “over flow” jurors, or during jury deliberations so long as proper social distancing can be maintained.

To balance judicial efficiency with the need for precautionary measures, the court will consider selecting at least one alternate juror for every trial or have counsel stipulate that if a juror must later be excused for reasons not related to Covid-19, the trial will continue with one less juror.

III) Voir Dire

During *voir dire*, to comply with proper social distancing guidelines, no more jurors shall be present in the courtroom than that courtroom can accommodate while maintaining social distancing of at least 6 feet. This general policy will be aided by the fact that the arrival times of potential jurors will be staggered throughout the morning and early afternoon, as discussed above.

The voir dire process itself will take place in the normal fashion, but with the potential jurors located in the gallery of the courtroom. Juries of 12 or more will be held in Circuit Court courtroom number four (Attachment E). This courtroom can fit thirty-three prospective members and observers adhering to social distancing requirements. Because only a maximum of twenty prospective jurors will be brought in at a time, this will leave thirteen available seats for the public. Courtroom number three will be used for juries of 7 or less (Attachment F). Courtroom three can fit sixteen prospective jurors and observers adhering to social distancing requirements. Only a maximum of thirteen prospective jurors will be brought in at a time, leaving three seats available to the public. Depending on the number of public members, the court may stagger the

number of prospective jurors in the courtroom in order to free up more seats for the public. If necessary, the court will consider live-streaming voir dire in an unused courtroom, though maintaining necessary social distancing. Gallery seats are marked at six foot intervals to ensure social distancing. A criminal defendant may be asked to remove his face covering during voir dire to ensure that prospective jurors can see him and indicate whether any know him or recognize him.

IV) *Trial*

Juries of 12 or more will be held in Circuit Court courtroom number four. This courtroom is the largest Circuit Court courtroom in the courthouse and will provide more space to insure social distancing. As stated previously, this courtroom can hold approximately thirty-three people in the gallery, with jurors staggered as to be six feet apart. Adjoining courtroom five will be the designated jury room. In the trial courtroom the center of the gallery and the first two rows on each of the right and left sides will be used as the jury box, and seats will be marked to ensure that at least six feet is maintained between the jurors, and all trial participants, at all times. A center seat in the jury box will be used as the witness box in order for the jury to see the witness and for the witness to be able to effectively communicate with the jury. A Plexiglas barrier will stand between the jurors and the witness. The Judge will sit on the Judge's bench, while the clerk will sit six feet apart on the Judge's right side and the bailiff will be six feet apart on the Judge's left side.

Juries of seven or fewer jurors will be held in Circuit Court courtroom three or four with identical protocols as for juries of twelve or more. Circuit Courtroom three is identical to Circuit Courtroom four except it is approximately 14 feet shorter in length. As stated previously, this courtroom can hold approximately sixteen people in the gallery while adhering to social distancing, with the jurors staggered as to be six feet apart. The jury box has thirteen fixed seats

and has been marked to indicate in which chairs the jurors are to sit in order to maintain proper social distancing. Additional temporary chairs may be added to the jury box, if necessary.

During breaks, for lunch, and for deliberation the jury will enter and exit the courtroom through the door to the side of the bench. They will then be taken to courtroom five. The specifics of recesses and lunch breaks are discussed below.

Once the trial begins, the Court will direct that all attorneys and witnesses restrict their movement in the courtroom to maintain social distancing at all times. Absent express permission from the judge, attorneys will not be permitted to approach witnesses, opposing counsel, the jurors, or the judge. If face coverings impair the ability of a lawyer and his client to communicate at counsel table the Court will permit counsel whatever recesses are necessary for the purpose of facilitating private communication. The Court expects counsel to maintain social distancing with co-counsel and his or her client at all times.

Sidebars will be discouraged, but if necessary, conducted in the judge's conference room in order to ensure that social distance is maintained.

V) Witnesses and Evidence

In advance of trial, the Court shall advise counsel to pre-label exhibits and provide sufficient copies (preferably in individual notebooks) for each juror so that jurors do not have to share materials. Alternatively, exhibits may be pre-filed and shown via ClickShare or other electronic means. Non-documentary evidence will be displayed to the jury by placing the item on a table in front of the witness stand in full view of all the jurors. In no event will publication of exhibits by passing them from juror to juror be permitted. Disposable gloves will be provided in the jury box and in the jury room if the jury has to handle any exhibit during trial or requests to examine any exhibit including non-document exhibits during deliberation. Training will be

provided in the proper use of gloves. All gloves will be disposed of by the Sheriff's Deputy after use.

