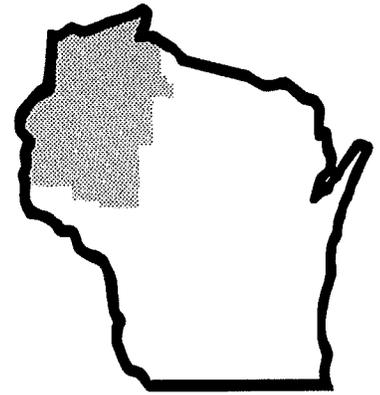


MAUREEN D. BOYLE  
Chief Judge  
Barron County Justice Center  
1420 State Hwy 25 North  
Barron, WI 54812  
Telephone: (715) 537-6853  
Fax: (715) 537-6269

STATE OF WISCONSIN

## TENTH JUDICIAL DISTRICT



JOHN P. ANDERSON  
Deputy Chief Judge  
Bayfield County Courthouse  
117 East 5<sup>th</sup> Street  
Washburn, WI 54891  
Telephone: (715) 373-6118  
Fax: (715) 373-6317

1101 Carmichael Rd., Ste. 1260  
Hudson, WI 54016  
(715) 245 - 4105

CHRISTOPHER CHANNING  
District Court Administrator  
1101 Carmichael Rd., Suite 1260,  
Hudson, WI 54016  
Telephone: 715-245-4105  
FAX: 715-381-4323

August 31, 2020

Chief Justice Patience Roggensack

Director of State Courts Randy Koschnick

BY EMAIL

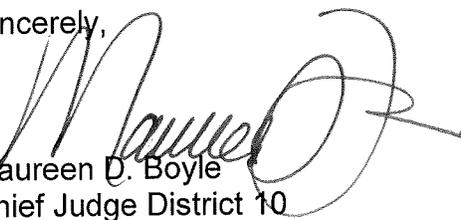
Dear Chief Justice Roggensack and Director Koschnick:

Pursuant to the Wisconsin Supreme Court's order dated May 22, 2020, attached please find a copy of Polk County's operating plan to resume jury trials, as well my order approving same. The effective date of the plan is September 8th, 2020, however, the Polk County Circuit Court will not conduct trials prior to September 14<sup>th</sup>, 2020.

I approved a plan regarding safe resumption of in person proceedings earlier this month.

Please do not hesitate to contact me with any questions or concerns. Thank you for your time and attention to this matter.

Sincerely,



Maureen D. Boyle  
Chief Judge District 10

CC: The Honorable Jeffery L. Anderson, Polk County Circuit Court  
The Honorable Daniel J. Tolan, Polk County Circuit Court  
Christopher Channing, District 10 Court Administrator

**ORDER APPROVING OPERATIONAL PLAN FOR THE SAFE RESUMPTION OF  
JURY TRIALS IN POLK COUNTY**

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 August 25<sup>th</sup>, 2020, the Honorable Jeffery Anderson and the Honorable Daniel Tolan, Circuit Court Judges of Polk County, submitted an operational plan regarding resumption of in-person proceedings, except for jury trials, which

contains a statement regarding communication with local justice partners regarding the safe resumption of in-person proceedings 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; specify 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;

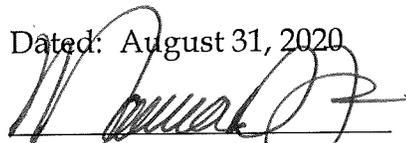
WHEREAS: On August 28, 2020, the Honorable Jeffery Anderson and the Honorable Daniel, Circuit Court Judges of Polk County, submitted an operational plan regarding resumption of jury trials, which contains protective measures specifically related to summoning jurors as well as juror attendance and participation in addition to the other protective measures outlined in the prior plan related to all in person proceedings;

THEREFORE IT IS ORDERED:

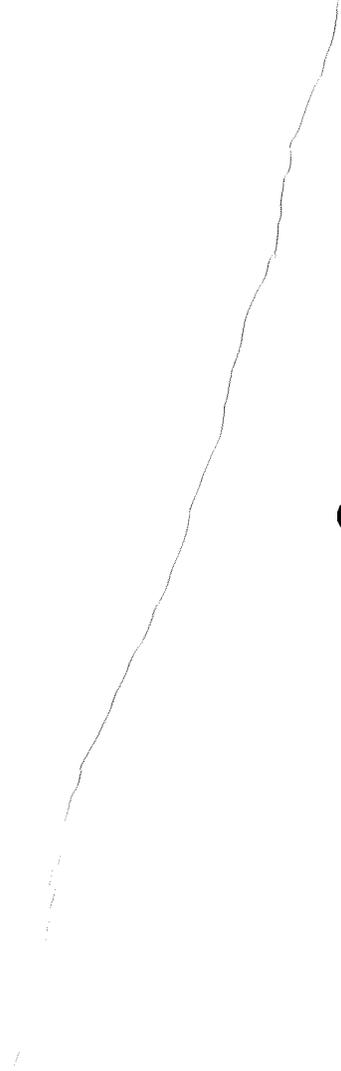
The operational plan of the Circuit Court of Polk County regarding procedures and practices for conducting jury trials during the 2020 public health emergency and pandemic-COVID 19 is hereby approved and is effective September 8, 2020. The March 22, 2020 order "In Re the Matter of Jury Trials during the COVID-19 Pandemic" and Interim Rule 20-02 issued on March 31, 2020, cease to apply to the Circuit Court of Polk County and that circuit court must continue to follow its operational plan regarding procedures and practices for conducting jury trials, 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: August 31, 2020



Hon. Maureen D. Boyle,  
Chief Judge 10th Judicial District



Polk County Court System:

COVID – 19 Circuit Court Re-Opening Plan

Version 08/24/2020

I. **Purpose.** The COVID – 19 pandemic is distinct from other emergency scenarios such as tornados or floods because of the potential severity and longevity of the pandemic. The purpose of this plan is to provide the Polk County Judicial System with local guidelines, procedures, and directions to follow during all phases of the COVID-19 Pandemic.

II. **Goals.**

- A. The Polk County Court System must deal with crises in a way that protects the health and safety of everyone at the court facilities; and
- B. The Polk County Court System must to the fullest extent possible “keep the courts open” to ensure justice for the people.

III. **Introduction.**

The COVID-19 pandemic is a global pandemic that emerged in the human population, causing serious illness, spreading from person to person worldwide. The COVID-19 pandemic is different from seasonal outbreaks or “epidemics” such as influenza.

