
ORDER APPROVING OPERATIONAL PLAN FOR THE SAFE RESUMPTION OF
IN-PERSON PROCEEDINGS AND JURY TRIALS IN BROWN COUNTY CIRCUIT
COURT

WHEREAS the Wisconsin Supreme Court in light of the COVID 19 Statewide and National states of emergency has entered certain orders related to the operations of the Circuit Court regarding in person appearances and jury trials;

WHEREAS on March 22, 2020, the Wisconsin Supreme Court ordered that although the courts of the State of Wisconsin remain open, all civil and criminal jury trials scheduled to begin before May 22, 2020 are to continued and rescheduled by the assigned judge to a date after May 22, 2020;

WHEREAS on March 22, 2020, and as amended on April 15, 2020, the Wisconsin Supreme Court suspended, until further order of the court, most in-person hearings in the circuit courts, subject to exceptions for certain matters, including those approved by the chief judges of each district, if remote technology is not practicable or adequate to protect constitutional rights of the citizens of Wisconsin;

WHEREAS on March 31, 2020, the Wisconsin Supreme Court issued Interim Rule 20-02 which suspended statutory deadlines for conducting non-criminal jury trials until further order of the court;

WHEREAS on May 22, 2020, the Wisconsin Supreme Court ordered that March 22, 2020 order regarding the suspension of jury trials, that Interim Rule 20-02 regarding suspension of deadlines for non-criminal jury trials, and the April 15, 2020 amended order regarding remote hearings, are extended for each circuit court until that circuit shall have prepared an operational plan for the safe resumption of in-person proceedings and jury trials and the plan shall have been approved by the chief judge of the applicable administrative district;

WHEREAS on May 22, 2020, the Wisconsin Supreme Court outlined the specific criteria required in each circuit court operational plan as to how that circuit court will conduct in-person proceedings and jury trials so as to reduce to the greatest extent possible the risk of transmission of the virus causes COVID-19 and that promotes the health and safety of all those present in the courtrooms, jury rooms, and other court related confined spaces of that circuit court;

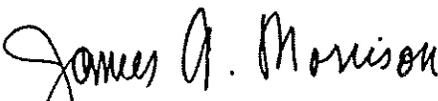
WHEREAS on June 22, 2020, the Honorable Tammy Jo Hock, Presiding Circuit Judge of Brown County, submitted an operational plan regarding resumption of jury trials and regarding resumption of in-person proceedings which contains a statement regarding communication with local justice partners regarding the safe resumption of in-person proceedings and jury trials in that circuit court; a requirement that all persons who are present in the courtrooms, jury rooms, and other court-related confined spaces shall wear face coverings, except as authorized on the record by said judge; outlines practices for appropriate sanitation/ hygiene of frequently touched surfaces and the hands of participants; specifies that notices regarding face coverings and availability of hand sanitizer and disinfecting wipes/ sprays in court-related areas will be appropriately posted and noticed; and incorporates many recommendations made in the Final Report of the Chief Justice's Task Force;

THEREFORE IT IS ORDERED:

The operational plan for the Brown County Circuit Court regarding procedures and practices for conducting jury trials and other in-person proceedings during the 2020 public health emergency and pandemic-COVID 19 is hereby approved and is effective June 29, 2020. All previous orders identified in the May 22, 2020 order of the Wisconsin Supreme Court cease to apply to the Door County Circuit Court and that circuit court must continue to follow its operational plan as approved by the chief judge until further notice of the Wisconsin Supreme Court.

IT IS FURTHER ORDERED that the provisions of this order shall be subject to further modification or termination by future orders.

Dated this 1st day of July, 2020.



Hon. James A. Morrison
Chief Judge, Eighth Judicial District

**Operational Plan, Procedures and Practices
for the Resumption of In-Person Proceedings and Jury Trials
for the Brown County Circuit Courts
During the COVID-19 Pandemic and Public Health Emergency**

Stakeholder Committee Members:

Phoebe Mix, Court Commissioner
Paul Burke, Court Commissioner
Anna Destree, Public Health Director
Ted Shove, Environmental Health Director
David Lasee, District Attorney
Todd Delain, Sheriff
Lt. Tim Bernklau, Court Security
John D'Angelo, Brown County Bar representative
John Heide, Brown County Bar representative
Jeff Cano, State Public Defender
John VanderLeest, Clerk of Court
Julie Hornburg, Deputy Clerk of Court
Thomas Schappa, District Court Administrator
Jeremy Donath, Probation and Parole Supervisor
Paul Danielski, Brown County Facilities
Jon Morehouse, Facilities Director
Cheryl Sleeter, Register in Probate
David Hemery, Brown County Corporation Counsel
Greg Gerbers, Risk Management
Chad Weininger, Director of Administration / Human Resources
Jeffrey Flynt, Administration
Tammy Jo Hock, Presiding Judge

