

Jury Proceeding Addendum to COVID-19 Operating Plan for the Cherokee County Judiciary

Recognizing the need to ensure the health and safety of jurors, litigants, attorneys, visitors, court staff, judges, and other individuals entering the buildings housing the courts, the courts of Cherokee County, Texas will implement, in addition to the procedures and protocols in the previously submitted COVID-19 Operating Plan, the following protective measures for jury proceedings:

General

1. All judges will comply with the Emergency Orders issued by the Supreme Court of Texas and Court of Criminal Appeals, including conducting in-person jury proceedings according to the guidance issued by the Office of Court Administration.
2. The justice courts will not conduct an in-person jury proceeding until the Supreme Court permits such proceedings.
3. Judges of the District Courts and County Court at Law will conduct in-person jury proceedings in accordance with the previously approved Operating Plan and this addendum only after this jury proceeding addendum is submitted and accepted by the Regional Presiding Judge.
4. Not more than five days before an approved in-person jury proceeding is scheduled to occur, the local administrative district judge or designee will consult with the local public health authority to verify that local health conditions and plan precautions are appropriate for the jury proceeding to proceed.
5. Except for criminal cases where confinement in jail or prison is a potential punishment, judges may conduct remote jury proceedings if the court follows the requirements of the hearings on objections or motions section below and ensures that all potential and selected petit jurors have access to technology to participate remotely. Judges may conduct remote jury proceedings in a criminal case where confinement in jail or prison is a potential punishment only with appropriate waivers and consent obtained on the record from the defendant and the prosecutor.

Jury Proceeding Approval Process

1. Judges wishing to conduct a jury proceeding will follow the procedure detailed below without need of specific approval from the local administrative district judge and Regional Presiding Judge. Deviations from this procedure shall require written or email approval from the local administrative district judge and Regional Presiding Judge.
2. Each court is assigned one week per month in which the court may schedule jury trials. The 369th District Court shall conduct jury trials during the 2nd full week of each month. The 2nd District Court shall conduct jury trials during the 3rd full week of each month. The Court at Law shall conduct jury trials during the 4th full week of each month.

3. The following schedule shall be maintained while this Plan is in effect:

<u>369th D.C. (2nd week)</u>	<u>2nd D.C. (3rd week)</u>	<u>CCAL (4th week)</u>
October 12	October 19	October 26
November 9	November 16	November 23
December 14	December 21	December 28
January 11	January 18	January 25
February 8	February 15	February 22
etc.		

4. If the CCAL does not intend to use its scheduled week, it should timely notify the local administrative district judge so that the unused week may be utilized for jury trials or other proceedings by the 2nd District Court.
5. The local administrative district judge will, not more than five days before the jury proceeding, consult with the local public health authority to verify that the local health conditions and plan precautions are appropriate for each jury proceeding to proceed. An email or written confirmation from the local public health authority shall be obtained and provided to the judge presiding over the jury proceeding prior to the commencement of the trial.

Hearings on Objections or Motions Related to Proceeding

1. Parties who are scheduled for a jury proceeding are encouraged to make any objections or motions related to proceedings at least 10 days prior to the trial setting.
2. Any objections or motions related to proceeding with a jury proceeding will be heard by the judge presiding over the case at least seven days prior to the jury proceeding or as soon as practicable if the objection or motion is made or filed within seven days of the jury proceeding.

Communication Protocols

1. Each judge with an approved in-person jury proceeding will require the parties to communicate with the court if any participant in the jury proceeding, including attorneys, parties, attorney support staff, or witnesses, has tested positive for COVID-19 within the previous 30 days prior to any portion of the jury proceeding, currently has symptoms of COVID-19, or has had recent known exposure to COVID-19.
2. If the approved in-person jury proceeding involves an incarcerated participant, the judge will require the sheriff to report any positive COVID-19 test of the incarcerated participant within the previous 30 days prior to any portion of the jury proceeding, any current symptoms of COVID-19, or any recent known exposure to COVID-19.

Scheduling

1. A judge who is approved for an in-person jury proceeding will schedule no more than ten cases for that jury trial setting, unless pre-approval for larger dockets is obtained from the Regional Presiding Judge.