IV. **Plan Activation.** The Circuit Judges, in coordination with County Administrator Vince Netherland, Director of General Government Chad Roberts, Polk County Facilities Manager Rod Polk, Polk County Corporation Counsel Malia Malone, Polk County Clerk of Court Sharon Jorgenson, Polk County Deputy Clerk of Court Jacqueline Patterson, District Attorney Jeffrey Kemp, Polk County Emergency Management Coordinator Lisa McMahon, Polk County Sherriff’s Department Chief Deputy Don Burrows, and State Public Defender Donna Burger, met regarding the safe resumption of in-person proceedings and jury trials. Meeting dates include May 12<sup>th</sup>, 2020, May 29<sup>th</sup>, 2020, June 10<sup>th</sup>, 2020, June 25<sup>th</sup>, 2020 and most recently August 18<sup>th</sup>, 2020. This plan shall become active once approved by the Chief Judge of the Tenth Judicial District, Maureen Boyle.

V. **Scope.** The Polk County Court System COVID-19 Pandemic Response plan is specific to the response of the Polk County Court System. Other organizational responses are mentioned in this plan in order for the Court System to produce an effective response. This plan requires working with the Polk County Health Department to ensure consistency in the county response. This plan also incorporates State and Federal guidelines including ongoing CDC recommendations and those outlined in The Chief Justice’s Wisconsin Courts COVID-19 Task Force Final Report of May 2020. This will allow the Court System to determine the most effective response based on where the pandemic is occurring and how severe it is. The Polk County Court System will receive regular updates from the Local Public Health Office as to the level of response and pandemic severity during the COVID-19 pandemic. This plan assumes a Four-Phased Approach.

## A. Four-Phased Approach

1. **Phase One: Resumption of limited in-person proceedings** (beyond essential and mandatory proceedings). The Polk County Court System will continue to favor remote appearances wherever possible and encourage the broad use of waivers of appearance. As soon as Safety Criteria for In-Person Appearances are in place the Polk County Court system will again resume in-person appearances in the following cases:

- a. All criminal matters, except jury trials.;
- b. Mental commitment and guardianship hearings with time limits.;
- c. Juvenile proceedings in juvenile delinquency (JV), juvenile CHIPS (JC), juvenile guardianship (JG cases and termination of parental rights cases with time limits.
- d. Civil matters as follows:
  - Restraining order proceedings under Ch. 813.;
  - Family – Temporary order hearings if placement is at issue under Wis. Stat. 767.225(1)(am).;
  - Family – Relocation motions under Wis. Stat. 767.481(2).;
  - Stipulated final divorce hearings.;
  - Time-sensitive small claims proceedings, with special consideration given to the social distancing and limited attendance guidelines as outlined in the Chief Justice’s Wisconsin Courts COVID-19 Task Force Final Report.

2. **Phase Two: In-person processing of all cases, except jury trials.** Phase Two includes all case categories from Phase One, but now allows all civil proceedings other than jury trials. All of the safety rules as set forth in this plan and as outlined in the Chief Justice’s Wisconsin Courts COVID-19 Task Force Final Report must continue to be utilized. Pursuant to the Chief Justice’s Wisconsin Courts COVID-19 Task Force Final Report this plan requires that remote appearances will be utilized to the greatest extent possible consistent with the technological capabilities of the Polk County Court System.

3. **Phase Three: In-person processing of all cases, including jury trials.** This phase incorporates the specific guidance from the Jury Trial section of The Chief Justice's Wisconsin Courts COVID-19 Task Force Final Report. All of the Safety Criteria for In-Person Appearances will continue to be used. Personal appearances will be required for preliminary hearings, plea hearings, bail hearings, and all contested hearings unless leave to appear by other means is requested and granted by the Court prior to the scheduled hearing. Remote appearances will continue to be granted and utilized to the greatest extent possible consistent with the technological capabilities of the Polk County Court System.

4. **Phase Four: Resumption of all cases on an in-person basis with no restrictions.** When a public health announcement is made determining that COVID-19 has been suppressed in the state, the processing of all cases may be resumed on an in-person basis without reliance upon the Safety Criteria for In-Person Appearances and this plan shall deactivate.

The Polk County Courts understand that based upon the severity of the COVID-19 pandemic and ongoing recommendations by Local, State, or Federal Authorities a change in plan phase could occur. The Polk County Courts will therefore follow the communication plan outlined in this document as well as remain in contact with local stake holders including the local bar regarding updates as to any phase change that might occur.

#### **VI. General Planning Assumptions.**

- A. Under Wis. Stat. § 250.03(1)(b) the Department of Health Services (DHS) will be the lead agency in response to the COVID-19 pandemic.;
- B. The total duration of the COVID-19 pandemic is currently unknown.;
- C. The effects of the COVID-19 pandemic are likely to come in a series of "waves". The duration and severity of each "wave" is unknown at this time.;
- D. While vaccination is anticipated to be a primary method of preventing COVID-19, it could take months or even years to develop a vaccine.;
- E. Court operations will be impacted by the COVID-19 pandemic for the foreseeable future.

#### **VII. Court Planning Assumptions.**

- A. A significant increase in emergency matters and case filings generated due to issues associated with quarantine and isolation of individuals by state and local public health officials may occur.;
- B. Of the judges, attorneys, parties, clerks of court and deputy clerks of court, sheriff and deputy sheriffs, state and local public health officials, jurors, ect., necessary to perform the mission of essential functions of the Court, one third will not be available due to the COVID-19 pandemic or general community effects of the COVID-19 pandemic.;
- C. Face-to-face contact between judges, attorneys, parties, the clerk of court, deputy clerks of court, the sheriff, sheriff's deputies, state and local public health officials, jurors, ect., necessary to perform the mission of essential functions of the Polk County Court system may be dramatically limited or unavailable.;

- D. Court facilities, court infrastructure, public utilities, residences, etc., will all, more than likely, be physically undamaged; and while physically undamaged, facilities, infrastructure, utilities, and services may be impacted by a lack of adequate staffing due to isolation, quarantine, or illness of necessary staff to keep operations running.

**VIII. Containment Measures.** There is currently a primary means available to the public health department to slow the incidence of the COVID-19 pandemic. It is critical the Polk County Court system is aware of intended public health measures during the COVID-19 pandemic. Many of the containment measures will have legal implications involving the court system:

- A. Isolation of those infected.;
- B. Quarantine of those infected or exposed to COVID-19.;
- C. Restrictions for individuals with pre-existing health conditions, travel to “hot” zones, socializing in groups without social distancing or the wearing of masks.;
- D. School and work closures.;
- E. Cancellation of public gatherings.