The above-noted stakeholders comprise the Brown County Courthouse COVID-19 Task Force and Planning Committee (hereinafter referred to as the "Committee"), a committee organized to discuss best practices for the Brown County Circuit Courts to resume in-person hearings and jury trials in light of the COVID-19 pandemic and public health emergency.

The Committee met on May 13, 2020, May 19, 2020, May 27, 2020, June 3, 2020 and June 10, 2020, via Zoom video conference. Walkthroughs of the Courthouse took place on May 21, 2020 and May 28, 2020, and the Fire Marshall conducted an evaluation of the building to make recommendations regarding single point entry on May 29, 2020. The Committee has agreed to continue to meet regularly, maintain communication with local public health officials and the County Office of Risk Management, and to adjust their recommendations as necessary.

The Committee reviewed, considered and discussed the recommendations of the Wisconsin Statewide Courts COVID-19 Task Force, which included input and recommendations from Dr. Dennis Maki, Professor Emeritus of UW School of Medicine and Public Health, and Dr. Robert Golden, Dean of the UW School of Medicine and Public Health. Judge Hock and Sheriff Delain have also consulted with Dr. Ashok Rai, President and CEO of Prevea Health.

The goal of the Committee was to make recommendations to the Brown County Circuit Court Judges for reasonable practices in Brown County to ensure the rights of all parties, employees, court staff and the public who utilize the courthouse, many of whom are compelled to come before the court, while recognizing the extraordinary public health concerns regarding the contagious disease known as COVID-19. The Committee submitted its recommendations to the Brown County Judges on June 14, 2020, and the Judges voted to adopt the recommendations of the Committee on June 15, 2020.

The Brown County Circuit Court Judges desire to develop practices designed to attempt to avoid exposure and infection of jurors, litigants, attorneys, witnesses and court staff during any court setting, including jury trials. This Operational Plan for procedures and practices is developed with the intent to provide a safe environment for all, recognizing the need to provide for all constitutional and statutory protections to the litigants and interested parties, as well as the public's right to access. The Judges recognize it is not possible to ensure absolute safety, but their goal is to develop reasonable and necessary steps to protect the health of all participants within the physical limitations of the Brown County Courthouse building and taking into account available resources. One significant goal of this Operational Plan is to instill public confidence in the Brown County Court system that the Circuit Courts and other offices within the Courthouse are providing for the safety of the public and those utilizing the building.

Under this Operational Plan, Judges and Commissioners may resume in-person hearings no sooner than July 6, 2020, and Judges may resume jury trials no sooner than August 3, 2020, provided the equipment, supplies and safety protocols outlined below are in place and followed.

Scheduling

In order to limit the number of persons in the courtrooms and the courthouse, every Judge and Commissioner shall use best efforts to continue to conduct all appropriate hearings remotely. By continuing to utilize remote access to hearings, the number of in-person appearances, and therefore the number of people in the courtrooms and in the courthouse, will be significantly reduced.

In-person proceedings shall only be scheduled as determined necessary by the Judge or Commissioner, taking into consideration constitutional and statutory requirements, the nature of the proceedings, requests of the attorneys and litigants, and the limits of the building, given there are eight Judges and four Commissioners trying to calendar matters. Mass calendaring of in-person hearings at the same time should not occur until public health officials deem COVID-19 safety protocols are no longer necessary. Courts shall use staggered scheduling of in-person proceedings and other appropriate methods to reduce the number of individuals in the courtroom and courthouse at one time. For example, courts shall schedule Zoom hearings before and after an in-person hearing to limit the number of people in the courtroom at a particular time and to allow sufficient time for cleaning and disinfecting areas. Hearings for inmates of the Brown County Jail shall be conducted remotely, if possible, to avoid transport and cross-contamination. All hearings for inmates of other jails or prisons shall be scheduled remotely, until it is determined that the inmate is prepared to enter a plea or proceed to sentencing and is not willing to waive an in-person appearance.

