

Patty Baker, Clerk of Superior Court - Cherokee County, GA

**SUPERIOR BOOK:201 PG:2256 Filed: 05/12/2020 06:45 PM Clerk
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**IN THE SUPERIOR COURT OF CHEROKEE COUNTY
BLUE RIDGE JUDICIAL CIRCUIT
STATE OF GEORGIA**

IN RE: State of Judicial Emergency
May 12, 2020

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ORDER DECLARING SECOND EXTENSION OF JUDICIAL EMERGENCY

On March 14, 2020, Chief Justice Harold Melton of the Supreme Court of Georgia entered an order declaring a state-wide judicial emergency. Thereafter, this Court entered a series of Orders to confirm and implement the provisions of the Chief Justice's Order.

On April 6, 2020, Chief Justice Melton entered an Order extending the state-wide judicial emergency until May 13, 2020 at 11:59 p.m. Similarly, this Court entered an additional Order to confirm and implement the provisions of the Chief Justice's Order. All of the above Orders are reaffirmed and incorporated by reference, except as may be modified herein.¹ On May 11, 2020, Chief Justice Melton entered an Order extending the state-wide judicial emergency until June 14, 2020 at 11:59 p.m. Said Order is incorporated by reference herein.

The active number of coronavirus/CoVid-19 cases in Cherokee County continues to rise; there continues to be a potential risk of infection to those who work in our Courts and those who are required to appear in them. This risk of disease transmission is

¹ Said orders are as follows: Order to Address Essential Functions, filed March 18, 2020 at Superior Court Minute Book 201, Page 2229; Order on Public Access, filed March 26, 2020 at Superior Court Minute Book 201, Page 2231; and First Amendment to Order to Address Essential Functions, filed March 27, 2020 at Superior Court Minute Book 201, Page 2233; and Order Declaring Extension of Judicial Emergency, filed April 7, 2020 at Superior Court Minute Book 201, Page 2240.

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especially great in settings where groups are typically required to appear, such as jury service, arraignment calendars, calendar calls, and multiple-case calendars. Both the Sheriff's Office and the county maintenance staff have requested that reopening of nonessential services be done in a limited way. Therefore, pursuant to O.C.G.A. § 38-3-60(2)(D) and O.C.G.A. § 38-3-61, a judicial emergency is declared by this Order, and shall affect all courts and clerk's offices in the Blue Ridge Judicial Circuit.

Accordingly, IT IS THE ORDER of the Court, as follows:

- 1) The Superior Court jury trials scheduled for the weeks of June 15 and June 22, 2020, are hereby suspended.
- 2) The suspension of in-person, non-essential hearings shall remain in effect until June 14, 2020. Whether a hearing is essential is to be determined by the judges in accordance with the definitions and guidelines provided in previous orders.
- 3) The Superior Court shall resume civil hearings, both domestic and general, provided they are conducted substantially by remote videoconferencing. Such hearings shall be scheduled at the discretion of the judge assigned to the case, with proper notice and opportunity given for any party to object. The Superior Court shall resume criminal calendars to be heard by the assigned judge effective June 1, 2020, with further information as to calendaring to be published by memorandum. All such hearings shall be conducted in compliance with the Supreme Court of Georgia's clarified and/or amended Rule 9 of the Uniform Superior Court Rules issued on March 27, 2020.
- 4) The Probate Court shall resume of issuing weapons carry licenses in such a manner so as to ensure that the public, to the extent feasible, are required to maintain social distancing guidelines (requiring appointments for application, limiting number of

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people in waiting area, and requiring individuals to remain outside the building until they are contacted by court staff). The Probate Court shall continue to provide essential services as set forth on the Probate Court website.

5) Other classes of courts may resume non-essential hearings provided that the proceedings are conducted substantially by remote videoconference, in compliance with any rules of open court, and at the discretion of the judge assigned to the case. Attorneys or self-represented litigants should contact the judge's chambers to request such a hearing.

6) All courts, offices, and departments are encouraged, to the extent feasible, to allow employees to work remotely, and to conduct business and offer essential services by appointment, in order to mitigate the number of visitors entering the facilities at any one time.