**IX. Infection control.**

- A. **Masks/Face Coverings.** Normal contact is defined as being more than 6 feet from individuals at all times in daily activity. Masks will be worn by judges attorneys, parties, clerks of court and deputy clerks of court, the sheriff, deputy sheriffs, and jurors that are not in close contact with individuals that are symptomatic.

In any event all persons who are present in courtrooms, jury rooms, conference rooms, and any other delineated court-related location shall wear face coverings at all times. Face coverings may not be removed unless the Court specifically determines on the record that it is necessary for a witness not to wear a face covering during the witness’s testimony in order for the judge or jury to weigh the witness’s credibility. Other exceptions may be made by the Court in order to be in compliance with State and Federal Law, i.e. for an individual that reads lips or for an individual that is hearing impaired. An exception may also be made if a court reporter is unable to hear an individual to prevent obstruction of the record. Before face coverings may be removed the Court shall make a record of its decision.

Notice of the mandatory requirement to wear masks or face coverings will be posted at the entrance of each courtroom, jury room, and court-related confined space and this requirement will be enforced by the Courts in Polk County.

The Court will work with the County to maintain a sufficient supply of mask/face coverings to provide to individuals who do not otherwise bring their own mask/face coverings to Court.

- B. **Surface Cleaning.** Transmission of COVID-19 from contaminated hard surfaces can not be ruled out. Hand hygiene is one of the most important methods to prevent the transmission of COVID-19.
  - 1. Surfaces that are frequently touched with hands such as sinks, doorknobs, railings and counters will be added to the cleaning schedule.;

2. Circuit Court Staff will regularly clean their keyboards and workspaces especially in shared spaces such as the Courtrooms.;
3. Hand sanitizing stations and hand wipe stations will be placed in each Courtroom.;
4. Hand sanitizing stations or hand wipe stations will be placed near the entry of the Courthouse and outside the office of the Clerk of Court.;
5. Those using the Courtroom and counsel tables will be expected to help by wiping down their areas after use.;
6. Courtrooms will be sprayed down using sanitizing spray by janitorial staff after each day's use.;
7. During days when Jury Trials are held or days of heavy Courtroom usage, additional cleaning will take place during such times as change of witness, lunch hours, recesses.;
8. Whenever possible Courtroom doors will remain open throughout the day to prevent touching of the doors or handles.;
9. Notices regarding the availability of hand sanitizer and disinfecting wipes or sprays will be posted at the entrance of each courtroom, jury room, and court-related confined space.;
10. CDC flyers outlining appropriate hygiene, social distancing, or public safety have been posted outside the Polk County Clerk's Office.

C. Staff Education and Protection.

1. The Circuit Court System will provide employees with information about the importance of hand hygiene, cough etiquette, staying home when ill, social distancing, and quarantine. Information can be found at [www.cdc.gov](http://www.cdc.gov).;
2. The Circuit Court System will provide access to soap and water, and alcohol-based hand gel for employees during the pandemic.
3. The Circuit Court System in conjunction with the County will provide/arrange for training on personal protective equipment.
4. The Circuit Court System in conjunction with the County will provide staff with appropriate personal protective equipment during the pandemic.;
5. The Circuit Court System in coordination with the local public health department will provide pre-incident trainings on how to reduce the risk of exposure, including individual and family preparedness.

D. Screening.

1. When individuals attempt to enter the Courthouse, Court Security, will ask the individuals a set of questions prescribed by the County Health Department. Individuals who indicate yes to any of the questions will be refused admittance to the court building. If an individual who is refused admittance is required to appear in court, notice will immediately be forwarded to the appropriate court office to inform the Court.;
2. Polk County has established a video room for those who are required to appear in court, but are refused general admittance to the building due to the answers to the general screening questionnaire. The video room is isolated from the rest of the Courthouse and will be monitored by Court security. The use of the video room

will allow for video appearance by an individual denied general admittance to the Courthouse.;

3. Inmates will be screened for symptoms of COVID-19 and have their temperature taken prior to coming to Court. Inmates with symptoms or a temperature equal to or above 99.6 degrees F will not be allowed in the Courtroom.

E. Social Distancing.

1. All persons not from the same household who are permitted in the court building will be required to maintain adequate social distancing of at least 6 feet.;
2. Each restroom has been evaluated to determine the appropriate capacity to ensure social distancing and the maximum capacity will be posted on each restroom door.;
3. Breakrooms have been closed to the public.;
4. Notices concerning social distancing have been placed in conspicuous locations in the Courthouse to remain six (6) feet apart and markings have placed on the floor in front of the Clerk's Office to delineate six foot distancing.;
5. Three conference rooms have had telephones installed. One primary conference room contains the phone number of the public defender's office and will be marked accordingly. These rooms will be used to call the public defender's office for qualification.;
6. The maximum number of persons permitted in the gallery of each courtroom has been determined. The capacity of the courtroom will be monitored and enforced by court staff.;
7. In each courtroom, the counsel tables, witness stand, judge's bench, and clerk, court reporter, and bailiff seating have been arranged in such a way so that there is social distancing of at least 6 feet between each space.

**X. Major Responsibilities of External Agencies Affecting the Circuit Court Response.**

A. Public Health.;

1. Provide the court system regular updates on the COVID-19 pandemic situation.;
2. Provide the court system with necessary PPE to help minimize the spread of COVID-19 among staff and the general public.;
3. Consult regularly with the court system on issues pertaining to the COVID-19 pandemic, specifically isolation and quarantine matters.

B. Sheriff's Department.

1. Provide enforcement, as resources allow, to individuals who are non-compliant with the Court's enforcement of mask/face covering requirements.;
2. Upon the request of the Circuit Court Judges, follow up on jurors that fail to appear to court.;

C. District Attorney.

Provide staff to handle prosecution of mandatory criminal cases including: preparing complaints for defendants held in custody for bail hearings, search warrants, juvenile detention hearings.

D. Corporation Counsel.

Provide staff to handle prosecution of mandatory court hearings on behalf of Polk County including but not limited to the following: civil commitment hearings including guardianship and protective placement; mental commitment, and alcohol commitments; child support bail hearings, appearing to testify on criminal non-support cases, order to show cause hearings, and any isolation and quarantine hearings.;

E. Employee Relations Director – Personnel

Determine policies specific to the COVID-19 pandemic relating to leave of absence, sick leave, work from home, pay and benefits issues, discipline and termination, closure of facilities.

