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December 11, 2020

The Honorable James W. Updike, Jr., Judge
Bedford County Circuit Court
123 East Main St.
Suite 201
Bedford, VA 24523

Dear Judge Updike:

A panel of three Justices in consultation with the Office of the Executive Secretary has approved your plan for the resumption of jury trials in the Bedford County Circuit Court. You may begin jury trials effective today, provided the jury trial is consistent with and in reasonable conformity with the plan. This approval is subject to a change in circumstances including failure to carry out the plan you have submitted.

The Supreme Court is aware that communities in Virginia are different and more importantly, courthouses are different. As we have reviewed proposed plans, our concerns were that major issues have been addressed and that users of the courthouse have knowledge of what is expected of them. An undertaking of this magnitude is likely to require changes to the plan as participants discover that some practices do not work well and need further consideration. Of course, the plans cannot be subject to significant changes every time there is a jury trial. Furthermore, the plan cannot recite the solution to every problem that may arise. We are now learning that "strict conformity" with the plan should not be expected in all of the details.

We also know that the plans will need to have some room for adjustments as we learn about how certain aspects of the plans work or don't work. This letter is not an Order. The various emergency orders forbidding jury trials until a plan is submitted to and approved by the Supreme Court are clearly orders. As we have learned, from time to time there will be deviations from strict conformity to the plan. If and when this is so, it is the presiding judge who must make the decision. If the deviation is substantial and is likely to reoccur, the locality may need to resubmit a plan for approval.

The Honorable James W. Updike, Jr., Judge
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The presiding judge must and does have the authority to make decisions that must be made to effectuate a trial. Should there be changes made to the plan that have long term significance, the plan should be modified and resubmitted.

Sincerely,



Donald W. Lemons

cc: The Honorable Michael T. Garrett, Chief Judge

BEDFORD COUNTY CIRCUIT COURT JURY TRIAL PREPAREDNESS PLAN

This jury trial preparedness plan is submitted by James W. Updike, Jr., the presiding judge in the Circuit Court of Bedford County, after consultation with the following: the Judges of the 24th Judicial Circuit; Judy E. Reynolds, Clerk of the Circuit Court of Bedford County; Michael W. Miller, Sheriff of Bedford County; W. Wesley Nance, Commonwealth's Attorney for Bedford County; Michael C. Lonchar, Public Defender for Bedford County, Douglas Coffman, General Properties Manager for Bedford County; and various members of the Bedford County Bar Association and the Lynchburg Bar Association.

This plan incorporates and shall comply with the following authorities:

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's Executive Orders: <http://www.virginia.gov/coronavirus/>

16 VAC 25-220 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

Online Guidance of the Virginia Department of Health:
<https://www.vdh.virginia.gov/coronavirus/>

Online Guidance of the Centers for Disease Control and Prevention:
<https://www.cdc.gov/coronavirus/2019-nCoV/index.html>

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I. General Requirements Before Resumption of Jury Trials

The following have been considered in developing the Bedford County Circuit Court's plan to resume jury trials:

(1) The health, safety, and comfort of all participants in a jury trial, including the jurors, litigants, witnesses, attorneys, bailiffs, clerks, judges, and other Court employees as well as other members of the public accessing the courthouse. This will be accomplished through prescreening, use of personal protective equipment (PPE), proper social distancing, cleaning and disinfecting surfaces, and maintaining air quality;

(2) 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) The parties' opportunity to fairly and fully litigate the case in as normal a fashion as possible; and

(4) The comfort of jurors and other participants as to the Court's health and safety measures and any necessary modifications so that the jurors are not distracted and can fully focus their attention on the case.

(5) The costs and budgetary effects of the acquisition of masks, gloves, sanitizers, and additional cleaning products. Sufficient supplies have been and can be obtained by the Bedford County Sheriff's Office using CARES funding, and that this will not impact local budgets.

II. General Information and Protocols

A. The Courthouse

The Bedford County Circuit Court is located at 123 East Main Street, Bedford, Virginia. The courthouse is a three-story building that was constructed in 1930; however, beginning approximately in the year 2000, the courthouse was extensively renovated and significantly enlarged. Numerous modern amenities, including four elevators, security cameras, electronically restricted access equipment, and a new HVAC system were installed.

The current, sole public entrance to the courthouse is on the westside of the building on the first floor. The former main entrance to the courthouse is on the second floor, facing south toward East Main Street. This entrance has not been used since the renovations were completed,

but as will be further addressed, this entrance will serve exclusively as the entrance and exit for jurors.

There are five courtrooms in the courthouse. The circuit courtroom (Courtroom A) is on the third floor. There are two courtrooms on the second floor (Courtroom B and Courtroom C). Courtroom B is regularly used as a general district court. Courtroom C is rarely used, but has occasionally been used as an additional circuit courtroom. The two courtrooms on the first floor (Courtroom D and Courtroom E) are regularly used as juvenile and domestic relations district courts.