IT IS FURTHER ORDERED, pursuant to OCGA § 38-3-62, during the period of this Order, the undersigned hereby suspends, tolls, extends, and otherwise grants relief from any deadlines or other time schedules or filing requirements imposed by otherwise applicable statutes, rules, regulations, or court orders, whether in civil or criminal cases or administrative matters, including, but not limited to any: (1) statute of limitation; (2) time within which to issue a warrant; (3) time within which to try a case for which a demand for speedy trial has been filed; (4) time within which to hold a commitment hearing; (5) deadline or other schedule regarding the detention of a juvenile; (6) time within which to return a bill of indictment or an accusation or to bring a matter before a grand jury; (7) time within which to file a writ of habeas corpus; (8) time within which discovery or any aspect thereof is to be completed; (9) time within which to serve a party;

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and (10) time within which to appeal or to seek the right to appeal any order, ruling, or other determination.

This Judicial Emergency shall terminate on June 14, 2020, at 11:59 p.m., unless otherwise extended, rescinded, amended, or superseded.

During this period of judicial emergency, the Court directs the Court Administrator to coordinate the development of reopening guidelines. All stakeholders are encouraged to participate, including but not limited to all classes of courts, the Clerk of Court, the Sheriff's Office, the District Attorney, the Solicitor-General, the Indigent Defense director, and the County maintenance department. Any such plan shall address the manner of monitoring and screening individuals coming in the Justice Center, the means by which social distancing can be maintained, the coordination of calendars to mitigate the number of individuals in the building at a given time, the availability of personal protective equipment (masks, gloves, hand sanitizer), the method and frequency of cleaning and sanitizing of all facilities in the building, and any other issue necessary to protect the health of court personnel, attorneys, litigants, witnesses, and the general public.

Pursuant to O.C.G.A. § 38-3-63, it is Ordered that the Sheriff of Cherokee County shall post this Order on his public notification site and in the Frank C. Mills, III Justice Center; that this Order shall immediately be served upon Chief Justice Harold D. Melton of the Supreme Court of Georgia, such service to be accomplished via email to Tee Barnes, the Clerk of the Supreme Court of Georgia, at _____; that this Order shall immediately be served upon the judges and clerks of all courts sitting within the Blue Ridge Judicial Circuit and on the clerks of the Georgia Court of Appeals and the

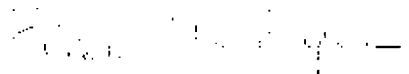
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Georgia Supreme Court, such service to be accomplished through reasonable means to assure expeditious receipt; and this Order shall be published on the Court Administrator's website for notice to the affected parties, counsel for the affected parties, and the public.

IT IS SO ORDERED this 12 day of May, 2020 at 2:40

a.m./p.m.



Ellen McElyea, Chief Judge
Superior Court of Cherokee County
Blue Ridge Judicial Circuit

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TO: ATTORNEYS, PARTIES, OFFICERS OF THE COURT, AND PUBLIC
FROM: JUDGES OF THE CHEROKEE COUNTY SUPERIOR COURT
DATE: MAY 13, 2020
RE: SUPERIOR COURT CALENDARS BEGINNING JUNE 1, 2020

Beginning June 1, 2020, and until further notice, the master calendar for Superior Court is suspended. In lieu thereof, the following calendars will take place.

CRIMINAL CASES

Each judge will have two weekly criminal non-jury calendars for cases assigned to them, as follows:

Judge McElyea	Every Tuesday at 9:00 a.m.; every Thursday at 1:30 p.m.
Judge Cannon	Every Tuesday at 1:30 p.m.; every Friday at 1:30 p.m.
Judge Baker	Every Monday at 1:30 p.m.; every Wednesday at 9:00 a.m.

Please note that these calendars will be approximately three (3) hours in duration, due to the requirement of sharing the videoconferencing capacity of the jail courtroom with State and Magistrate Courts.

Negotiated pleas and uncontested revocations should be scheduled on the assigned judge's calendar by contacting the Court's criminal calendar clerks. Such matters shall be scheduled according to the procedures and using the documents set forth in the Court's Emergency Protocol for Negotiated Pleas and Revocations dated April 6, 2020. See <https://www.cherokeega.com/Court-Administrators-Office/Superior-Court-Plea-Forms/>

Notwithstanding case assignment, negotiated pleas and uncontested revocations that result in an inmate's release from custody may be scheduled on any judge's calendar.