**XI. Concepts of Operation.**

A. Command and Management. The Polk County Health Department in collaboration with the Wisconsin Division of Public Health will be named the lead agency at the local and state level in responding to the COVID-19 pandemic. The Polk County Circuit Court Judges, in coordination with public health and the guidelines established in The Chief Justice's Wisconsin Courts COVID-19 Task Force Final Report, will lead the circuit court response.

B. Communication. During the COVID-19 pandemic the Polk County Circuit Courts will coordinate with the Polk County Public Information Officer (PIO) for release of information to the general public. A single coordinated release of information is critical during this pandemic. The Circuit Court will coordinate with the PIO to disseminate information to the general public using the following mechanisms.

1. Modify the Circuit Court telephone number to include voice mail messages on the status of the Circuit Court response.;
2. Post signs at entrances and other designated locations within the Courthouse to inform the public of actions taken regarding court procedures and safety requirements.;
3. Update the Consolidated Court Automation Program (CCAP). Any written notice to CCAP generated notices.;
4. Traditional contact mechanisms (Text, Email, phone, fax).

5. Update the Juror Call in Number to notify jurors of pertinent court information.

C. Mandatory Court Function. The following is a list of mandatory court functions that apply to Circuit Judges, Corporation Counsel, Child Support, and District Attorney Personnel.

1. Bail hearings for criminal cases within 48 hours of arrest.;
2. Search warrants.;
3. Juvenile detention hearings within 24-48 hours after detention.;
4. Mental and alcohol commitment hearings within 72 hours after detention. Final hearings within 14 days.;
5. Guardianship and protective placement.;
6. Criminal jury trials and the defendant is in custody.;
7. Quarantine and Isolation cases.;
8. Restraining order cases within 14 days, excluding weekends.;
9. Other functions as specified by the Constitution of the United States, the Constitution of Wisconsin, State Statute, Order of the Wisconsin Supreme Court or as clarified by Order of the District Chief Judge.

D. Non – Critical Court Functions.

All other court matters not listed in the mandatory court functions will be considered non-critical. Based upon severity of the COVID-19 pandemic and available court resources, all other matters will be addressed with alternate methods within the discretion of the Circuit Court Judges as outlined in The Chief Justice's Wisconsin Courts COVID-19 Task Force Final Report.

E. Alternate Methods of Operations for Mandatory Court Function.

1. Use of Information Technology to minimize contact. This includes use of videoconferencing capabilities and teleconferencing when appropriate.;
2. Require social distancing among staff within court operations.;
3. Reduce face-to-face staff and court operations with the general public. This includes the use of remote appearances by Clerk Staff and party participants.;
4. Eliminate non-critical court functions until such time that the COVID-19 pandemic has subsided.

#### F. Staffing Issues.

1. The Circuit Court System supports a sick leave policy that does not penalize sick employees, thereby encouraging employees who have COVID-19 related symptoms (e.g. fever, cough, headache, muscle aches), those that come into contact with individuals confirming positive for COVID-19, or those that travel to designated “hot spots” to stay home so that they do not infect other employees.;
2. The Circuit Court System also recognizes that employees may need to stay home with ill family members to provide care, or to quarantine.;
3. If needed, the Court System will work with the Employee Relations Director to shift county employees from their regular daily activities to support the Circuit Court staffing needs.

G. Work from Home. When feasible, the web-based, access to internal drives will be employed by the Circuit Court System in order to allow non-critical employees to work from home during the COVID-19 pandemic. Allowing non-critical staff to work from home during moderate and severe COVID-19 pandemic waives in the County accomplishes three things. First, staff can continue to work and as such receive pay. A significant concern that Employee Relations will need to address is whether to pay or not pay staff who are either asked to stay home because of the severity of the COVID-19 pandemic or can't come to work because of an illness and do not have any sick time built up. Secondly, it allows for staff to take care of ill family members in need and continue to work. Finally, it minimizes public gatherings, hence, staff have less opportunities to become infected themselves.

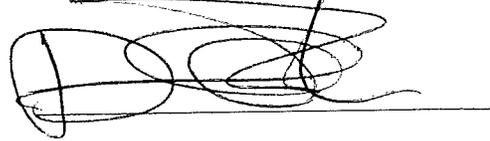
#### H. Jury management for mandatory court functions requiring jurors.

1. If at all, the Circuit Court System will attempt to use jurors who are healthy, and do not have family that are ill.;
2. The Circuit Court System will provide all jury members with appropriate personal protective equipment and hand sanitizer.;
3. The Circuit Court System will use its best efforts to minimize contact of jury members to the greatest extent possible to provide an environment where jurors will not be within six (6) feet of each other.;
4. The Circuit Court System will coordinate with the local public health department to provide screening prior to entry into the building of jurors and if necessary evaluation for any juror who demonstrates signs and symptoms of COVID-19.

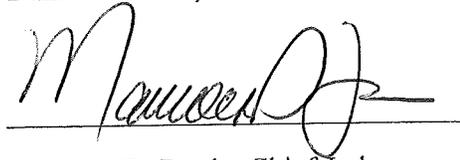
Dated: August 24<sup>th</sup>, 2020

  
Jeffery L. Anderson, Branch II

Dated: August 24<sup>th</sup>, 2020

  
Daniel J. Tolan, Branch I

Dated: August 25, 2020

  
Maureen D. Boyle, Chief Judge

## Appendix A: Isolation and Quarantine

Under State 252 and Chapter HFS 145, the public health authority may isolate or quarantine an individual or group of individuals. This includes individuals or groups who have not been vaccinated, treated, tested, or examined. The public health authority may also establish and maintain places of isolation and quarantine, and set rules and make orders. The County Health Department can demand that a person suspected of harboring a contagious medical condition be placed in quarantine or isolation when they evidence any of the conduct set forth in Wisconsin Administrative Code Section HFS 145.06(2) and in addition, demonstrates any of the factors set forth in Wisconsin Administrative Code Section HFS 145.06(3). If a person diagnosed with a communicable disease, poses a threat to others, refuses to comply with an isolation or quarantine directive of the County Health Department, the County Health Department can petition the Court to order the person to comply. A written directive shall be given to the individual. Failure to obey these rules, orders or provisions shall constitute a misdemeanor.

### Polk County Isolation and Quarantine Police.

Polk County Isolation and Quarantine Policy is contained in a separate document that is signed by Polk County Corporation Counsel, 1005 West main Street, Suite 100 Polk, WI; and the Polk County Health Officer, 100 Polk County Plaza, Suite 280, Polk WI. Policies are kept at both locations.

The Isolation and Quarantine Police for Polk County outlines the policies and procedures to be taken in the event of emergency containment must be ordered.