On the southwest portion of the building, there is a public elevator serving all three floors. Also in this area, is a stairway accessing all three floors. Further north of this stairway is a second stairway accessing all three floors. These stairways and this elevator are the only means by which the public can access the circuit courtroom on the third floor.

A second elevator and another stairway are located on the northside of the building adjoining the parking garage and both are restricted accesses for employees only.

A third elevator is available for public use but merely provides access to and from the second floor of the parking garage to the area outside the main entrance to the courthouse. This elevator does not provide access to the inside of the courthouse.

A fourth elevator is used exclusively for transporting prisoners to and from the parking garage to secured entrances to the various courtrooms.

On each floor of the courthouse, near the elevator and stairway in the southwest portion of the building, there is a large room in which there are public restrooms, vending machines, attorney/client conference rooms, and a large seating area usually used by witnesses and litigants.

The circuit courtroom is a large courtroom of approximately fifty-six feet in length and forty-three feet in width. The ceiling is approximately twenty feet in height affording increased ventilation.

The two counsel tables are eight feet in length and are situated in front of the judge's bench. These tables are separated by a distance of more than six feet. The chairs used by counsel and litigants are more than twenty-three feet from the judge's chair on the bench.

The jury box containing fourteen chairs is to the right of the judge's bench. Also, to the right of the judge's bench, are the witness box and the door accessing the jury room that is usually used by jurors during recesses and deliberations. There are restrooms in the jury room that will be used exclusively by jurors as will be subsequently discussed. It is felt, however, that

under current circumstances this room is too small for use by jurors during recesses and deliberations.

The gallery of the courtroom has two rows of bench-type seats. Each bench is more than fifteen feet long and when viewed from the judge's bench, there are eight benches on the right side of the courtroom and seven benches on the left side. In addition, there are nine chairs lined along the rear wall and two chairs along the left wall that provide additional seating for the media and the public.

Adjoining the rear of the courtroom is a media room from which members of the media can observe and hear trial proceedings, and record and photograph trial proceedings if permitted by the court.

The informational packages sent to jurors in advance of trial will inform jurors that they are to enter the courthouse through the entrance at the front of the courthouse, facing East Main Street. This entrance will be dedicated solely and exclusively for use by jurors and appropriate signs will so identify this entrance. Deputies with the Bedford County Sheriff's Office will monitor this entrance to ensure that only jurors are permitted to use this entrance, and that all others wishing to enter the courthouse are directed to the appropriate entrance.

All persons other than jurors who wish to enter the courthouse will use the entrance on the westside of the courthouse which is the usual, sole public access to the courthouse. This entrance provides access to the first floor of the courthouse.

Both entrances are equipped with security stations where deputies with the Bedford County Sheriff's Office are stationed. There are signs at each entrance alerting entrants that masks are required upon entry to the courthouse. Sheriff's deputies have been instructed to question all entrants regarding potential exposure to COVID. These questions mirror the COVID screening questionnaire included as **Exhibit A**. Failure to answer these questions, or providing an answer that confirms a risk of exposure, results in entrance to the courthouse being denied. Further, anyone with a temperature of 100.4 or higher is denied entry to the courthouse. Signs at the entrance 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 written instructions about how to contact the Court or the office with which he or she had business to inform the Court or office of the situation. If a necessary party or witness is denied entry, Polycom or Webex can be used to allow them to attend remotely. This is discussed below in the sections relevant to evidence and witnesses.

Masks or face coverings are required for anyone entering the courthouse. Masks must be worn at all times in the courthouse unless specifically excused by a judge in accordance with the specific policies contained herein. When such permission is given, the person removing his or

her mask will be asked to move more than 10 feet away from others before removing the mask in order to comply with proper distancing. If someone does not have a mask or face covering, one is provided to them at the courthouse entrance. Jurors who are unable to wear masks for medical reasons, or who refuse to do so, will be dismissed or deferred, depending on their specific medical issue.

There are strategically placed sanitization stations around the courthouse that provide access to hand sanitizer. In addition, replacement masks are available to all courthouse visitors and trial participants upon request to a bailiff. Jurors and all participants in a jury trial will always have access to restrooms in the courthouse where they can safely wash their hands. Jurors will have private restrooms that only they have access to as discussed herein. Jurors will be permitted to bring a small individual bottle of hand sanitizer and keep it on their person throughout the trial as well. **(Exhibit C)**

Deputy sheriffs will direct, oversee, and monitor those entering the courthouse, including jurors, to ensure the wearing of masks, the observance of proper distancing, and the proper direction of trial participants to their assigned location. Signage will also be located throughout the courthouse reminding visitors and trial participants of the requirement to wear masks and the need to observe physical distancing. **(Exhibit I)**

B. The Courthouse's HVAC System

The courthouse's HVAC system is served by nineteen air handlers. All conditioned air is pulled through pleated MERV 8 filters, which are replaced every three months per a service plan with the Court's third-party HVAC service provider, Virginia Trane.