2. Judges should attempt to alert parties who will not be proceeding prior to the day of trial to reduce attendance at the court facility.

Summoning Jurors

1. The jury clerk must include with in-person juror summonses information regarding precautions that have been taken to protect the health and safety of prospective jurors (see Attachment A) and COVID questionnaires (see Attachment B) that elicit from prospective jurors information about their exposure or vulnerability to COVID-19.
2. Judges will consider using juror questionnaires for voir dire to assist in shortening the length of voir dire or the number of venirepersons.
3. Excuses or requests to reschedule from in-person prospective jurors who have been potentially exposed, who are symptomatic, and who are vulnerable or live with someone vulnerable to COVID-19 will be liberally granted.

Location for Jury Selection, Trial, and Deliberation

1. The following locations have sufficient space to permit adequate social distancing and will be used for in-person jury proceedings:
 - A. District Court proceedings:
 - a. Jury Qualification: District Courtroom OR John Alexander Gymnasium
 - b. Voir Dire: District Courtroom OR John Alexander Gymnasium
 - c. Trial: District Courtroom, Cherokee County Courthouse
 - d. Jury Deliberation: District Courtroom OR County (Commissioners) Courtroom, Cherokee County Courthouse
 - B. County Court at Law proceedings:
 - a. Jury Qualification: District Courtroom OR John Alexander Gymnasium
 - b. Voir Dire: District Courtroom OR John Alexander Gymnasium
 - c. Trial: CCAL Courtroom or County Courtroom (6 person jury) OR District Courtroom (12 person jury)
 - d. Jury Deliberation: CCAL Courtroom OR County (Commissioners) Courtroom, Cherokee County Courthouse
2. Security protocols at the locations for jury proceedings have been reviewed with the appropriate courthouse security personnel and are adequate for the proceeding.

Description of Courtrooms and Other Facilities

1. The following description details how each of the courtrooms or facilities will be arranged during the jury proceeding:
 - A. Cherokee County District Courtroom
 - a. The District Courtroom has a normal capacity to seat approximately 150 jury panel members. With adequate social distancing the District Courtroom can accommodate 69 jurors. This is a sufficient venire panel size for most jury trials in the District Court. If a larger jury panel is required then the John Alexander Gymnasium may be used, at the judge's discretion.
 - b. There is also seating in the hallway for an additional 30 socially distanced jury panel members to draw from if needed during the qualification process.

- c. Jury panel members will be spaced far enough apart from each other in the courtroom so that adequate social distancing is maintained.
 - d. The courtroom is large enough to maintain adequate social distancing between counsel tables, witness stand, judge's bench, and the seated jury without the necessity of using plexiglass barriers/shields.
 - e. During jury trials, the jury will be seated in the jury box and the gallery in order for them to maintain adequate social distancing. Accommodations for jurors seated in the gallery will be made to allow for video and audio presentation of evidence, if necessary.
 - f. The hallway is large enough to accommodate witnesses and other attendees while maintaining adequate social distancing.
 - g. The District Courtroom or the county (commissioners) courtroom will be used for jury deliberation, at the judge's discretion. Either one will allow the jury to deliberate privately and maintain adequate social distancing.
 - h. See Attachment C for a diagram of the District Courtroom layout for jury qualification and voir dire.
- B. John Alexander Gymnasium (JISD), 811 Farnsworth, Jacksonville, Texas.
- a. Seating for jury panel members will be arranged to accommodate social distance requirements throughout the Jury Qualification and Voir Dire proceedings.
 - b. This facility has the capacity to seat approximately 200 jury panel members while maintaining adequate social distancing, allowing qualification and voir dire of the entire panel at one time.
 - c. The gym is located off campus, thus there should be little to no interaction with students during the proceedings. There is also plenty of parking available for jurors and participants.
 - d. See Attachment D for a diagram of the John Alexander Gymnasium (JISD) layout for jury qualification and voir dire.
- C. Cherokee County Court at Law Courtroom
- a. The CCAL courtroom is large enough to accommodate a jury trial allowing for adequate social distancing for all the participants, using the jury box and gallery area for juror seating. Accommodations for jurors seated in the gallery will be made to allow for video and audio presentation of evidence, if necessary.
 - b. Plexiglass/glass partitions will be utilized when possible for courtroom locations requiring activities that require less than 6 foot social distance.
 - c. The hallway is large enough to accommodate witnesses and other attendees while maintaining adequate social distancing.
 - d. The CCAL courtroom or the county courtroom will be used for jury deliberation, at the judge's discretion. Either one will allow the jury to deliberate privately and maintain adequate social distancing.