## Appendix B: Legal Resources

### Chapter HFS 145: CONTROL OF COMMUNICABLE DISEASES

**HFS 145.05 Investigation and control of communicable diseases.** (1) The local health officer shall use all reasonable means to confirm in a timely manner any case or suspected case of a communicable disease and shall ascertain so far as possible all sources of infection and exposures to the infection. Follow-up and investigative information shall be completed by the local health officer and reported to the state epidemiologist on forms provided by the department.

**HFS 145.06 General statement of powers for control of communicable disease.** (1) **APPLICABILITY.** The general powers under this section apply to all communicable diseases listed in Appendix A of this chapter and any other infectious disease which the chief medical officer deems poses a threat to the citizens of the state.

(2) **PERSONS WHOSE SUBSTANTIATED CONDITION POSES A THREAT TO OTHERS.** A person may be considered to have a contagious medical condition which poses a threat to others if that person has been medically diagnosed as having any communicable disease and exhibits any of the following:

(a) A behavior which has been demonstrated epidemiologically to transmit the disease to other or which evidences a careless disregard for the transmission of the disease to other.

(b) Past behavior that evidences a substantial likelihood that the person will transmit the disease to other or statements of the person that are credible indicators of the person's intent to transmit the disease to others.

(c) Refusal to complete a medically directed regimen of examination and treatment necessary to render the disease noncontagious.

(d) A demonstrated inability to complete a medically directed regimen of examination and treatment necessary to render the disease noncontagious, as evidenced by any of the following:

1. A diminished capacity by reason of use of mood-altering chemicals, including alcohol.

2. A diagnosis as having significantly below average intellectual functioning.

3. An organic disorder of the brain or a psychiatric disorder of thought, mood, perception, orientation or memory.

4. Being a minor, or having a guardian appointed under Ch. 54, Stats., following documentation by the court that the person is incompetent.

(e) Misrepresentation by the person of substantial facts regarding the person's medical history or behavior, which can be demonstrated epidemiologically to increase the threat of transmission of disease.

(f) Any other willful act or pattern of acts or omissions or course of conduct by the person which can be demonstrated epidemiologically to increase the threat of transmission of disease to others.

(3) PERSONS WHOSE SUSPECTED CONDITION POSES A THREAT TO OTHERS. A person may be suspected of harboring a contagious medical condition which poses a threat to others if that person exhibits any of the factors notes in sub. (2) and, in addition, demonstrates any of the following without medical evidence which refutes it:

(a) Has been linked epidemiologically to exposure to a known case of communicable disease.

(b) Has clinical laboratory findings indicative of a communicable disease.

(c) Exhibits symptoms that are medically consistent with the presence of a communicable disease.

(4) AUTHORITY TO CONTROL COMMUNICABLE DISEASES. When it comes to the attention of an official empowered under s. 250.02. (1), 250.04 (1) or 252.02 (4) and (6), Stats., or under s 252.03 (1) and (2), Stat., that a person is known to have or is suspected of having a contagious medical condition which poses a threat to others, the official may direct that person to comply with any of the following, singly or in combination, as appropriate.

(a) Participate in a designated program of education or counseling.

(b) Participate in a defined program of treatment for the known or suspected condition.

(c) Undergo examination and tests necessary to identify a disease, monitor its status or evaluate the effects of treatment on it.

(d) Notify or appear before designated health officials for verification of status, testing or direct observation of treatment.

(e) Cease and desist in conduct or employment which constitutes a threat to others.

(f) Reside part-time or full-time in an isolated or segregated setting which decreases the danger of transmission of the communicable disease.

(g) Be placed in an appropriate institutional treatment facility.

(5) FAILURE TO COMPLY WITH DIRECTIVE. When a person fails to comply with a directive under sub. (4), the official who issued the directive may petition a court of record to order the person to comply. In petitioning a court under this subsection, the petitioner shall ensure all of the following:

(a) That the petition is supported by clear and convincing evidence of the allegation.

(b) That the respondent has been given the directive in writing, including the evidence that supports the allegation, and has been afforded the opportunity to seek counsel.

(c) That the remedy proposes is the least restrictive on the respondent which would serve to correct the situation and to protect the public's health.

#### **252.06 Isolation and Quarantine.**

**252.06(1)** The department or the local health officer acting on behalf of the department may require isolation of a patient or of an individual under s. 252.041 (1) (b), quarantine of contacts, concurrent and terminal disinfection, or modified forms of these procedures as may be necessary and as are determined by the department by rule.

**252.06(3)** If a local health officer suspects or is informed of the existence of any communicable disease, the officer shall at once investigate and make or cause such examinations to be made as are necessary. The diagnostic report of a physician, the notification or confirmatory report of a parent or caretaker of the patient, or a reasonable belief in the existence of a communicable disease shall require the local health officer immediately to quarantine, isolate, require restrictions or take other communicable disease control measures in the manner, upon the persons and for the time specified in rules promulgated by the department. If the local health officer is not a physician, he or she shall consult a physician as speedily as possible where there is reasonable doubt or disagreement in diagnosis and where advice is needed. The local health officer shall investigate evasion of the laws and rules concerning communicable disease and shall act to protect the public.

**252.06(4)(a)** If deemed necessary by the department or a local health officer for a particular communicable disease, all person except the local health officer, his or her representative, attending physicians and nurses, members of the clergy , the members of the immediate family and any other person having a special written permit from the local health officer are forbidden to be in direct contact with the patient.

**252.06(4)(b)** If s. 250.042 (1) applies, all of the following apply:

**252.06(4)(b) 1** No person, other than a person authorized by the public health authority or agent of the public health authority, may enter isolation or quarantine premises.

**252.06(4)(b) 2** A violation of subd. 1. Is subject to a fine not to exceed \$10,000 or imprisonment not to exceed 9 months, or both.

**252.06(4)(b) 3** Any person, whether authorized under subd. 1. Or not, who enters an isolation or quarantine premises may be subject to isolation or quarantine under this section.

**252.06(5)** The local health officer shall employ as many persons as are necessary to execute his or her orders and properly guard any place if quarantine or other restrictions on communicable disease are violated or intent to violate is manifested. These persons shall be sworn in as quarantine guards, shall have police powers, and may use all necessary means to enforce the state laws for the prevention and control of communicable diseases, or the orders and rules of the department or any local health officer.

**252.06(6)(a)** When the local health officer deems it necessary that a person be quarantined or otherwise restricted in a separate place, the officer shall remove the person, if it can be done without danger to the person's health, to this place.