C. Courthouse Cleaning Protocols

It is the practice and protocol of Bedford County to treat all of its public areas every ninety days with Bio Protect, a product that kills and inhibits the growth of coronavirus for a period of ninety days.

Public areas in the courthouse, including common areas, restrooms, courtrooms, witness rooms, jury rooms, and the public elevator are cleaned regularly throughout the day and every evening. County maintenance personnel clean the witness stand, including the microphone, with disinfectant between each witness. Additional cleaning staff will be available for all jury trials, with instructions to clean all high-touch surfaces at least every two hours. The courtroom, witness rooms, restrooms, common areas, the jury room, and the public elevator 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. Each courtroom is equipped with cleaning sprays, sanitizing wipes, masks, and gloves.

D. Jury Lists and Summonses

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

Currently, the Court sends out approximately 65 summonses a month. For various reasons, that total is pared down to a pool of approximately 40 potential jurors. This is a yield of approximately 62%. This yield is anticipated to decrease under post-COVID conditions to approximately 50%. It is anticipated that the number of summonses sent to potential jurors will increase to prevent the jury pool from being too small. Only one jury trial will be conducted at a time in order to mitigate the effect of the lower juror yield and to ensure that proper social distancing of at least 6 feet and cleaning are practicable.

The summonses will include information as to the steps the Court has taken to mitigate the risk to the public, litigants, and employees, including but not limited to the requirement to wear masks and to maintain proper social distancing of at least 6 feet. The summonses will recommend that jurors “self-screen” by completing and responding to an additional screening questionnaire, consistent with the “COVID-19 Screening Questionnaire” and “COVID-19 Risk Factors Assessment,” attached as **Exhibit A** and **Exhibit B**, respectively. Jurors will also be directed to enter the courthouse through the front entrance of the courthouse facing East Main Street. Finally, a URL to this plan will be included. Excuses will be liberally granted to jurors for good cause, and jurors may defer service to a later date if they are in a high-risk category or they are taking care of someone who is in a high-risk category.

Jurors will be instructed to call the clerk’s office if they answer “yes” to any question listed on the “COVID-19 Screening Questionnaire” and the “COVID-19 Risk Factors Assessment”, or if they express concern with jury service. The clerk will instruct any juror whose answers indicate a current health risk not to report.

E. Pretrial Conferences

A mandatory pretrial conference will be held two or three days prior to each scheduled jury trial by telephone, video conference, or by personal appearance in the courtroom with requirements of masks and physical distancing being observed. At a minimum, the Court will address this jury plan, courtroom protocols, the use of alternate jurors, the screening and scheduling of witnesses, and the handling of exhibits and jury instructions.

Counsel are expected to have conferred prior to this conference to discuss stipulations, agreed exhibits, and any outstanding pretrial issues. Counsel are also expected to have screened

their clients and witnesses using questions that mirror the COVID-19 Screening Questionnaire and the COVID-19 Risk Factors Assessment. 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, that they have screened their clients and witnesses, 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.

III. Trials

A. Trial Scheduling

Jury trials will commence at 9:00 a.m. Only one jury trial will be held in the courthouse at a time. No jury trial will begin until any other jury is concluded and jurors, counsel, etc. have left the courthouse. A thorough cleaning of all relevant areas, including the courtroom, witness rooms, all high touch areas, the jury room, juror bathrooms, and the public elevator will be completed before any additional jury trial.

B. Jury Arrival/Assembly/Departure

All prospective jurors will be summonsed to appear between 8:00 a.m. and 8:15 a.m. on the day of trial. Jurors will enter the courthouse through the East Main Street entrance. In addition to the floor markings, Sheriff's deputies will monitor the jurors to ensure they maintain proper social distancing of at least 6 feet while entering the courthouse and during the screening process.

When jurors arrive at the courthouse, they will be asked a series of questions that mirror the screening questionnaire (**Exhibit A**) 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. As is true of all courthouse visitors, entry shall be denied to any prospective juror with a temperature exceeding 100.4 degrees. As discussed above, masks will be required, and they will be provided for those who do not have one. Refusal or inability to wear a mask will result in dismissal or deferment, as is appropriate under the circumstances.

After each juror has been screened at the courthouse entrance on the second floor, jurors will be directed by deputy sheriffs to go to the third floor by way of the stairway to the left of the entrance unless a juror has a medical condition that prevents use of the stairway. Jurors who have such a medical condition will be directed by deputy sheriffs to the elevator to the left of the entrance.