Parties will be required to schedule witnesses so that all witnesses do not appear at one time, but also that the trial is not delayed while waiting for a witness. Witnesses who are located in close proximity to the courthouse and whose testimony is dependent on the course of the trial shall be placed on an "on call" status.

During the testimony of any witness, if the witness has difficulty being heard or other reasonable difficulty with testifying due to wearing a mask, and provided the witness is ten feet away from all other participants, the judge may allow the witness to pull his or her mask down temporarily to testify . If a bailiff needs to approach a witness, the Court will instruct the witness to recover his or her face before allowing the approach.

The witness box and microphone will be cleaned after each witness. The Court will continue to encourage the use of video depositions and/or remote testimony by WebEx or other approved platform in an effort to limit the exposure of jurors to Covid-19 from in-person witnesses.

All persons, including witnesses, must wear face coverings. The center seat on the front row of the ordinary jury box, which will be used as the witness stand, however, is sufficiently distanced from any other person in the courtroom to allow a witness to take the face covering down, if permitted to do so by the trial judge, and testify . If a lawyer or bailiff needs to approach a witness, the Court will instruct the witness to recover his or her face covering before allowing the approach.

If face coverings impair the ability of a lawyer to communicate with the witness or with the Court, the Court may grant the attorney permission to remove his or her face covering as

necessary, ensuring that the attorney remains physically distant from other persons in the courtroom. Counsel and client may also communicate electronically by texting.

A criminal defendant may be asked to remove the mask or face covering during voir dire to ensure that prospective jurors can see the defendant and indicate whether any know or recognize the defendant. The defendant may also be asked to lower his face covering briefly for the purpose of enabling a witness to see his face and answer whether the witness can identify the defendant. Any time masks are removed for any reason, the distance between the unmasked person and all others will be more than 10 feet as recommended by the Virginia Department of Health.

VI) Recesses and Meal Breaks

The Court will take a recess at least every two hours to allow cleaning and sanitizing of high-touch areas and to allow hand sanitation. Courtroom doors will be propped open at the back of the courtroom at each recess to limit the touching of surfaces and to allow increased air flow into the courtroom.

Jury breaks, lunch, and deliberation will be held in Circuit Court courtroom number five, a vacant, adjacent courtroom. This courtroom is large enough to allow jurors to socially distance for the duration of their time in the room and has an adjoining jury room with two separate restrooms that may be used. Cleaning materials for each restroom will be present in the restroom. Cleaning staff will clean restrooms after every jury recess. Jurors will be allowed to leave this courtroom in groups of two in order to use the juror's bathrooms behind the courtroom.

Jurors will be provided bottled water, rather than water pitchers and cups. Jurors will also be provided with individual lunches to discourage travel outside the courthouse during trial. Jurors who do opt to leave the courthouse during lunch will be subject to rescreening upon reentry to the courthouse.

VII) Public Access

The right to a public trial will be preserved. Designated areas will be marked for the public, and seats will be marked to provide social distancing. Members of the same household may be seated together. Public access, however, will be limited in order to maintain social distancing. In an effort to balance the social interest in a public trial with legitimate safety concerns, the trial judge will oversee the admission of all persons to the courtroom. Members of the media will be permitted, including cameras if ordered, in accord with the First Amendment, Virginia statutes, and the prevailing practice in this court, so long as social distancing can be achieved and masks are worn. If the situation demands it, live streaming to another courtroom is an option the court will consider. The court will take into consideration the number of people who want to attend, and will take actions to comply with social distancing and protocols recommended by the CDC and the Virginia Department of Health.