Physical/Social Distancing with Appropriate Signage and Markers

Courts will comply with federal, state and local health recommendations regarding physical and social distancing. All persons not from the same household who are permitted in the Courthouse will be required to maintain adequate physical/social distancing of at least six feet. Signage incorporating these requirements will be posted in appropriate locations to ensure notice and compliance. Further, throughout the Courthouse, appropriate seating and standing areas shall be designated by signage and social distancing markers and extra seating will be removed or barricaded when possible. The maximum number of persons permitted in the gallery area of each courtroom will be determined, posted and marked to identify appropriate physical and social distancing. The maximum capacity of the courtroom will be monitored and enforced by court staff.

Each courtroom will be arranged to ensure physical/social distancing between counsel tables, the witness stand, Judge's bench, clerk, court reporter and bailiff when possible. If the courtroom space is inadequate to provide for six feet of physical and social distancing, Plexiglas barricades will be constructed and installed by the County Facilities Department.

Restrooms will be evaluated to determine the appropriate capacity to ensure social distancing and the maximum capacity will be posted on each restroom door. Public common areas, including breakroom areas, will be closed to the public. A sign will be posted to indicate no more than one person will be allowed on the elevator at the same time unless they are from the same household.

The Judges fully recognize that courtroom activities often make it difficult to strictly adhere to physical/social distancing of the recommended six feet when considering the need for attorney-client confidential discussions, adequate view and sight lines for conducting witness examinations, viewing proceedings in the courtroom by jurors and other participants, victim rights, due process considerations, and the public's right to access. In addition to limiting seating to accommodate physical distancing and reducing the number of individuals in the courtroom and courthouse at a particular time, the Courts will follow a limited scheduling policy as noted above.

Masks and Single Point Entry

Consistent with the requirement in the Supreme Court Order dated May 22, 2020, everyone is to wear a mask in the courtroom. Given that it does not seem sensible to only wear the mask in the courtroom and not in the common areas and hallways of the building, the Brown County stakeholders who have offices in the building agree that all who enter the building shall wear a medical procedure mask or cloth equivalent. In order to accomplish this, there shall be single point entry for the building, consistent with the recommendations of the Fire Marshall. Signage addressing the mask requirement shall be posted/displayed at the entrance to ensure notice and compliance. The single entrance shall be staffed by an employee(s) to ensure those entering the building have an appropriate mask and to hand out masks to those who do not have the appropriate mask. The employee(s) will be trained that if someone indicates an unwillingness to comply with the mask requirement, or expresses a reason wearing a mask would be unsafe for them, reasonable accommodations shall be made. The employee(s) will be provided with a

phone number(s) to contact a Judge(s) to ask for guidance and instruction on how to handle the situation. Noncompliance will be enforced by a Judge. The employee(s) monitoring mask compliance of those entering the courthouse will be provided with personal protective equipment, including a face mask, gloves, hand sanitizer and other items deemed necessary.

Masks will be required for all participants, including Judges and Court Commissioners. For individuals required to appear in court, orders to appear and court hearing notices will include notice of the mask requirement. In the event a Judge or Commissioner determines it is necessary for a witness to remove a mask to testify to assist with a credibility determination, that witness shall testify behind a Plexiglas barricade, and if possible, while wearing a face shield (which can be more easily cleaned than the Plexiglas barricade).

Cleaning and Disinfecting

Hand sanitizer will be placed at the entrance to the building and in every courtroom and public office in the Courthouse building, so as to provide for good hand hygiene of all who enter the building. Signs will be posted indicating the availability of these items.

The courtrooms and public areas of the Clerk of Courts, Court Commissioners Office, and the Registrar in Probate office will be cleaned after use by the public, to include cleaning surfaces between hearings and after public use, to include surface cleaning of tables, chairs, benches, microphones and other equipment with disinfecting wipes or other disinfecting cleaners. Those doing the cleaning will be provided with gloves. The gallery area of each courtroom will be sprayed with a disinfectant spray between morning and afternoon proceedings when possible.

County cleaning staff, trained on proper cleaning techniques and provided with appropriate personal protective equipment and cleaning supplies shown to be effective against coronavirus, shall clean the common areas of the building and each courtroom at least every 24 hours.

Air Purification

Since the pandemic, the Brown County Facilities and Maintenance staff has adjusted the air handling and fresh air exchange in the courthouse building to operate at a significantly higher capacity for fresh air, providing for double the usual fresh air capacity. Prior to COVID-19, the amount of fresh air allowed into the building was 15%, but that has been increased to 50%. During periods of high humidity, it may need to be reduced to 30%. Facilities shall continue to provide for fresh air of at least 30%.