Jurors using the stairway to go to the third floor will be directed by deputy sheriffs to maintain a distance of at least six feet and they will be monitored for compliance. These jurors

will be escorted by a deputy sheriff to the circuit courtroom where seats are marked to ensure that jurors maintain a distance of at least six feet. **(Exhibit H)**

Use of the elevator by jurors will be restricted so that not more than two jurors will enter the elevator at one time. Each juror will be directed to stand on one of the two marks on the floor of the elevator, which marks are to the furthest sides of the elevator, six feet apart. **(Exhibit D)**

A deputy sheriff, wearing gloves, will push the call button for the elevator, and also push the button inside the elevator for the third floor, so that jurors will not be required to touch those parts of the elevator.

During the period that jurors are being escorted from the entrance on the second floor to the circuit courtroom on the third floor, the elevator will be cleaned by county maintenance personnel every thirty minutes. The elevator will be cleaned by county maintenance personnel every two hours thereafter, as previously discussed.

Upon arriving at the third floor, jurors will be escorted by a deputy sheriff to the circuit courtroom and directed to be seated in an available marked seat.

The bench seats in the gallery of the courtroom are marked to ensure that jurors maintain physical distancing of at least six feet when seated in the courtroom. This is accomplished by staggering the marks so that when viewed from the judge's bench, three jurors will be seated on the first bench on the right side of the courtroom, six feet apart, and two jurors will be seated on the second bench, six feet apart, with the midpoint between jurors being the middle of the bench. The sequence continues as to the remaining six benches on the right side of the courtroom, and the seven benches on the left side of the courtroom. **(Exhibit E)** This order of seating will accommodate thirty-eight jurors.

During *voir dire*, three jurors will also be seated, six feet apart, in the second row of the jury box, and two jurors will be seated at a distance of six feet in the first row of the jury box. Again, this seating arrangement is staggered and marked with blue tape. **(Exhibit G)**

With these five jurors in the jury box, the circuit courtroom can accommodate forty three jurors during *voir dire* with proper physical distancing.

There are nine additional chairs placed along the rear wall of the courtroom that will be marked at a distance of six feet. These chairs will provide limited seating for the media and general public during *voir dire*. There are two additional chairs on the left side of the courtroom that can also be used for this purpose. As previously discussed, the media room is also available for use by members of the media.

Jury trials in criminal cases are intentionally scheduled on Tuesdays because there is no general district court in session in Bedford County on Tuesdays. As a consequence, Courtroom C and Courtroom D will be available for use by the circuit court during *voir dire* in criminal jury trials.

If more than forty-three jurors respond to summonses issued in criminal trials, upon arrival, such additional jurors will be escorted by deputy sheriffs a short distance from the dedicated juror entrance to Courtroom C, on the second floor.

The benches in the gallery of Courtroom C are marked at a distance of six feet, utilizing the same staggered sequence as in the circuit courtroom. When this is done, Courtroom C can accommodate twenty-five jurors. **(Exhibit J)**

In the most unlikely event that seating is needed for additional jurors during *voir dire*, the same protocols will be used for Courtroom B.

If jurors are occupying Courtroom C or Courtroom B, the public restrooms on the second floor will be reserved for exclusive use by jurors. Deputy sheriffs will escort jurors to and from the restrooms when requested by jurors.

Civil jury trials are scheduled to commence on Mondays and Thursdays; however, it is not felt that Courtroom B and Courtroom C will be needed to accommodate the lesser number of jurors required during *voir dire* in civil cases. Except for lunch recesses, which are discussed hereinafter, all protocols pertaining to jury trials in criminal cases will apply to jury trials in civil cases.

When jurors exit the courthouse, they will do so through the same dedicated entrance on the second floor facing East Main Street. If jurors are leaving the third floor, the same protocols will be followed as to use of the stairway and the elevator as when ascending to the third floor.

C. 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. Courtroom A's maximum juror capacity, with proper social distancing, is set at 43 jurors, and Courtroom B's maximum juror capacity, with proper social distancing, is set at 25 jurors.

The *voir dire* process itself will take place in the normal fashion, but with the potential jurors located in the courtroom in seats marked at distances of six feet to ensure social distancing

as previously discussed.

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, in civil trials, that if a juror must later be excused for reasons not related to Covid-19, the trial will continue with one less juror.

This method of conducting *voir dire* will allow the Court to ensure that the process remains open to the public. As previously discussed, chairs at the rear of the courtroom and along the left side of the courtroom will be made available to the media and the public. If necessary, the proceeding can be streamed to Courtroom C in order to allow for additional members of the public to attend. Public access is discussed in greater detail herein.

D. Trial

During jury trials, all jurors will be seated in the gallery in marked seats, on the right side of the courtroom (when viewed from judge's bench) beginning with the first row. When this is done, the first five rows of benches on the right side of the gallery will accommodate thirteen jurors.