**252.06(6)(b)** When a person confined in a jail, state prison, mental health institute or other public place of detention has a disease which the local health officer or the director of health at the institution deems dangerous to the health of other residents or the neighborhood, the local health officer or the director of health at the institution shall order in writing the removal of the person to a hospital or other place of safety, there to be provided for and securely kept. Upon recovery the person shall be returned; and if the person was committed by a court or under process the removal order or a copy shall be returned by the local health officer to the committing court officer.

**252.06(10)(a)** Expenses for necessary medical care, food and other articles needed for the care of the infected person shall be charged against the person whoever is liable for the person's support.

**252.06(10)(b)** The County or municipality in which a person with a communicable disease resides is liable for the following costs accruing under this section, unless the costs are payable through 3<sup>rd</sup>-party liability or through any benefit system:

**252.06(10)(b) 1** The expense of employing guards under sub. (5).

**252.06(10)(b) 2** The expense of maintaining quarantine and enforcing isolation of the quarantined area.

**252.06(10)(b) 3** The expense of conducting examinations and tests for disease carriers made under the direction of the local health officer.

**252.06(10)(b) 4** The expense of care provided under par. (a) to any dependent person, as defined in s. 40.01.

### **Related Statutes**

#### **250.042 Powers and duties of the department as public health authority**

**250.042(1)** If the governor declares a state of emergency related to public health under s. 166.03 (1) (b) 1. And designates the department as the lead state agency to respond to that emergency, the department shall act as the public health authority during the period of the state of emergency. During the period of the state emergency, the secretary may designate a LPHD as an agent of the department and confer upon the LPHD, acting under that agency, the powers and duties of the public health authority.

#### **252.03 Duties of Local Health Officers**

**252.03(2)** Local health officers may do what is reasonable and necessary for the prevention and suppression of disease; may forbid public gatherings when deemed necessary to control outbreaks or epidemics and shall advise the department of measures taken.

**252.03(3)** If the local authorities fail to enforce the communicable disease statutes and rules, the department shall take charge and the county or municipality shall pay expenses thus incurred.

**20.435 Health and family services, department of.**

There is appropriated to the department of health and family services for the following programs:

(1) PUBLIC HEALTH SERVICES PLANNING, REGULATION AND DELIVERY; STATE OPERATIONS.

(c) *Public health emergency quarantine costs.* A sum sufficient to reimburse local health departments under s. 252.06 (10) (c) 1.

General Court Provisions

757.69 Powers and duties of circuit court commissioners.

Polk County Court System:

COVID – 19 Circuit Court Jury Trial Plan

Version 08/28/2020

**I. Purpose.** The COVID – 19 pandemic is distinct from other emergency scenarios such as tornados or floods because of the potential severity and longevity of the pandemic. The purpose of this plan is to provide the Polk County Judicial System with local guidelines, procedures, and directions to follow in order to safely resume jury trials.

**II. Goals.**

- A. The Polk County Court System must deal with crises in a way that protects the health and safety of everyone at the court facilities; and
- B. The Polk County Court System must to the fullest extent possible “keep the courts open” to ensure justice for the people.

**III. Introduction.**

The COVID-19 pandemic is a global pandemic that emerged in the human population, causing serious illness, spreading from person to person worldwide. The COVID-19 pandemic is different from seasonal outbreaks or “epidemics” such as influenza.

**IV. Plan Activation.** The Circuit Judges, in coordination with County Administrator Vince Netherland, Director of General Government Chad Roberts, Polk County Facilities Manager Rod Polk, Polk County Corporation Counsel Malia Malone, Polk County Clerk of Court Sharon Jorgenson, Polk County Deputy Clerk of Court Jacqueline Patterson, District Attorney Jeffrey Kemp, Polk County Emergency Management Coordinator Lisa McMahon, Polk County Sherriff’s Department Chief Deputy Don Burrows, and State Public Defender Donna Burger, met regarding the safe resumption of in-person proceedings and jury trials. Meeting dates include May 12<sup>th</sup>, 2020, May 29<sup>th</sup>, 2020, June 10<sup>th</sup>, 2020, June 25<sup>th</sup>, 2020 and most recently August 18<sup>th</sup>, 2020. This plan shall become active no sooner than September 8<sup>th</sup>, 2020.

**V. Scope.** The Polk County Court System COVID-19 Jury Trial Resumption plan is specific to the response of the Polk County Court System. This plan incorporates the other organizational and Court responses outlined in the Circuit Court Re-Opening plan that became effective on August 25<sup>th</sup>, 2020. This plan also incorporates State and Federal guidelines including ongoing CDC recommendations and those outlined in The Chief Justice’s Wisconsin Courts COVID-19 Task Force Final Report of May 2020.

**VI. Infection control.**

- A. Masks/Face Coverings. Normal contact is defined as being more than 6 feet from individuals at all times in daily activity. Masks will be worn by judges, attorneys, parties, clerks of court and deputy clerks of court, the sheriff, deputy sheriffs, court reporters, and jurors that are not in close contact with individuals that are symptomatic.

In any event, all persons who are present in courtrooms, jury rooms, conference rooms, and any other delineated court-related location shall wear face coverings at all times. Face coverings may not be removed unless the Court specifically determines on the record that it is necessary for a witness not to wear a face covering during the witness's testimony in order for the judge or jury to weigh the witness's credibility. Other exceptions may be made by the Court in order to be in compliance with State and Federal Law, i.e. for an individual that reads lips, or for an individual that is hearing impaired. An exception may also be made if a court reporter is unable to hear an individual to prevent obstruction of the record. Before face coverings may be removed, the Court shall make a record of its decision.

Notice of the mandatory requirement to wear masks or face coverings will be posted at the entrance of each courtroom, jury room, and court-related confined space and this requirement will be enforced by the Courts in Polk County.

The Court will work with the County to maintain a sufficient supply of mask/face coverings to provide to individuals who do not otherwise bring their own mask/face coverings to Court.