Screening

1. In addition to the requirements of the previously submitted in-person Operating Plan, all court participants and observers attending an in-person jury proceeding will be screened for elevated temperatures and will be questioned to determine if the individual has recently had symptoms of COVID-19 or been exposed to COVID-19.
2. All participants in a trial who are incarcerated will be screened by the jail/prison prior to transport to the courtroom and any known exposure, symptoms, or COVID-19 positive test results within the past 30 days will be reported to the judge presiding over the jury trial prior to the transport of the participant to the courtroom.

Face Coverings

1. In addition to the requirements of the previously submitted in-person Operating Plan, all persons entering the common areas of a courthouse, including a courtroom or any other location being used to conduct a jury trial, will be required to wear a face covering at all times unless the person is an individual that is not recommended to wear a mask by the Centers for Disease Control or the Texas Department of State Health Services.
2. All court participants will be required to wear face coverings from jury qualification through the end of trial.
3. During jury selection proceedings, jury panel members who may need to lower their face mask to speak will be required to wear a face shield. Judges may permit a court participant to lower his or her mask so long as social distancing is maintained or a face shield is worn, and the person speaking is immobile.

Social Distancing

1. Social distancing of all court participants and observers will be maintained at all times during the jury proceeding, including during the trial and deliberation.
2. Special attention will be paid by courts to ensure adequate social distancing and managed exits of individuals during breaks, especially when dismissing large groups of people for a break.
3. All ingress and egress for juror and participants will be supervised by the bailiff to ensure adequate social distancing is maintained throughout the proceedings.

Alternate Jurors

1. Each judge with an approved in-person jury proceeding will be encouraged to consider selecting alternate jurors to permit the trial to continue in the event of a juror becoming ineligible to serve for a reason unrelated to that person's exposure to or contraction of COVID-19.

Microphone Protection Protocols

1. Judges will limit, to the degree possible, the shared use of microphones during the jury proceeding.

2. If a microphone must be shared, judges will limit the passing of the microphone unless the microphone is cleaned between each user.
3. Disposable microphone covers will be placed on shared microphones and changed between each user.

Exhibit/Evidence Management

1. Judges will limit, to the degree possible, the use of physical or paper exhibits/evidence where feasible or appropriate by converting the exhibit/evidence to a digital form.
2. When physical or paper exhibits/evidence is required, judges will reduce the exchange of that exhibit/evidence to the number of persons necessary and will limit passing the exhibit/evidence to the individual members of the jury.
3. If an exhibit/evidence is required to be transferred from person-to-person, single use gloves will be provided, worn, and discarded immediately after handling the exhibit/evidence.
4. During jury deliberations, judges will make efforts to provide the jury with access to digital exhibits/evidence that would normally be shared with the jury during deliberation. Where digital exhibits/evidence is not feasible, judges will consider limiting the transfer of the exhibits/evidence from juror-to-juror by spreading the exhibits/evidence on a table for inspection from the table in the jury deliberation room.

Witnesses

1. Judges will inquire whether witnesses to the proceedings have COVID-related issues.
2. To the degree constitutionally permissible or with the consent of the parties, judges will permit witnesses to testify remotely via videoconference, especially if that witness has symptoms of or a recent positive test for COVID-19, has been recently exposed, or is vulnerable to contracting COVID-19.

Food Precautions

1. Courts that provide food to jurors or other participants during a jury proceeding will ensure individual food portions, such as individually boxed meals, are provided.