The other side of the gallery will be designated for the press and the public. Those seats are marked to ensure that the press and public maintain social distancing of at least 6 feet. The chairs at the rear of the courtroom and the remaining three rows of benches on the right side of the gallery will also be available for this purpose if needed.

During recesses, deliberations, sidebars, motion hearings, etc., the jury will remain in the courtroom rather than retiring to the jury room. During recesses, meals, and deliberations, everyone except the jurors will be excluded from the courtroom and the audio recording equipment will be shut off. The seats in the courtrooms are marked to ensure that jurors maintain social distancing of at least 6 feet during recesses, sidebars, motion hearings, meals, and deliberations. The jury room will be open so that the jurors will have access to the two restrooms located in the jury room. Only two jurors at a time will be allowed to enter the jury room. The specifics of recesses and lunch breaks are discussed below.

Counsel tables in the courtrooms will remain in their current positions as depicted in **Exhibit H**. A chair is situated at each end of each table, six feet apart. Additional chairs will be made available as needed, with the stipulation that all chairs are separated by a distance of six feet. The court will require counsel to maintain social distancing with co-counsel and his or her client at all times. Counsel and his or her client will be permitted to communicate at counsel table and/or employ alternate methods of communication, such as note-writing, texting between devices, etc. The Court will permit counsel whatever recesses are necessary for the purpose of facilitating private communication.

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 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 at a distance of more than 10 feet from other persons.

Sidebars, motions, and arguments to objections will be conducted in the jury room, where participants will be at least 6 feet apart. After each sidebar or other matters held in the jury room, and every morning and evening, the table, chairs, and high-touch areas in the jury room will be cleaned. The court reporter will be present for all sidebars, motions, arguments as to objections, and other matters be taken up outside of the presence of the jury.

E. Evidence/Exhibits

During the trial, jurors will not be permitted to physically handle any exhibits. All documentary and photographic exhibits published to the jury during trial will be done so by electronic means. Before any document is admitted into evidence, counsel will project the document via courtroom technology (the Nomad system) so that it can be viewed only by the witness, opposing counsel, and the judge. Counsel's screens will be shielded from observation by those jurors seated in the gallery. After an exhibit is admitted, the large screen will be turned on so that it may be published to the jury.

As to any exhibit that cannot be displayed via courtroom technology, a bailiff, wearing a mask and gloves, will approach to within 6 feet of the witness with the exhibit and maintain possession of the exhibit while giving the witness the opportunity to observe it. After the exhibit is admitted, the bailiff will display the exhibit to the jury before placing the item on a table located in full view of all the jurors.

As to the admission of exhibits, upon request of counsel, the bailiff, while holding the exhibit, will approach the clerk who will place a label on the exhibit. After admission, the presiding judge will initial and date the label. Gloves and masks will be worn by all participants during this process and sanitizer is located on the judge's bench and at the clerk's desk for use after handling exhibits.

F. Jury Deliberations

The Jury will remain in the courtroom for its deliberations and will be instructed to maintain proper social distancing of at least 6 feet and to wear masks during the deliberations. The courtroom seats are marked to assist the jury with maintaining proper social distancing of at least 6 feet.

With prior approval of the Court, counsel may provide the Court with a laptop computer with the exhibits on a PowerPoint slide display that can be shown on the screens in the courtroom via the courtroom's Nomad system. The laptop computer shall contain no other data, except jury instruction as discussed below, and shall have no access to the internet. The jury's foreperson shall be in sole possession and control of the computer and remote-control device, and both will be cleaned and disinfected before and after use.

Alternatively, the jurors will be permitted during deliberations to physically handle exhibits only if wearing gloves, which shall be provided, along with hand sanitizer. Bailiffs will provide training to the jurors as to the proper use of gloves, both in how to prevent cross-contamination and how to safely remove and dispose of them. A lined wastebasket will be provided for the jurors to safely and properly dispose of the gloves after use.

A complete set of jury instructions, as given, will be provided to each juror to have during deliberations so that jurors will not need to share the instructions. At the conclusion of the trial, the bailiffs shall collect the jurors' copies of the instructions. Alternatively, and with prior approval of the Court, counsel may agree to provide the Court with a laptop computer with the given instructions on a PowerPoint slide display that can be shown on the screens in the courtroom via the courtroom's Nomad system. The laptop computer shall contain no other data, except for exhibits as discussed above, and shall have no access to the internet. The jury's foreperson shall be in sole possession and control of the computer and remote-control device, and both will be cleaned and disinfected before and after use.

The Court will receive juror questions from the foreperson in writing. The foreperson will be directed to wear gloves while preparing the written question. The foreperson shall place the written question on the table used to display exhibits and notify the bailiff of the question. The bailiff, while wearing gloves, will retrieve the written question and deliver it to the judge in chambers. The judge will wear gloves while handling the written question. After reading the question to counsel and the parties, the judge shall determine the method of response to the question.