Air purification systems in each of the courtrooms have been considered, but given the air handling and fresh air exchange system in the building, have been deemed not likely to provide a benefit. If a particular use for an air purification system or other HEPA air filter unit is identified as useful or desirable, such units may be used in courtrooms, jury deliberation areas or other offices.

Physical Barriers - Plexiglas

The use of Plexiglas as a physical barrier is necessary in the Brown County Courthouse, given the limited size of many of the courtrooms and office spaces. It is not possible to achieve

physical and social distancing between the Judge, clerk and the witness in many courtrooms, and therefore Plexiglas barriers will be installed. In certain courtrooms, counsel tables cannot accommodate physical and social distancing, and therefore Plexiglas barriers will also be installed as needed. As noted above, these Plexiglas barricades will be constructed and installed by the County Facilities Department.

None of the courtrooms in the Brown County Courthouse can achieve physical and social distancing to accommodate a seated jury, much less the selection of a jury. Plexiglas barriers shall be installed in and near the jury boxes in the courtrooms in Branches 1, 2, 3 and 8 to accommodate jurors for a jury trial. The courtrooms in Branches 4, 5, 6 and 7 are too small to accommodate a jury, even with the use of Plexiglas.

Health Screening

Signage posted at the public entrance to the building will notify those entering the building that they are not to enter if they have any of the following in the past 14 days, per CDC guidelines and the recommendations of the county public health department:

- Fever of 100.0 degrees F or higher
- Cough, new or worsening
- Sore throat, different from seasonal allergies
- Shortness of breath, new or worsening
- Unexplained muscle pain
- Unexplained headache
- New loss of taste and/or smell
- Contact with someone in the past 14 days who is diagnosed with COVID-19

Consistent with CDC and OSHA recommendations, individuals entering the building will be subject to a noninvasive temperature check with an infrared thermometer. Those with a temperature reading of 100.40 degrees F or higher will not be permitted to enter. If an individual is not permitted access to the building due to failing the temperature check or other symptoms noted above, the Judge will grant a reasonable accommodation/adjournment upon being notified and after consideration of the circumstances. The staff member(s) monitoring the door will be provided with a phone number(s) to contact a Judge(s) to ask for guidance and instruction on how to handle the situation. Noncompliance will be enforced by a Judge. Staff monitoring the entrance to the courthouse will be provided with personal protective equipment, including a face mask, gloves, hand sanitizer and other items deemed necessary, and will be adequately trained to properly administer a temperature check.

Prior to transport, inmates being transported to the Courthouse will be screened for symptoms of COVID-19 and have their temperature taken. Inmates with symptoms or a temperature of 100.0 degrees F or above will not be transported.

It is also important to continue to monitor the health of court staff, Court Commissioners, Judges, and others who work in the courthouse building (clerk of court employees, court security, probate office employees), and if they have any of the symptoms noted above, that they not enter the courthouse building.

Jury Trials

Beginning August 3, 2020, when appropriate safety protocols are in place, or an appropriate off site location can be procured, jury trials may resume.

Jurors will be required to wear masks. Many options have been explored in all eight courtrooms, to accommodate physical and social distancing for jury trials, taking into consideration sight lines for the jury to see and observe the witness, the jury's view of the proceedings in general, etc. As noted above, the use of Plexiglas as a physical barrier is necessary in the Brown County Courthouse, given the limited size of the courtrooms. Plexiglas barriers will be installed where it is not possible to achieve physical and social distancing between the Judge, clerk and the witness, and/or counsel and client. Plexiglas barriers will also be installed in and near the jury boxes in the courtrooms in Branches 1, 2, 3 and 8 to separate jurors. To provide for the placement of Plexiglas barriers and greater distancing between jurors, chairs for jurors will be spaced farther apart than before the pandemic and additional seating will be provided outside the jury box. Following a walkthrough by public health and environmental health, it has been determined that the courtrooms in Branches 4, 5, 6 and 7 are too small to accommodate a jury, even with the use of Plexiglas.

Accommodations for jury assembly and jury selection will need to be addressed, as the current jury assembly room is not large enough to achieve physical and social distancing, nor are most courtrooms. Larger courtrooms, outfitted with Plexiglas barriers, may be adequate to accommodate smaller jury panels, but alternate spaces will need to be considered for larger panels.