Cleaning

1. In addition to the requirements of the previously submitted in-person Operating Plan, frequent cleaning protocols in the courtrooms and facilities will be maintained throughout the jury proceeding as appropriate.
2. Shared spaces such as witness stands, seating in the gallery, and seating during qualification/voir dire will be cleaned during transitions of those spaces.
3. Seats for members of the jury panel and selected jurors will be assigned to reduce potential transmission and the need for more frequent cleaning.

I have attempted to confer with all judges of courts with courtrooms in the court building regarding the Jury Proceeding Addendum to the Operating Plan. In developing the plan, I consulted with the local health authority and county judge, documentation of which is attached to

this plan. I will ensure that the judges of courts with courtrooms in the court building covered by this Operating Plan conduct proceedings consistent with the plan.

Date: September 30, 2020

A handwritten signature in black ink, appearing to read "R. Chris Day", written over a horizontal line.

R. Chris Day
Local Administrative District Judge

Attachment A

Dear Prospective Juror:

With this letter is your Summons for Jury Service on _____ for you to appear at the Cherokee County Courthouse (OR The John Alexander Gymnasium).

In conjunction with our Cherokee County Local Health Authority, our District and County Judges, the Texas Supreme Court, the Texas Office of Court Administration, and our Presiding Regional Judge, we have put together a COVID-19 Jury Trial Plan that you can find on our website at *www.co.cherokee.tx.us*.

The purpose of our plan is to outline the precautions we will be taking to reduce the Coronavirus risk to you, our court staff members, the courthouse personnel, and all of the parties and their attorneys as we continue to seek “Justice for All” in these cases. Our justice system only works because of citizens like you who are willing to serve and help resolve these pending legal disputes.

Enclosed please find:

- (1) Your Jury Summons;
- (2) A COVID-19 Pre-Screening Questionnaire to be returned BEFORE you appear;
- (3) A Juror Questionnaire, to be returned BEFORE you appear.

Please review these documents and feel free to call the District Clerk’s office at with any questions you may have or to inform them of any legal exemption you may wish to claim.

Please note that, pursuant to the COVID-19 Jury Trial Plan, face masks and shields will be required of all prospective jurors. Face shields and disposable masks will be provided if you.

Please complete the COVID-19 Pre-Screening Questionnaire and return it to the District Clerk’s office before your appearance.

IF YOU HAVE ANY CONCERN YOU MAY EXPOSE OTHERS TO THE CORONAVIRUS, PLEASE CALL THE CLERK’S OFFICE.

We appreciate all your assistance and patience as we work through these unusual times. We look forward to getting back to letting the citizens of Texas express their opinions in the Jury system and to seeing you on _____.

Please visit our website
www.co.cherokee.tx.us
to view the COVID-19
JURY TRIAL Operating Plan

Very Truly Yours.

Attachment B

JURY SERVICE COVID-19 PRE-SCREENING QUESTIONNAIRE

Dear Prospective Juror:

As part of the court's ongoing measures to protect against the spread of the COVID-19 disease, we ask that you complete the following before reporting for Jury Service on _____, 2020. Bring this completed questionnaire with you or email it to _____@_____ BEFORE (insert date of jury service, 2020):

1. SYMPTOMS NOW OR BETWEEN (insert date that is 14 days before date of jury service), 2020 AND (insert date of jury selection proceeding), 2020: check any that apply to YOU or A MEMBER OF YOUR HOUSEHOLD

_____ Fever (above 100.0) _____ Change in taste or smell _____ Cough _____ Nausea or Vomiting

_____ Headache _____ Shortness of Breath/Difficulty Breathing _____ Diarrhea _____ Chills

_____ Muscle pain or body aches _____ Sore throat _____ Fatigue _____ Congestion or Runny Nose

_____ I certify that NONE of the symptoms above have been experienced by me or a member of my household between (insert date that is 14 days before date of jury service) and (insert date of jury selection, 2020).

IF YOU ARE EXPERIENCING ANY OF THE ABOVE SYMPTOMS, CALL THE DISTRICT CLERK'S OFFICE at (____) ____ - ____ BEFORE REPORTING ON _____, 2020.