G. Face Masks

All persons, including witnesses, must wear face coverings. Because the witness stand is

only six feet from the judge's chair, witnesses will be seated in the jury box when testifying so that witnesses can remove their masks during testimony and be at least ten feet from any other person. If a lawyer or bailiff needs to approach a witness for any reason, the Court will instruct the witness to replace his or her face covering before allowing the approach.

If face coverings impair the ability of an attorney to communicate with a 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 more than 10 feet from other persons in the courtroom.

A criminal defendant may be asked to remove his or her face covering during *voir dire* to ensure the prospective jurors can see the defendant and indicate whether any of them know the defendant or recognize the defendant. The defendant may also be asked to lower his or her face covering briefly for the purpose of enabling a witness to see the defendant's face and answer whether the witness can identify the defendant. The defendant shall remain more than 10 feet from other persons in the courtroom when removing his or her face covering.

If face coverings impair the ability of a lawyer and his or her client to communicate at counsel table (and alternate methods of communication such as note-writing, texting between devices, etc., are unavailable or insufficient), 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.

Jurors will always wear face coverings, except that the Court expects to permit individual jurors to lower the cover briefly if requested by counsel, while ensuring proper social distancing of more than 10 feet from all other persons.

If a mask must be removed by anyone for any reason, the distance between the unmasked person and all others shall be more than 10 feet, as recommended by the Virginia Department of Health.

H. Witnesses

Prior to the pretrial conference, parties shall have screened their clients and witnesses using questions that mirror the COVID-19 Screening Questionnaire and the COVID-19 Risk Factors Assessment.

The presiding judge and counsel will discuss during the pre-trial conference the scheduling of witnesses. If counsel request some or all witnesses to be present during *voir dire*, such witnesses are to be directed to arrive at the courthouse before 8:45am. The presiding judge will also discuss with counsel the possibility of using photographs of witnesses during *voir dire* so as to minimize the number of persons in the courthouse at one time.

As to any witness whose presence is not required during *voir dire*, the presiding judge and counsel will discuss the possibility of staggered arrival times for witnesses, taking into consideration the anticipated length of *voir dire* and opening statements.

The presiding judge and counsel will also discuss the appropriate location where witnesses will await testifying while observing the requirements of masks and social distancing. For example, in criminal trials, witnesses for the Commonwealth will often wait in the office of the Commonwealth's Attorney before testifying. Moreover, the seats in the waiting area on the third floor will be marked with blue tape at distances of six feet. When this is done, this witness room can accommodate six witnesses. **(Exhibit F)**. Each of the two conference rooms may also accommodate two witnesses.

The witness rooms on the first and second floors may also be available for use by witnesses in circuit court trials, depending upon use of these witness rooms by other courts. Seats in witness rooms will be marked at distances of six feet as needed.

At any rate, all witnesses, while in the courthouse, will be required to always maintain social distancing of at least six feet and will always be required to wear a mask unless permitted to do otherwise by the presiding judge.

Any witness room used during a trial shall be cleaned every morning and every evening, as well as between uses and during breaks.

If witnesses are called to the courtroom during jury *voir dire*, they may be asked to remove masks for only as long as is necessary to determine if they are known by any prospective juror and provided they are more than 10 feet from any other person in the courtroom.

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, via Polycom or WebEx, in an effort to limit the exposure of jurors to COVID-19 from in-person witnesses. Necessary parties or witnesses that are denied entry to the courthouse due to answering "yes" to a COVID screening question will also be given access to Polycom and/or WebEx along with instructions pertaining to the use of the Polycom or WebEx technologies.

Criminal defendants may be required to lower their masks briefly for the purpose of enabling a witness to see his or her face and answer whether the witness can identify the defendant.

I. 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 juror areas, and to allow participants to clean and sanitize their hands.

During recesses and meal breaks, everyone except the jurors will be excluded from the courtroom and the audio recording equipment will be shut off. The seats in the courtrooms are marked to ensure that jurors maintain proper social distancing of at least 6 feet. The jury room will be open so that the jurors will have access to the two restrooms located in the jury room. In order to ensure proper social distancing of at least 6 feet, only two jurors at a time may enter the jury room.

Jurors will be provided bottled water rather than water pitchers and cups. In civil trials, jurors may bring lunch to avoid travel outside the courthouse during trial. Jurors who opt to leave the courthouse for lunch or for any other reason will be rescreened upon reentry to the courthouse. In criminal trials, box lunches will be provided to jurors at no cost to the jurors. If possible, as done in the past, jurors will select box lunches from menus provided by mid-morning break.

J. Public Access

The right to a public trial, including *voir dire*, will be preserved. 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 of at least 6 feet can be achieved and masks are worn. As provided herein, areas of the courtrooms have been designated for the public, and seats have been marked to provide social distancing of 6 feet. Members of the same household may be seated together. As mentioned above, the jury will be seated in the gallery. The remaining seats in the gallery will be used to seat the press and public. Again stated, the media room is also available for use by the media.

