

JURY TRIAL PLAN (SAN JUAN COUNTY)

1. Overview

San Juan County will resume jury trials beginning October 1, 2020. During the current pandemic we will only hear one jury trial per week, coordinated between Superior Court and District Court. This will allow for safe and efficient management of jurors and successful completion of the selection process.

All trials will occur in the Superior Court courtroom. The District Court courtroom will also be utilized throughout the trial for holding jurors and/or members of the public. Any civil bench trials scheduled during a criminal jury trial may be rescheduled by Superior Court Administration or may be heard in the District Court courtroom.

Counsel will be required to meet prior to trial to coordinate on all exhibits that will be offered or used during the course of trial. Counsel will be required to compile one combined packet of exhibits, containing both the Plaintiff/Petitioner's and the Defendant/Respondent's exhibits and labeled for identification with exhibit numbers, as well as an exhibit list with identifying descriptions for each exhibit. This packet must be submitted to the Clerk no later than 12 p.m. on the court day before the start of the trial (12 p.m. on the Monday before trial in Superior Court, and 12 p.m. Wednesday before trial in District Court). Combining exhibits is not an agreement that all exhibits will be admitted as evidence. The parties must prepare 2 courtesy copy binders: 1 for the judge, and 1 for the witness stand. Each courtesy copy binder should have a complete copy of the exhibits, organized by exhibit number and using numbered tabs. Each party must stipulate that the courtesy copy binders are complete and numbered identically to the official copy submitted to the Clerk. (After the trial, the courtesy copies will be discarded, and the binders and tabs will be returned to the parties for re-use.)

Due to the re-arrangement of the Superior Court courtroom, the projector screen is not available for use, and exhibits cannot be published using the projector. New large screens are being installed as part of a major audio-visual (A/V) upgrade, but they are not yet available. If the parties wish to publish an exhibit to the jury, they may publish one of two ways: 1) presenting the exhibit electronically, by using the Superior Court A/V cart with TV monitor, or 2) preparing a copy of the exhibit for each juror. If a party wishes to present an exhibit electronically, that party *must* test the electronic version using the A/V cart prior to the start of the trial. Both court administrators will work to make the A/V cart available to counsel.

All pretrial motions must be completed no later than the day before the start of trial.

2. Juror Summonses

All jury summonses are mailed out six weeks in advance. Included with the summons is a cover letter from the judges, emphasizing the health precautions the Courts have taken and the importance of jury service. The letter also informs jurors that they may be eligible to have jury

service deferred. Jurors who identify as being in categories at high risk for complications from COVID-19 may obtain a 12-month deferral directly from the Jury Manager.

Once a summons is returned, any juror not excused, deferred, or rescheduled is provided a juror questionnaire by mail, email, or in person. The questionnaire is also available on the Courts' Jury Duty web page. The questionnaire is 4 pages long and covers basic hardship questions and preliminary juror information typically elicited by the judge at the beginning of voir dire.¹ The questionnaire also asks jurors if they have access to technology to remotely participate in a Skype video call or telephonic conference. Jurors have 5 business days to complete and submit the questionnaire.

If a juror has a prior felony conviction or does not answer the felony conviction question on the summons, asks to be excused due to hardship, or gives any of the following questionnaire answers:

- "Yes" to Question 2.1 *and* "No" to Question 2.2;
- "Yes" to Question 3.1, 3.2, 3.3, or 3.4, or describing any hardship in Question 3.5;
- "Yes" to Question 6.1;
- "No" to Question 6.2;
- "Yes" to Question 6.3;

The juror will be asked to call in by telephone or Skype video to the hardship conference, described in the next section. All juror questionnaires will be provided to counsel on the Thursday a week and a half before the trial for Superior Court trials, and the Monday before the Readiness hearing for District Court trials.

If a juror has not submitted their questionnaire 2 weeks before the date of jury service, staff will follow up by phone and/or email to ask the juror to complete and submit the questionnaire.

The jurors are instructed to call the Jury Hotline to learn when to report for jury duty. The jurors are instructed to report in at staggered times based on grouping, and will be told which day of the week to report in based on whether a Superior Court or District Court trial is scheduled.

The "Jury Duty" page on the county website has been updated with this information.