Non-negotiated pleas, bond hearings, and other contested matters allowed to be conducted by videoconferencing per Uniform Superior Court Rule 9.2 may be scheduled at the discretion of the assigned judge by request to the Court's criminal calendar clerks. In order to assist with scheduling, the request should include 1) a FILED copy of the motion; 2) a time announcement from the movant; 3) the number of witnesses anticipated, if any; and 4) a statement of whether there is any reason all participants, including witnesses, cannot appear remotely. The non-moving party shall reply with similar information within three (3) days in the case of bond hearings or non-negotiated pleas and five (5) days in other contested matters. Failure of the non-moving party to respond in a timely manner shall not delay the calendaring of the case but may result in the inability to introduce certain evidence.

ACCOUNTABILITY COURTS

Schedules and procedures for Drug Accountability Court and Parental Accountability Court shall be published by the coordinators and judges of those Courts.

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PETITIONS FOR TEMPORARY PROTECTIVE ORDER

All Petitions for Temporary Protective Order shall be heard by the assigned judge. Upon receipt of such, the Clerk of Court shall notify the assigned judge's staff and the Court Administrator's office. The Clerk shall forward any proposed Order to the assigned judge's electronic filing queue. Requests for ex parte relief shall be considered by the assigned judge electronically, without the need for the petitioner being physically present in the Justice Center. Petitioners shall be available by telephone should the assigned judge wish to hear any evidence prior to the entry of an order.

Should the petition be set for further hearing, it shall be set on a calendar to be heard by the assigned judge. These hearings will be conducted substantially by videoconferencing, as set forth herein. Nothing herein shall modify the Standing Order of this Court regarding assignment of certain Petitions for Temporary Protective Order to the judges of the Juvenile Court.

Petitions for temporary protective order shall be set for hearing before the assigned judge within 30 days of granting ex parte relief. Currently scheduled calendars are as follows:

Judge McElyea June 4; June 18; July 9; July 23. All calendars start at 9:00 a.m.

Judge Cannon June 4; June 18; July 16; July 30. All calendars start at 1:30 p.m.

Judge Baker June 2; June 16; July 7; July 21. All calendars start at 9:00 a.m.

UNCONTESTED DIVORCES

Uncontested divorces, including those involving minor children, may be submitted by motions for judgment on the pleadings, to be considered by the assigned judge. With proper documentation, all judges will accept parents' attendance at online seminars for divorcing parents.

OTHER CIVIL CASES

Any requests for emergency relief shall be addressed to the assigned judge for consideration, and efforts to schedule and conduct those motions for hearing by telephone or videoconferencing will be made, as is warranted in the discretion of the judge. Attorneys and self-represented parties shall submit courtesy copies of any emergency petitions or motions to the assigned judge's office by email. Attorneys and self-represented parties may contact the assigned judge's office for scheduling of any non-essential matters that may be conducted by telephone or videoconferencing. Each Superior Court judge may publish additional directions for scheduling in this regard.

EVIDENCE IN ALL CONTESTED CASES

Each party shall supply the other with copies of any documentary evidence it wishes to introduce at least 72 hours prior to hearing. Parties are encouraged to discuss all evidence prior to hearing, in an attempt to agree to stipulations of evidence and narrow the issues to be determined by the Court. Objections to evidence should be submitted in writing at least 24 hours prior to hearing and the Court shall attempt to resolve the issue via videoconference or telephone conference.

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VIDEOCONFERENCING

It is the intention of the Court that all essential matters be conducted primarily by videoconferencing or other remote means, as provided by Uniform Superior Court Rule 9 and Orders of the Georgia Supreme Court and this Court. However, any judge may allow in-person appearances on a limited basis if deemed necessary.

Non-essential matters may be set for hearing via videoconferencing in the discretion of the assigned judge. A case may not be appropriate for hearing by videoconferencing if it involves multiple parties, numerous witnesses, extensive physical evidence, or for other reasons.

All videoconference hearings shall be accessible to the general public through a video livestream link on the Court Administrator's Office website: <https://www.cherokeega.com/Court-Administrators-Office/>. For questions or assistance in accessing the livestream, contact Lynn Epps, Court Administrator, at 678-493-6475, or by email link provided on the above website. Any additional calendars that may be scheduled will be posted on the Court Administrator's website.

Copies of all court calendars may be obtained by any interested party upon request to the office of the assigned judge. Any objections to the conduct of videoconference hearings shall be made in writing to the assigned judge; timely objections will be ruled upon on an expedited basis.

To protect the integrity and security of the videoconference proceedings, all participants accessing the videoconference application shall use an account name whereby he or she is identified by first and last name. All participants shall appear by both audio and live video. Anyone failing to abide by these requirements shall be removed from the hearing, but may watch the hearing by livestream.