If the situation demands it, live streaming to another courtroom is an option that may be considered. Consideration will be given to the notoriety of a trial and the public interest generated by it, the number of interested individuals such as victims and family members likely to attend, and the number of gallery seats taken up by the jury.

K. Illnesses Occurring During Trial

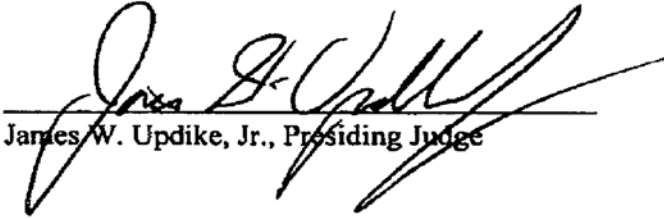
All trial participants, including a jurors, counsel, litigants, witnesses, bailiffs, clerks, and courthouse employees shall be instructed that if they become ill during trial, they should immediately notify the judge, or a bailiff who will have been instructed to immediately notify the judge. Immediate steps will be taken to either 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 vacated and thoroughly cleaned and disinfected before subsequent use. All persons who had close contact for an extended time, as defined by the Centers for Disease Control and Prevention, will be notified within 24 hours by phone call by Clerk's Office personnel of their possible exposure and urged to contact their health care provider or the Virginia Department of Health for further instructions. Sheriff's deputies 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 this plan incorporates.

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 alternates, the stage of the trial, the length of the delay, and the continued availability of the jurors, witnesses, and litigants.

IV. 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 judge of this Court is prepared to update or modify this plan, as necessary, to comply with Orders of the Supreme Court of Virginia as well as any appropriate recommendations from health officials. Any plan updates or modifications will be submitted to the Supreme Court of Virginia for approval.



James W. Updike, Jr., Presiding Judge



Michael T. Garrett, Chief Judge

EXHIBIT A

COVID-19 SCREENING QUESTIONNAIRE

Anyone coming into the courthouse must complete this questionnaire. Please circle either “yes” or “no”. If you answer “yes” to any of these questions, you must **immediately** contact the Clerk of the Bedford County Circuit Court (540-586-7632) to report all affirmative answers.

Within the last 14 days

Yes No Have you had close contact, without the use of appropriate personal protective equipment, with someone who is currently sick with suspected or confirmed COVID-19?

Yes No Have you traveled outside of the country/internationally?

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

Yes No Fever? **Yes No** Muscle or body aches?

Yes No Chills? **Yes No** Headaches?

Yes No New loss of taste or smell? **Yes No** Sore throat?

Yes No Congestion or runny nose? **Yes No** Diarrhea?

Yes No Shortness of breath? **Yes No** Cough?

Yes No Difficulty breathing? **Yes No** Nausea or vomiting?

Yes No Fatigue?

Yes No Have you been in close proximity to anyone who was experiencing any of the above listed symptoms?

Yes No Have you had a temperature at or above 100 degrees?

Yes No Have you experienced loss of taste or smell that you cannot attribute to another health condition?

- Yes No** Have you, or a co-worker, or a member of your immediate family been directed to quarantine, isolate, or self-monitor?
- Yes No** 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** 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** Have you been tested for COVID-19 and are awaiting results?

Please retain this form for future reference during your term of service as a juror!

EXHIBIT B

COVID-19 RELATED JUROR INSTRUCTIONS

In accordance with the COVID-19 Emergency, the Court asks that you familiarize yourself with the juror expectations and requirements set forth below. These measures are being taken to protect participants in the trial process, as well as, provide safety protocols and guidelines for both jury service and entry into the courthouse.

The entrance at the front of the courthouse, facing East Main Street, will be reserved exclusively for jurors to enter and exit the courthouse. All prospective jurors should report to this location between 8:00am and 8:15am.

When you arrive at the courthouse, you will have your temperature taken, you will be asked a series of questions to determine if you or someone you have come in close contact with may have been exposed to the COVID-19 virus.

You will be required to wear a mask or face covering while in the courthouse unless you have a medical condition that prevents you from doing so.

Entry shall be denied to all prospective jurors with a temperature exceeding **100.4 degrees**.

Sanitation stations will be located throughout the courthouse, but you may bring your own small individual bottle of hand sanitizer.

All jurors leaving the courthouse **for any reason** shall be required to comply with all precautionary measures upon re-entry to the courthouse.

Social distancing measures will be implemented within the courthouse. The courtroom will be marked to ensure that prospective jurors can maintain social distancing of at least six (6) feet.

You will be asked to properly social distance while eating lunch and taking breaks as well. Please contact the Clerk of the Bedford County Circuit Court (540-586-7632) in advance should you be aware of an inability to comply with all safety requirements related above.