VIII) Mid-Trial Illness

If a trial participant or courthouse employee becomes ill during trial, immediate steps will be taken to isolate the person until they can safely exit the building or have them isolate if they are out of the building when they become ill. All affected areas of the building will be cleaned and sanitized before subsequent use. All persons who had close contact for an extended time, as defined by the CDC, will be notified via email, phone call or text message, by the Clerk of their possible exposure and urged to contact their health care provider or VDH for further instructions. The Clerk will gather contact information from jurors, litigants, attorneys, and other trial participants in order to facilitate notification of those potentially exposed. These policies are believed to be consistent with the requirements of the Emergency Temporary Standard –

Infectious Disease Prevention, promulgated by the Department of Labor and Industry (16 VAC 25-220), which is incorporated herein.

The Court will consult with litigants, remotely if necessary, to determine if a continuance or mistrial will be necessary. Among factors to be considered will be the availability of test results in a timely manner, the uses of alternated, the stage of the trial, the length of the delay and the continued availability of the jurors and litigants.

Constant Evaluation

The Court is aware that the current pandemic requires courts throughout the Commonwealth to adapt to recommended and required safety guidelines. Accordingly, the judges of this circuit are prepared to update this plan, as necessary, to comply with Orders of the Supreme Court of Virginia as well as any appropriate recommendations from health officials.

Attachment

A

COVID-19

VISITOR SCREENING PROCEDURES

BEFORE YOU ENTER THE SCREENING AREA:

Please advise the Court Security Officer if you meet either **1, 2, 3 or 4** below.

For the health and safety of visitors and employees, all are asked to remain at home and not enter if you meet the following criteria.

1

Individuals who have returned from international travel from any high-risk countries identified by the CDC in the previous 14 days; or traveled within the United States where COVID-19 has sustained widespread community transmission.



2

Individuals who have been asked to quarantine, isolate, or self-monitor by any doctor, hospital, or health agency.



3

Individuals who have been diagnosed with or have had contact with anyone who has been diagnosed with COVID-19; or if you have a fever, cough, or shortness of breath.



4

Individuals who reside or have been in close contact with any person in the above-mentioned categories.



C19SCREEN REV. 4/20

CORONAVIRUS (COVID-19) PRECAUTIONS

In order to protect our staff and inmates, we ask the you **DO NOT** enter the facility during this time if you have the following active symptoms:



- *Fever*
- *Cough/Sneezing Cold Symptoms*
- *Difficulty breathing*

In order to keep our facility free of COVID-19 we ask that you abide by this. Anyone with "active" signs of this virus should stay home, avoid contact with the public, and see their Doctor as soon as possible.

**THANK YOU FOR YOUR
COOPERATION AND
UNDERSTANDING**

PER COURT ORDER

FACE MASKS ARE REQUIRED



Attachment

B

COVID-19 SCREENING QUESTIONNAIRE

Your health and well-being are of the utmost importance and we are committed to providing you with a safe environment in the courthouse. Anyone coming into the courthouse will be screened and part of our screening process includes this questionnaire. Please circle either “yes” or “no”.

1. Within the last 14 days:

A). Have you had close contact, without the use of appropriate PPE, with someone who is currently sick with suspected or confirmed COVID-19?

Yes No

B). Have you traveled outside of the country/internationally?

Yes No

C). Have you experienced, or are you experiencing, any of the following (other than from a pre-existing non-COVID diagnosis):

a. Fever?	Yes	No
b. Chills?	Yes	No
c. Cough?	Yes	No
d. Shortness of breath?	Yes	No
e. Difficulty breathing?	Yes	No
f. Fatigue?	Yes	No
g. Muscle or body aches?	Yes	No
h. Headaches?	Yes	No
i. New loss of taste or smell?	Yes	No
j. Sore throat?	Yes	No
k. Congestion or runny nose?	Yes	No
l. Nausea or vomiting?	Yes	No
m. Diarrhea?	Yes	No

D). Have you been in close proximity to anyone who was experiencing any of the above listed symptoms?

Yes No

E). Have you had a temperature at or above 100 degrees?

Yes No

F). Have you experienced loss of taste or smell that you cannot attribute to another health condition?

Yes No

G). Have you, or a co-worker, or a member of your immediate family been directed to quarantine, isolate, or self-monitor?

Yes No

H). Have you been diagnosed with, or had contact with anyone who has been diagnosed with COVID-19, or resided with someone who has been diagnosed with, or had contact with someone who has been diagnosed with COVID-19?