- B. Surface Cleaning. Transmission of COVID-19 from contaminated hard surfaces cannot be ruled out. Hand hygiene is one of the most important methods to prevent the transmission of COVID-19.
1. Surfaces that are frequently touched with hands such as sinks, doorknobs, railings and counters will be added to the cleaning schedule.;
  2. Circuit Court Staff will regularly clean their keyboards and workspaces especially in shared spaces such as the Courtrooms.;
  3. Hand sanitizing stations and hand wipe stations will be placed in each Courtroom.;
  4. Hand sanitizing stations or hand wipe stations will be placed near the entry of the Courthouse and outside the office of the Clerk of Court.;
  5. Those using the Courtroom and counsel tables will be expected to help by wiping down their areas after use.;
  6. Courtrooms will be sprayed down using sanitizing spray by janitorial staff after each day's use.;
  7. During days when Jury Trials are held or days of heavy Courtroom usage, additional cleaning will take place during such times as change of witness, lunch hours, recesses.;
  8. Whenever possible Courtroom doors will remain open throughout the day to prevent touching of the doors or handles.;
  9. Notices regarding the availability of hand sanitizer and disinfecting wipes or sprays will posted at the entrance of each courtroom, jury room, and court-related confined space.;
  10. CDC flyers outlining appropriate hygiene, social distancing, or public safety have been posted outside the Polk County Clerk's Office.

C. Staff Education and Protection.

1. The Circuit Court System will provide employees with information about the importance of hand hygiene, cough etiquette, staying home when ill, social distancing, and quarantine. Information can be found at [www.cdc.gov](http://www.cdc.gov);
2. The Circuit Court System will provide access to soap and water, and alcohol-based hand gel for employees during the pandemic.
3. The Circuit Court System in conjunction with the County will provide/arrange for training on personal protective equipment.
4. The Circuit Court System in conjunction with the County will provide staff with appropriate personal protective equipment during the pandemic.;
5. The Circuit Court System in coordination with the local public health department will provide pre-incident trainings on how to reduce the risk of exposure, including individual and family preparedness.

D. Screening.

1. When individuals attempt to enter the Courthouse, Court Security will ask the individuals a set of questions prescribed by the County Health Department. Individuals who indicate "yes" to any of the questions will be refused admittance to the court building. If an individual who is refused admittance is required to appear in court, notice will immediately be forwarded to the appropriate court office to inform the Court.;
2. Polk County has established a video room by the Sheriff's Office for those who are required to appear in court, but are refused general admittance to the building due to the answers to the general screening questionnaire. The video room is isolated from the rest of the Courthouse and will be monitored by Court security. The use of the video room will allow for video appearance by an individual denied general admittance to the Courthouse.;
3. Inmates will be screened for symptoms of COVID-19 and have their temperature taken prior to coming to Court. Inmates with symptoms or a temperature equal to or above 99.6 degrees F will not be allowed in the Courtroom.

E. Social Distancing.

1. All persons not from the same household who are permitted in the court building will be required to maintain adequate social distancing of at least 6 feet.;
2. Each restroom has been evaluated to determine the appropriate capacity to ensure social distancing and the maximum capacity will be posted on each restroom door.;
3. Breakrooms have been closed to the public.;
4. Notices concerning social distancing have been placed in conspicuous locations in the Courthouse to remain six (6) feet apart and markings have placed on the floor in front of the Clerk's Office to delineate six foot distancing.;
5. Three conference rooms have had telephones installed. One primary conference room contains the phone number of the public defender's office and will be marked accordingly. These rooms will be used to call the public defender's office for attorney qualification.;

6. The maximum number of persons permitted in the gallery of each courtroom has been determined. The capacity of the courtroom will be monitored and enforced by court staff.;
7. In each courtroom, the counsel tables, witness stand, judge's bench, and clerk, court reporter, and bailiff seating have been arranged in such a way so that there is social distancing of at least 6 feet between each space.

## **VI. Jury management for mandatory court functions requiring jurors.**

### **A. Summoning Jurors.**

1. Considerations have been made for the safety and wellbeing of jurors. The attached letter has been developed and sent with the juror summons to each juror. This letter will be updated as necessary with the input of the planning team and the Polk County Health Department.;
2. The Circuit Court System will attempt to use jurors who are healthy, and do not have family that are ill. With this idea in mind, Polk County has prepared a Juror Questionnaire. The Juror Questionnaire has been attached. Through the use of the Juror letter and the Juror Questionnaire Polk County has established a policy that accounts for liberal deferral and excusal of jurors and works to limit the number of jurors called in for jury service.;
3. The Circuit Court System will coordinate with the local public health department to provide expedited screening prior to entry into the building of jurors and if necessary evaluation for any juror who demonstrates signs and symptoms of COVID-19. It is anticipated at this time that screening of jurors will be provided through St. Croix Regional Medical Center who will provide screening services on sight at the Polk County Courthouse. The screening provider could change based upon the direction of The Polk County Health Department and Polk County Administration.;
4. Polk County has increased its pool of bailiffs. The use of additional bailiffs is intended help expedite the check in process. Bailiffs will use a check in policy that minimizes physical contact with documents.;
5. Jurors will be subject to the Polk County Public Health guidelines in regard to admittance into the Courthouse.

### **B. Juror Attendance and Safe Participation.**

1. The Circuit Court System will provide all jury members with appropriate personal protective equipment and hand sanitizer.;
2. The Circuit Court System will use its best efforts to minimize contact of jury members to the greatest extent possible to provide an environment where jurors will not be within six (6) feet of each other.;

3. The following are examples of strategies that will be used to reduce the number of people required to report for jury selection: Utilize preselection questionnaires, conduct voir dire in sessions based on the capacity of the court room that allow appropriate social distancing, conduct voir dire virtually in full or in part, utilize in-person and virtual voir dire simultaneously, broadcast jury selection and limit or eliminate spectators in the courtroom, utilize 6-person juries upon stipulation, give priority to "strikes for cause" based on juror health and safety concerns.;

4. In the event of twelve person juries and in some cases six person juries, Polk County intends to use two of its courtrooms for the jury selection process. In the event a second courtroom is not available, the community room may be used. A video link will be set up between the two courtrooms so that the parties in each courtroom can see and hear the parties in the other courtroom. One courtroom will be used by the court, counsel, and the initial seating of prospective jurors. It is possible that potential witnesses and members of the public will be in the primary courtroom, subject to social distancing and capacity determinations. The other courtroom will hold alternate jurors, witnesses, and members of the public who wish to view the proceedings, subject to proceedings that are closed to the public by statute. During the voir dire process prospective jurors will be socially distanced using the seating area in the back of the courtroom and if necessary the jury box area of the primary courtroom.