Jury deliberations will need to occur in an alternate location as the current jury deliberation rooms are not large enough to achieve physical and social distancing requirements. The jury may deliberate in an offsite location or in a courtroom, if there is another courtroom available (for such deliberations or for the court to meet to handle questions or other issues that may arise). Public and environmental health have indicated that it will be necessary to take a number of breaks during a jury trial being held in the Brown County Courthouse to allow the jury and other parties to get fresh air, and Judges will do their best to take appropriate breaks. Alternate spaces will also need to be considered for the jury to convene while the court is hearing arguments outside the presence of the jury. The Courts will consider providing for juror meals to minimize travel in and out of the courthouse, eliminating additional juror interaction with others outside of the courthouse during the course of the trial.

Currently, the County is exploring the use of the Meyer Theater for jury assembly and/or voir dire and the use of the WBAY building for deliberations. The County Office of Risk Management will continue to evaluate options, consulting with the Presiding Judge, Sheriff, Court Security, Facilities, and the Public and Environmental Health Departments, as noted above.

At the entrance to the building where the jury trial and/or jury assembly will take place, health screening will be conducted for reporting jurors, litigants, witnesses, attorneys, court staff and security participating in the jury trial. The health screen will include both questions and a noninvasive body temperature check using an infrared thermometer. Those deemed medically at

risk of having COVID-19, as a result of the health screening, based on symptoms or known exposure, may not be allowed into the courthouse or other location where the jury trial is taking place. If a summoned juror is deemed symptomatic or otherwise deemed a medical risk to others, they will be excused from jury service for that trial. All others deemed medically at risk will be subject to further determination by the court as to how to provide reasonable accommodation and access to the court, such as remote access, reasonable recesses, adjournment, etc. The Courts will ask that attorneys, as officers of the court, use sound judgment and notify the court if they know of any person needed for the trial or seeking to enter the courthouse who is or appears to be symptomatic.

Given that summoned jurors will have more questions and concerns about serving on a jury during this pandemic, prospective jurors will be sent a letter with a jury summons explaining that jury trials will be held during the COVID-19 pandemic and explaining what steps and safety protocols are being implemented to address safety concerns, including physical and social distancing, masks, Plexiglas barricades, health screenings, etc.

The Courts shall continue to accommodate reasonable juror requests for deferrals or excusals. If a summoned juror provides information that reasonably relates to the juror's underlying medical condition with susceptibility to COVID-19 infection or if a summoned juror indicates they are currently experiencing COVID-19 like symptoms, they will be excused or deferred before jury service begins. Jurors who have sheltered in place and believe they cannot or will not comply with a summons due to extraordinary fear will be given a deferral to a future time, but will be advised of the precautions in place and their civic duty regarding jury service. While balancing the parties' constitutional right to a fair trial, the Courts may also give special consideration for deferrals, prior to appearing for jury service, to the following: health care workers, elderly/vulnerable populations, individuals caring for school age children or young children who cannot go to school or daycare due to shutdowns, and certain essential workers. Courts may consider using COVID-19 related jury questionnaires for the purpose of determining whether summoned jurors require special consideration of these issues and to help determine any potential risk factors that should be considered regarding an individual juror. This type of questionnaire would be used to reduce the potential number of jurors who would otherwise report for jury selection and would likely be excused for cause prior to preemptory strikes. If all parties agree, the Courts may utilize a virtual method of jury selection to allow some or all prospective jurors to appear by video, if all jurors have access to a video enabled computer, tablet or smartphone.

Public access to jury trials will be a challenge due to the size of the courtrooms in Brown County. The public has the right to view open public court proceedings that are not otherwise closed or confidential. All courtrooms have space limitations, and the public does not have the right to enter the courtroom if the number of people in the courtroom exceeds safety limits, fire codes or other legal restrictions. Similar safety concerns regarding the number of people who can safely enter a courtroom during a contagious disease public health emergency also apply, and it may be necessary to limit the number of people who can enter the courtroom to view a jury trial. The court may take steps to allow the public to view the trial via live video stream, which shall be controlled by the court.

The Judges will work together to help prioritize jury trials during the COVID-19 pandemic to accommodate eight Judges and limited jury trial space. The Judges will take into consideration the nature of the cases, the extent to which the cases involve liberty interests, cases with time limitations, victims' rights and input, and the length of time a case has been pending.