Yes No

2. Do you believe that your health or that of a relative or person with whom you reside may be endangered by you serving on a jury?

Yes No

3. Have you been tested for COVID-19 and are awaiting results?

Yes No

Name: _____

Date: _____

Attachment

C

COVID 19 RISK FACTORS ASSESSMENT

Our screening process also includes the following questionnaire. Your answers will help us better understand your health risks and needs. Please answer to the best of your ability by circling "yes" or "no."

1. Are you over the age of 65?

Yes No

2. Do you have a condition that makes you at higher risk for COVID-19 virus? (Including, but not limited to high blood pressure, chronic lung disease, diabetes, obesity, asthma, liver disease, severe obesity, chronic kidney disease, heart conditions, etc.)

Yes No

3. Do you care for someone or people who are at higher risk?

Yes No

4. Does someone or do people at higher risk live in your household?

Yes No

5. Are you the sole caretaker of a child?

Yes No

6. If yes, do you have childcare available to you?

Yes No

7. Do you interact with high-risk people for work?

Yes No

8. Do you work in a long-term care facility or other healthcare environment?

Yes No

Name: _____

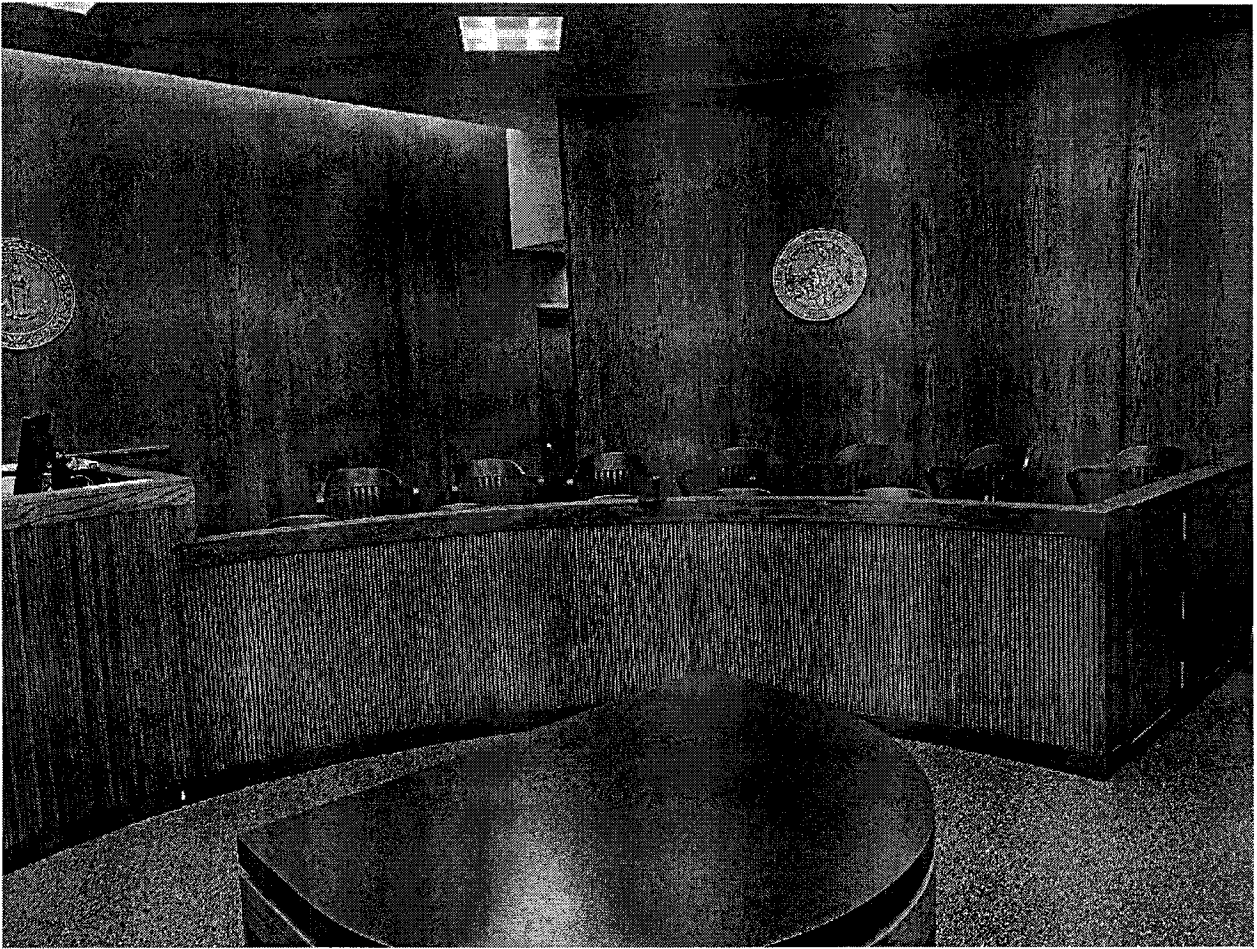
Date: _____

Attachment

D

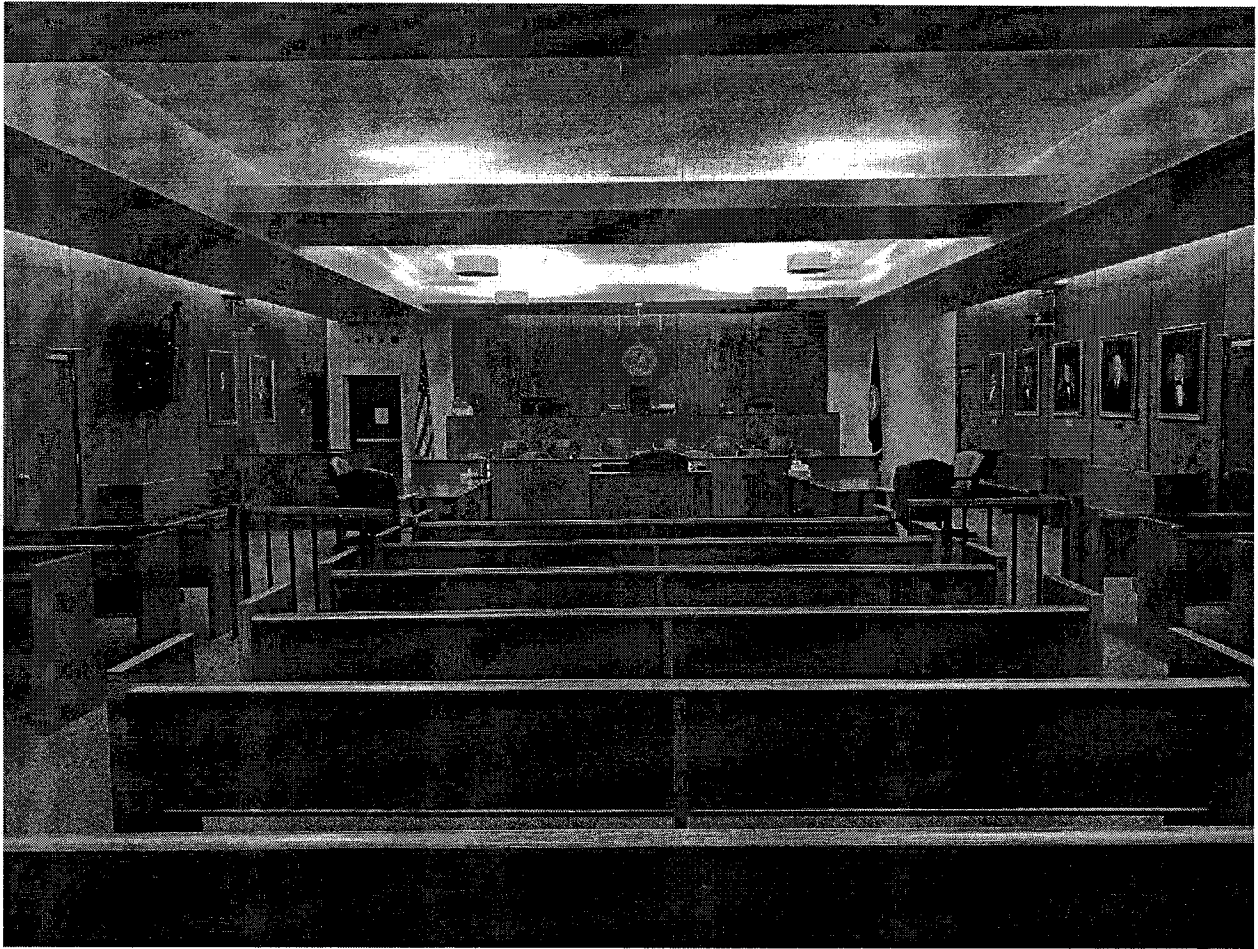


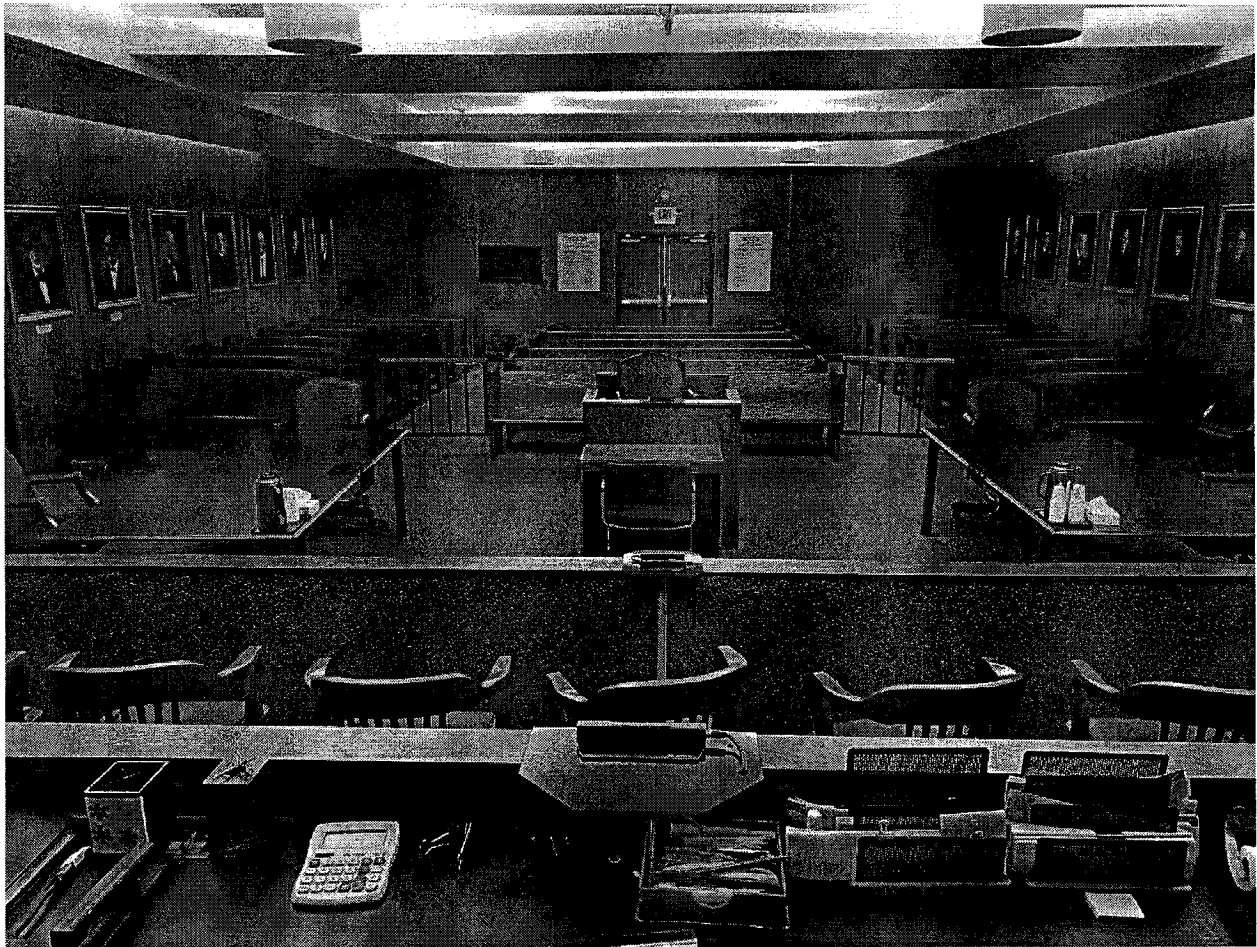


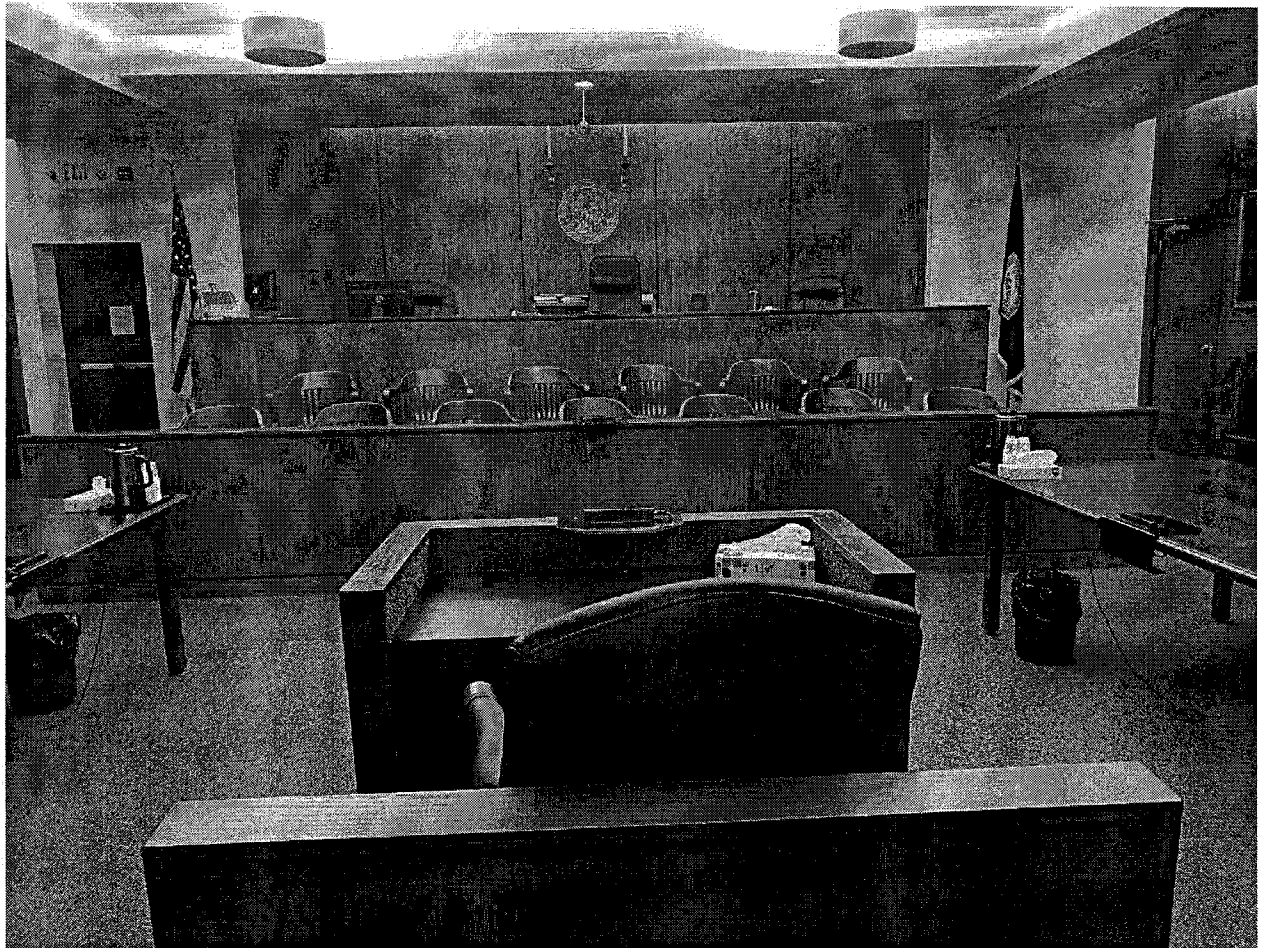


Attachment

E







Attachment

F