5. After the jury has been empaneled, the following efforts have been made to accommodate social distancing, but ensure that each juror has adequate sight lines to the witness stand and can hear and see all proceedings. Examples of such accommodations include: use of technology and video monitors to increase sight lines, and handling of exhibits. Documented efforts: use of technology and video monitors to increase site lines and handling of exhibits.;

6. Polk County has installed four video monitors in the jury box of Branches One and Two. The area of the jury box will be expanded for purposes of social distancing. Thus, an additional monitor is now mounted on the wall near the jury box and another monitor has been mounted on the upper wall in the middle of the courtroom to improve sight lines for jurors. Counsel tables now have appropriate connections installed to allow counsel to use laptops to project exhibits on the monitors in order reduce touching of exhibits. The County will provide appropriate staff to wipe down the witness area after each witness testifies. Staff will also clean heavy traffic areas during extended breaks or recesses.;

7. Social distance considerations during trial breaks and deliberations have been considered. Polk County intends to use one of its other courtrooms as the jury deliberation and break room. This will allow for greater social distancing. In the event a second courtroom is unavailable, the community room may be used. In the event a second courtroom is unavailable and the community room is unavailable, then the courtroom holding the trial will become the jury room for purposes of breaks and deliberation. The Polk County Courthouse has an enclosed employee only outdoor break area. This outdoor break area requires badge access. Weather permitting this area will be used during breaks for jurors. Notice will be posted

instructing staff that no access to the outdoor break area will be allowed on jury trial dates to prevent contact with jurors.;

8. During breaks and deliberations separate bathrooms accessible only to the jurors will be provided to prevent contact with staff or members of the public. Bottled water will be provided to the jurors. Meals will be provided by the County and brought in for the jurors to reduce outside contact. Bailiffs will provide jurors with a notebook and a pen to be used to take notes during the evidentiary phase of the jury trial. To avoid excessive touch of materials, jurors may keep the notebook and pen at the end of their service.;

9. The court will attempt to prioritize jury trials during the COVID-19 public health emergency and will take into consideration the nature of each case, the extent to which the cases involve liberty interests, cases with time limitations, victim's rights and input, and the length of time a case has been pending.;

10. Due to capacity issues the public may be limited in the primary courtroom, but streaming to a second courtroom within the courthouse will be provided if necessary.

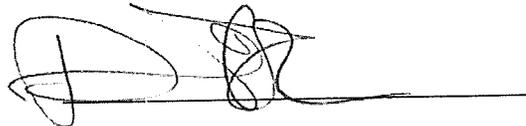
Judge Tolan and I have conferred regarding this Jury Trial Addendum to the Re-Opening Plan. We will begin setting jury trials no sooner than September 14<sup>th</sup>, 2020. We will ensure that proceedings will be conducted consistent with this Jury Trial plan.

Dated: August 28<sup>th</sup>, 2020



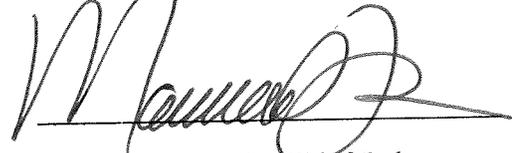
Jeffery L. Anderson, Branch II

Dated: August 28<sup>th</sup>, 2020



Daniel J. Tolan, Branch I

Dated: August 31, 2020



Maureen D. Boyle, Chief Judge

# Polk County Circuit Court

1005 W. Main Street, Suite 800  
Balsam Lake, WI 54810  
Telephone: (715) 485-9233 – Br. 2  
Telephone: (715) 485-9293 – Br. 1

Jeffery L. Anderson, Circuit Court Judge  
Daniel J. Tolan, Circuit Court Judge

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To All Prospective Jurors  
Summoned to Appear for  
Jury Selection in Polk County

From: Judge Anderson & Judge Tolan

Re: Your upcoming Jury Service in the Era of COVID-19

Dear Prospective Jurors:

This letter is attached to your notice directing you to appear for Jury Service at the Polk County Courthouse, 1005 W. Main Street, Balsam Lake, WI 54810.

So you won't be surprised when you arrive, please be aware of the following:

1. Each prospective juror will have an initial screening and their temperature taken via a hand-held thermometer before entry into the Courthouse, to ensure that no one with fever or an elevated temperature is admitted.;
2. Once you enter the building and pass through security screening, you will be escorted by Court staff to a Courtroom for seating to achieve the maximum distancing possible.;
3. Masks will be distributed, or you may wear your own when you enter the Courtroom. Subject to certain exceptions pursuant to State and Federal law, everyone appearing as a prospective juror will be required to wear a mask.;
4. Hand sanitizer (alcohol based) as well as sanitizing wipes will be available to you at multiple locations within the Courthouse. Each Courtroom has an automatic hand sanitizing station as well as a sanitizing wipe station.;
5. Those selected for jury service should know that jurors will be seated to achieve maximum distancing between jurors during the trial consistent with the layout of the Courtroom.;
6. The jury box, the room used for breaks and jury deliberations, jury bathrooms and the Courtroom used for the trial will be deep cleaned each evening when the Court recesses.;
7. Individual lunches will be provided to those selected as jurors for each day of trial to minimize any travel in and out of the Courthouse and to minimize juror's interaction at local restaurants.

You are also receiving a Juror Questionnaire. If you answer "yes" to any of the questions on the Juror Questionnaire just prior to your scheduled date of jury service, you should immediately contact the Polk County Clerk of Court's Office at 715-485-9299.

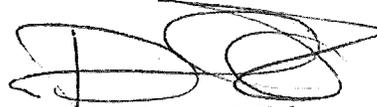
Please be aware that the right to trial by jury is one of the cornerstones of our democracy, and jury trials necessarily involve sacrifice from those citizens called upon to serve. This has always been true, but it is especially true during these unique and trying times. The right to trial by jury has been enshrined within the Seventh Amendment to our U.S. Constitution since 1791, and it was one of the stated principles in the Declaration of Independence which fueled our struggle to become an independent nation. Only those with extreme hardships should seek to be excused based on pre-existing obligations.

We hope this letter is helpful and informative.

Respectfully,



Judge Jeffery L. Anderson



Judge Daniel J. Tolan

## Juror Questionnaire

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1. Have you been diagnosed by a licensed physician as having COVID-19 at any time within the last 30 days?

Yes                       No

2. Are you actively caring for a family member or loved one who has tested positive for COVID-19?

Yes                       No

3. Are you or a member of your household now in self quarantine status and will that continue past your anticipated date of jury service?

Yes                       No

4. Are you a health care professional presently working in an environment where exposure to COVID -19 is more likely or your services are required due to the pandemic?

Yes                       No

5. Have you or a member of your household been exposed to COVID-19 or someone who has tested positive for COVID-19 within the past 14 days?

Yes                       No

6. Have you had a fever of 100° or higher in the past 72 hours?

Yes                       No

7. Have you traveled by air or outside the country within the last 14 days?

Yes                       No

8. Are you considered an individual in a vulnerable population due to age or health conditions?

Yes                       No