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.” If you answer “yes” to any of these questions, you must **immediately** contact the Clerk of the Bedford County Circuit Court (540-586-7632) to report all affirmative answers.

Yes No Are you over the age of 65?

Yes No 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** Do you care for someone or people who are at higher risk?
- Yes No** Does someone or do people at higher risk live in your household?
- Yes No** Are you the sole caretaker of a child?
- Yes No** If yes, do you have childcare available to you?
- Yes No** Do you interact with high-risk people for work?
- Yes No** Do you work in a long-term care facility or other healthcare environment?

EXHIBIT C



Sanitizer Station Outside of Circuit Courtroom

EXHIBIT D



Public Elevator With Markings

EXHIBIT E



COURTROOM A GALLERY SEATING MARKINGS-RIGHT SIDE



COURTROOM A GALLERY SEATING MARKINGS-LEFT SIDE

EXHIBIT F



Witness Room



Witness Room Restrooms

EXHIBIT G



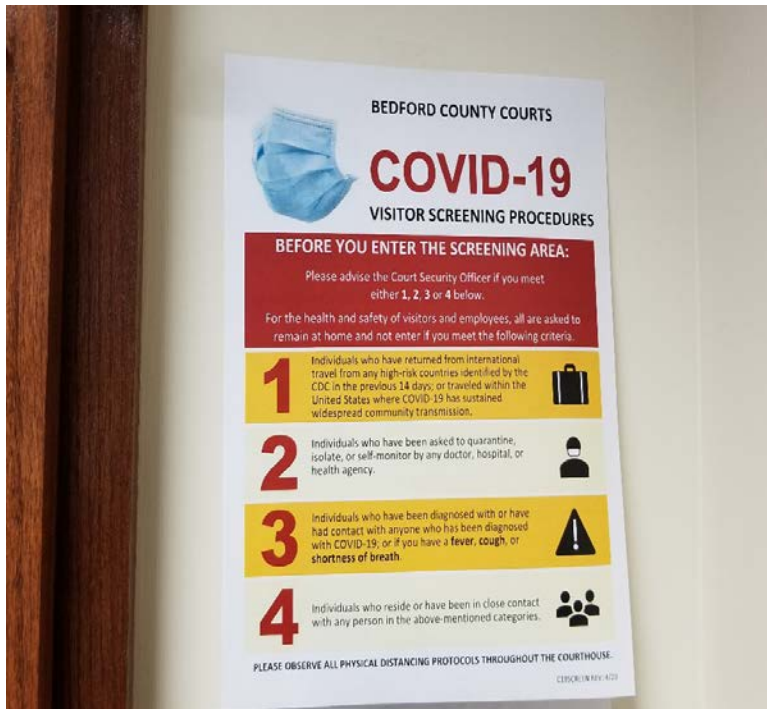
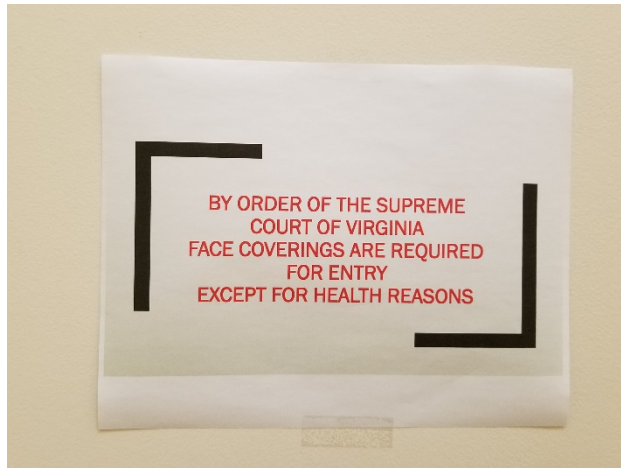
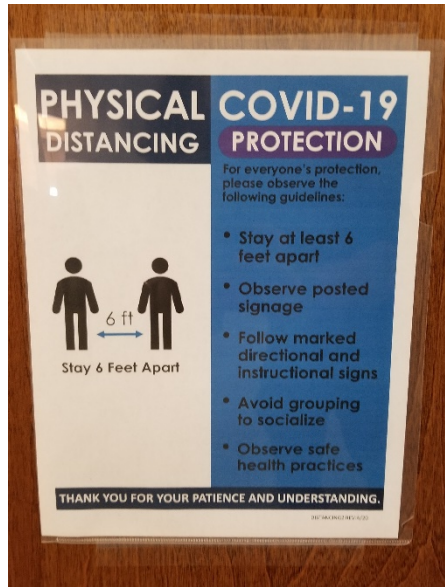
Courtroom A Jury Box

EXHIBIT H



Courtroom A

EXHIBIT I



Physical Distancing/Masks Signage

EXHIBIT J



Courtroom C



Courtroom C