3. Juror Hardship Conference

Before trial, the judge and counsel will meet on the record to discuss hardship excusals. For Superior Court trials, this conference will occur the Tuesday of the week prior the trial at 1:30 p.m. in the Superior Court courtroom. For District Court trials, this conference will occur on the afternoon of the trial readiness hearing date (the Wednesday before trial) at 1:00 pm. Additionally, for District Court trials, the judge may appear remotely for the hardship conference. At the hearing, the judge and counsel will discuss hardship excusals on the record, and if necessary, conduct further voir dire.

¹ A copy of the juror questionnaire is attached to this plan.

If the juror calls in to the hearing but is not excused from service, the Court will inform the juror they need to appear for voir dire in person on the first day of trial. If the juror does not call in, but the juror is excused, staff will call and/or email the juror to inform them of the excusal.

The Judge will track any hardship excusals on a list created by the Jury Manager and will file that list and provide a copy to the Jury Manager following the hardship conference.

Parties should also anticipate holding pre-trial motions at the conclusion of the hardship conference, if those motions have not been addressed previously.

4. Juror Arrival at Courthouse

The first group of jurors will start arriving the morning of the first day of trial and will be instructed to report to the Grange across the street from the Courthouse (which is being used to provide a larger inside space for check-in with physical distancing). There will be a greeter at the door who will provide each juror with a KN95 mask or surgical/procedure mask. Each juror will be required to wear the mask provided. Jurors will not be permitted to wear their own masks from home during voir dire.² If a juror refuses to wear a mask, their jury service will be deferred for 4 months, and the juror may be found in contempt depending on the circumstances. If a juror claims a medical exemption to wearing a mask, the juror's service will be deferred for 4 months, and the deferment may be renewed if masks are still necessary at that time.

A sign will be placed outside the door to the Grange telling persons with the identified COVID-19 symptoms NOT to enter, but to call the Jury Manager/bailiff at a designated number. The COVID-19 health screening questions approved by San Juan County Health and Community Services will be administered by a staff person while individuals are waiting to be checked in. If a juror has symptoms or has been exposed, they will be asked to leave the courthouse and their service will be deferred for 4 months; the juror will be informed they may call the jury manager to request a specific reschedule date.

Once the jurors have checked in, they will be directed to wait in assigned spots/seats in the Grange until they are led across the street to the Superior Court Courtroom. Due to accommodating physical distancing, the Superior Court Courtroom can hold a maximum of 24 jurors. We will aim to have 20 jurors at a time in the courtroom for jury selection. Within the courtroom, all benches have been marked to provide jurors adequate physical distancing, and additional chairs have been spaced to allow adequate physical distancing. Jurors will be assigned to specific seats, and staff will monitor physical distancing during assembly.

² Although we recognize many jurors may prefer their own masks, after consulting with our local health officials, the Courts are following the recommendation to only allow court-provided masks. In the high-volume context of voir dire, it is safer to provide masks than attempt to determine whether jurors' masks provide sufficient containment.

Any documents the jurors are asked to complete should be provided to Court Administration a minimum of one day prior to the start of trial. All documents and supplies will be placed on each juror's seat prior to arrival. Adhesive juror number badges will be provided to jurors instead of reusable juror numbers. In addition, juror numbers on 8.5 by 11 paper will be laminated and available for jurors to raise during voir dire provide better identification from a distance.

5. Jury Selection

Everyone in the courtroom will maintain six-foot physical distancing, including the defendant, attorneys, jurors, judge, staff, and, if the defendant is in custody, transport deputies, if at all possible. Plexiglass will be installed to provide additional protection around the witness stand, between the clerk and court reporter stations, and between court staff and the well of the courtroom in the event attorneys inadvertently get closer than six feet. However, if the plexiglass is not yet installed by the date of the first scheduled trial, we believe that we can maintain a distance of 6 feet between participants using the current arrangement.

During jury selection, there may not be standing room in the trial courtroom for the public to observe the proceedings. The proceedings will be audio and/or video live-streamed online, and when the District Court is not in session, the District Court Courtroom may be made available as a remote viewing area. Six-foot distancing will continue to be enforced, and all must be wearing a mask. Depending on interest from the public, the courts may decide to make other meeting room space available for streaming if the District Court Courtroom is not available.