Vulnerable Populations

Individuals who are over age 65, and individuals with serious underlying health conditions, such as high blood pressure, chronic lung disease, diabetes, obesity, asthma, and compromised immune systems, are considered to be vulnerable populations. Information will be included on orders for appearances, notices of hearings and other communications notifying individuals who are in vulnerable populations of the ability to contact the court to identify themselves as a vulnerable individual and receive accommodations. Courts will use best efforts to accommodate vulnerable individuals who are scheduled for court hearings by offering remote access, adjournments, deferral of jury service, etc.

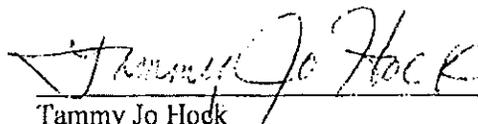
Public Notification

It is important that the public be made aware of these measures. This information may be shared with the public through press releases, county websites, social media, state and local bar associations, and any other appropriate public sources of information.

Development of Operational Plan

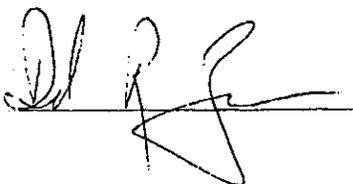
In developing this Operational Plan, I, Tammy Jo Hock, Presiding Judge for Brown County, have consulted with the stakeholders group as identified above. This plan will be modified by the Committee and/or the Judges should the circumstances of the COVID-19 pandemic and public health emergency require modifications to address changing conditions and safety issues.

Dated this 22nd day of June, 2020.



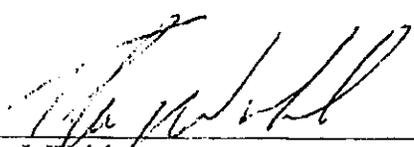
Tammy Jo Hock
Brown County Circuit Court Judge, Branch 3

Consented to:

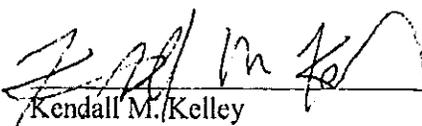
Date: 

June 22 2020
Donald R. Zuidmulder
Brown County Circuit Court Judge, Branch 1

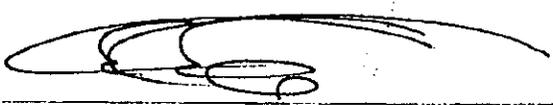
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Thomas J. Walsh
Brown County Circuit Court Judge, Branch 2

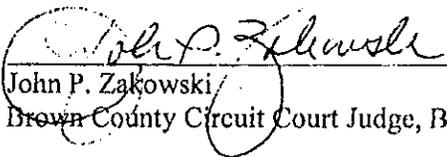
Date: 6/22/20


Kendall M. Kelley
Brown County Circuit Court Judge, Branch 4

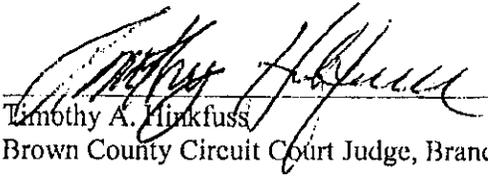
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Marc A. Hammer
Brown County Circuit Court Judge, Branch 5

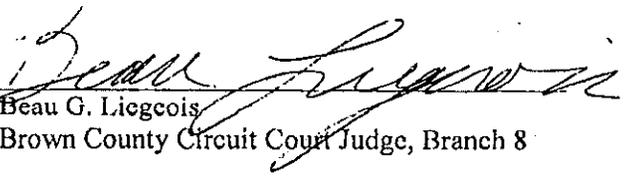
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John P. Zakowski
Brown County Circuit Court Judge, Branch 6

Date: 6/22/20

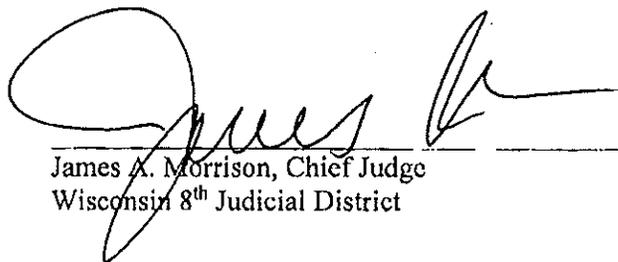

Timothy A. Hinkfuss
Brown County Circuit Court Judge, Branch 7

Date: 6/22/2020


Beau G. Liegeois
Brown County Circuit Court Judge, Branch 8

Approved:

Date: 7/1/20


James A. Morrison, Chief Judge
Wisconsin 8th Judicial District