2. CONTACT HISTORY - check any that apply to YOU or A MEMBER OF YOUR HOUSEHOLD:

_____ I or a member of my household has been diagnosed with COVID-19 within the past 4 months;

_____ I or a member of my household has been in close contact with someone exposed to or infected with COVID-19 in the last 14 days;

_____ I or a member of my household are currently on a watch list or self-quarantining because of possible COVID-19 exposure;

_____ NONE of the above apply.

IF ANY OF THE ABOVE APPLY, CALL THE DISTRICT CLERK'S OFFICE at (____) ____ - ____ BEFORE REPORTING ON _____, 2020.

3. COVID-19 RELATED EXCUSE OR POSTPONEMENT - 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 those whose immune systems are compromised, such as by chemotherapy for cancer or other conditions requiring such therapy, are considered to be vulnerable populations and may request to postpone or be excused from jury service at this time. If you wish to be excused or request that your jury service be postponed, check the box below.

I certify that I meet the above-described conditions and I am requesting to be excused from jury service or desire to have my service date postponed because of those conditions.

IF YOU ARE REQUESTING TO BE EXCUSED OR YOUR SERVICE DATE BE POSTPONED DUE TO A COVID-19 RELATED REASON, CALL THE DISTRICT CLERK'S OFFICE at (____) ____ - ____ BEFORE REPORTING ON _____, 2020.

4. FACE COVERINGS:

Prospective jurors are required to wear a face covering while they are in the courthouse. Individuals are encouraged to bring a cloth face covering with them. If an individual does not have a cloth face covering, a disposable face mask will be provided.

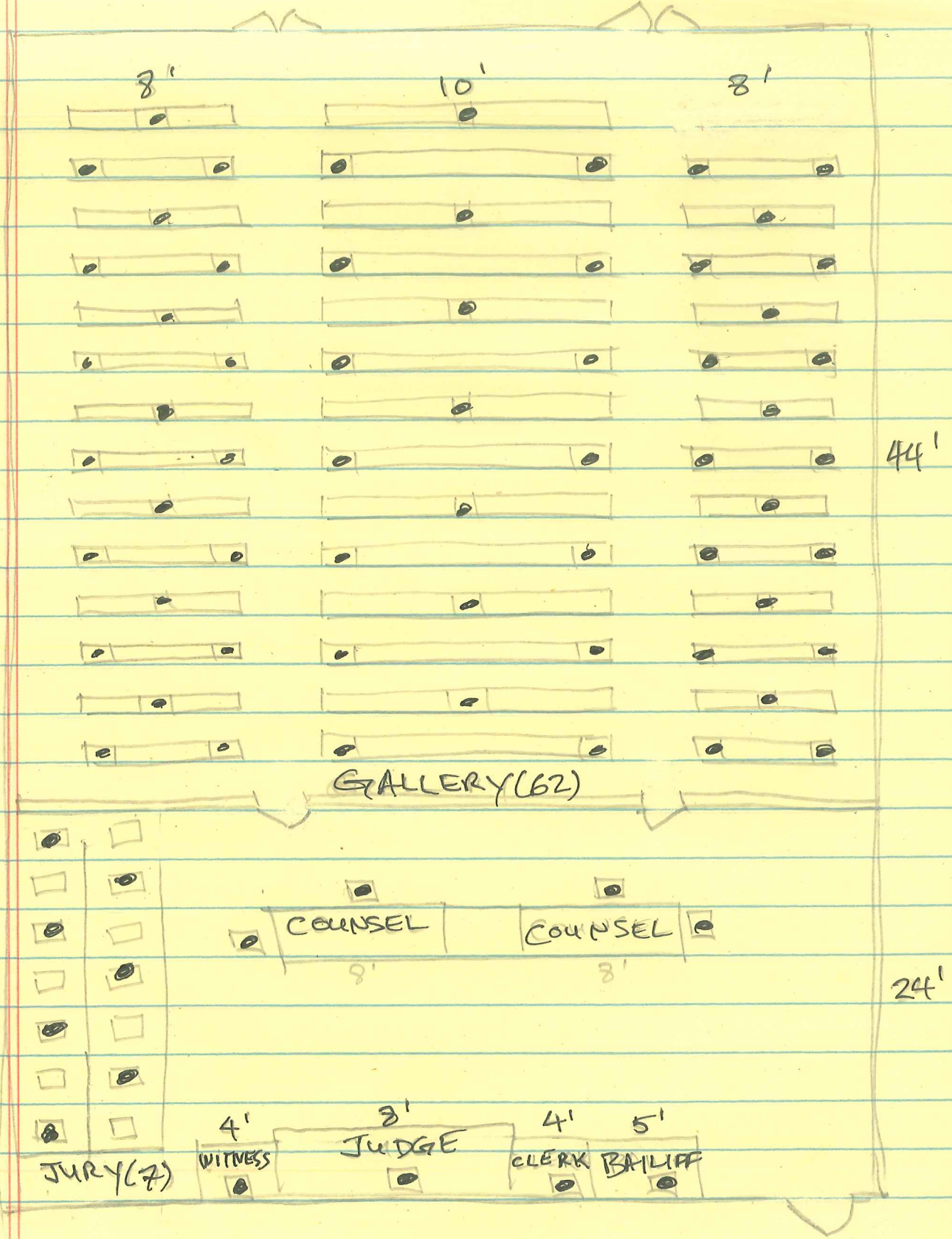
I certify the above is true and correct:

Signature

Printed Name

Attachment C

CHEROKEE CO. DISTRICT COURTROOM



JOHN Alexander Gym

Attachment D



Podium

DEX

JUDGE

State

Attachment E

E

From: etgardener@aol.com
Subject: Re: COVID-19 Jury Trial Plan
Date: September 27, 2020 at 6:47 PM
To: distcrt2nd@cocherokee.org

Chris,

This plan appears to me to be quite comprehensive and I would agree to it's implementation as written.

James Low
Cherokee County Health Authority

-----Original Message-----

From: distcrt2nd@cocherokee.org <distcrt2nd@cocherokee.org>
To: Jimmy Low, MD <Etgardener@aol.com>
Sent: Fri, Sep 25, 2020 2:31 pm
Subject: COVID-19 Jury Trial Plan

Jimmy,

please review this COVID-19 Jury Trial Plan and confirm your approval of same as Cherokee County's Medical Director by emailing me back, thanks! Obviously, let me know if you have any concerns. The plan we approved in May is still in effect, this is just an addendum to that to allow jury trials with social distancing, etc. Thanks!

Regards,

Judge R. Chris Day
2nd Judicial District Court
Cherokee County Courthouse
135 S. Main Street
Rusk, Texas 75785
(903) 683-2236
(903) 683-2238 (fax)

Attachment F

From: Chris Davis cojudge@cocherokee.org
Subject: RE: First Draft of Jury Trial Plan
Date: September 28, 2020 at 11:09 AM
To: distcrt2nd@cocherokee.org

CD

I approve of the plan.

Chris Davis
Cherokee County Judge
135 South Main Street
Rusk, TX 75785
903-683-2324

From: distcrt2nd@cocherokee.org [mailto:distcrt2nd@cocherokee.org]
Sent: Monday, September 28, 2020 11:00 AM
To: cojudge@cocherokee.org
Cc: Peggy Cornelius <cojudgesec@cocherokee.org>
Subject: Re: First Draft of Jury Trial Plan

the other judges have approved and/or don't object to the plan.

On Sep 28, 2020, at 10:29 AM, distcrt2nd@cocherokee.org wrote:

thanks for your reply. The question is, do you approve the plan in your capacity as the County Judge? That's what I need in order to get OCA approval. By the way, Dr. Low has approved the plan.

Judge R. Chris Day
2nd Judicial District Court
Cherokee County Courthouse
135 S. Main Street
Rusk, Texas 75785
(903) 683-2236
(903) 683-2238 (fax)

On Sep 28, 2020, at 10:26 AM, Chris Davis
<cojudge@cocherokee.org> wrote:

I'm good with the jury plan if the other judges who use juries more often are good with it. Since I don't have juries that often, I feel like you and the other judges decision on this matter should carry more weight.

Chris Davis
Cherokee County Judge
135 South Main Street
Rusk, TX 75785