Once all jurors are checked in, the normal orientation will proceed. During jury orientation, staff will explain that all summoned citizens must wear their mask whenever they are inside the courthouse and will review CDC recommendations during the current pandemic, to include proper hygiene and maintaining six feet of distance between themselves and any other person.

The attorneys will conduct their questioning of the panel from counsel tables (either standing or sitting) or at the assigned location marked with a lectern stand. Attorneys will be required to use a lapel microphone if they choose to stand at counsel table or move to the stand in the middle of the well. In order to ensure that everyone can hear and that a proper record of voir dire can be created, jurors will be asked to stand when they speak to answer questions. If determined necessary, and as a last result, jurors will be asked to move to the one of the two outside aisles to a microphone to answer questions. Jurors may not remove their masks during questioning. Attorneys will be given time limits to conduct their questioning, and the court may extend the time limits in its discretion.

Next, the court will hear from jurors who have requested to be heard outside the presence of the other jurors because the discussion is expected to be personal, and any jurors who requested to use a face shield during voir dire. Depending on the number of jurors who need to be questioned individually, the court may ask these jurors to return to the courthouse later in

the day or the following day, because of the limitation on other spaces available and in order to prevent delay in assembling the next group of jurors.

Once all questioning has ended and for-cause challenges ruled on, the parties will pass the first group for cause. The bailiff will take a photograph of the remaining jurors as they appear in the courtroom, and this photo will be provided to both parties. The judge will instruct the jurors that they remain under their preliminary instructions. The judge will instruct the jurors to return at the “start of the trial” and to check in with the bailiff in the lobby (who will tell them whether or not they have been excused), unless they receive a message from the jury manager that they have been excused. In Superior Court, the “start of the trial” will be the following day; in District Court, the “start of the trial” will be later that afternoon.

After the first group is released, the juror seating area will be sanitized and common surfaces wiped down. The next group of jurors will check in at the Grange, with the check-in time varying by trial, and the previously described selection process will be repeated. This process will be repeated until all the summoned jurors have been passed for cause.

Once all the groups have been passed for cause, the parties will exercise their peremptory challenges outside the presence of the jurors. The list of empaneled jurors will be provided to the jury manager and the bailiff. The jury manager, bailiff, and other court staff will attempt to notify jurors by phone and/or email whether they have been excused. Jurors who return in-person will be notified whether they are excused from service.

6. TRIAL

All jurors, court staff, attorneys, and trial participants will be required to complete the approved COVID-19 screening questions during each day of trial.

During trial, a new KN95 mask or procedure mask will be issued daily to seated jury members. Jurors should travel to and from the courthouse in their own masks, but must wear the court-issued masks, rather than their own cloth masks, during trial.

The jury will remain seated and be spaced throughout the gallery to ensure six foot physical distancing. Seats will be marked throughout the courtroom where jurors shall sit. Seat cushions will be on the benches in the marked juror spaces. Spaces available for the public also will be marked accordingly. Jurors will be provided a brand new notepad along with a pen. The Bailiff will not touch the notepads or seat cushions during the course of the trial. At the end of each day, jurors should place their notepads into labeled paper bags, which shall be kept in the secure jury room overnight and collected by each juror each morning. The jurors will leave their seat cushions on their seats, to be sanitized with the rest of the courtroom at the end of each day.

The witness stand will be equipped with plexiglass on all sides where the witness will be less than six feet from another person, such as the judge, clerk, or court reporter. The witness will

not wear a mask or facial covering while on the stand unless all parties agree to the witness wearing a mask or facial covering. The witness shall wear a mask at all times other than while testifying, including when traveling to and from the witness stand. The witness should only remove their mask after sworn in and seated.

Before each witness testifies, the bailiff or other court staff shall sanitize the witness stand, including the microphone. Questioning of the witness shall occur from the lectern stand provided in the trial courtroom or from counsel table, at counsel's option. Counsel must wear a lapel microphone during questioning.

Any physical item of evidence, whether it is formally admitted or not, shall only be handled by persons wearing gloves. If possible, evidence shall be placed in a plastic covering that may be sanitized between handlings.

During recesses, the jurors will be escorted to the District Court courtroom or other instructed locations, including outdoors, where six-foot physical distancing will be maintained but where their masks may be removed. Counsel will be reminded that due to the movement of the jurors, discussing the trial in hallways of the courthouse is strictly prohibited. Counsel are also directed to remind all witnesses and participants in the trial that they must not discuss the trial anywhere in the courthouse or the immediate outdoor premises, unless they are in a room with a closed door. Attachment B is a list of instructions. Counsel may expand upon the instructions as desired, but are directed to address each of the items with witnesses and participants prior to trial.

If the judge and counsel need to have a sidebar discussion, the judge and counsel will go to the Superior Court jury room to conduct the sidebar while keeping their masks affixed. The sidebar hearing may be separately recorded, or the substance may be put on the record later outside the presence of the jury. If longer argument is needed on the record, the bailiff will notify the court administrators. If Superior Court or District Court is not in session in District Courtroom, the jurors will be immediately excused to the District Court courtroom. If either court is in session, the judge presiding over the calendar will notify the parties that the Courtroom must be physically vacated, and in-person matters may be delayed, rescheduled, or relocated to the County Council Hearing Room. Once the courtroom is vacated, the jurors will be excused to the District Court courtroom.

When the jurors receive their instructions, prior to closing argument, jurors will be provided with a hard copy of the final jury instructions. The parties will be able to refer jurors to portions of their instructions without preparing a separate display or exhibit.

The public will be allowed to view the trial in the trial courtroom; however, during Superior Court trials, there will be limited seating room for the public in the courtroom. Therefore, a separate public viewing area may be made available depending on demand and availability during Superior Court trials. Any individual viewing the trial in person or in a separate public viewing area will also be required to maintain physical distancing and wear a mask or facial

covering. In addition, both Superior Court and District Court trials will be streamed online through their respective webpages.

The courtroom and any public viewing area will be sanitized during each lunch break and every evening.

7. JURY DELIBERATIONS

When closing arguments are completed and all jury instructions have been read by the judge, the jurors will conduct deliberation in the District Court Courtroom or Superior Court Courtroom, depending on scheduling and availability. Each juror will receive their own packet of jury instructions. The bailiff will cover the District Court Courtroom door window (if applicable) so no one can see the jury deliberating, and IT services will turn off the security cameras in either courtroom.

The jurors will be admonished that they must maintain six foot physical distancing at all times during deliberation, that they must keep their masks on, that they should avoid touching their faces, and that no piece of evidence may be handled without that juror wearing rubber gloves, which will be available during deliberations.

San Juan County Trial Instructions for Witnesses

Please instruct all trial witnesses and participants:

- Masks are required in all areas of the courthouse. Please wear your own mask to and from the courthouse. When you check in for court, you will be provided a KN95 mask or medical procedure mask. You must wear the mask you are provided over your mouth and nose while you are in the courthouse. When you leave the courthouse, you may switch back to your own mask.
- While you are anywhere in the courthouse and the surrounding courthouse property (such as the lawn or entryways), you *must not talk about the trial or anything related to the case*. Due to social distancing requirements, jurors will be asked to assemble in various locations in and around the courthouse; even if you do not see a juror, a juror could overhear your conversation. **This could result in a mistrial.** Hallways, even hallways behind closed doors (such as the Prosecuting Attorney's Office) can reflect sound to other areas of the courthouse. If you are in a room behind a closed door, you may discuss the trial with the attorneys, but please keep your voice down so that passersby will not overhear.
- The audio (and sometimes video) recording of the trial will be streamed live online, through the court website. If you want to listen to the testimony of other witnesses during the trial, you must *ask permission* from the attorney who summoned you. Many witnesses will be *prohibited* from listening to the testimony of others during the trial. If you listen to testimony that you are prohibited from listening to, **this could result in a mistrial.**
- When you are called to testify, you will be able to take off your mask while you testify. However, please keep your mask on while you are walking to and from the witness stand. Wait until after you are placed under oath and seated on the witness stand to remove your mask.
- While you are testifying, please keep your voice up and enunciate clearly. Due to social distancing, some jurors will be sitting further away from the witness stand and may have a harder time hearing, even when you use the microphone.
- When you are done testifying and the court gives you permission to leave the stand, please put your mask back on before standing up and walking through the courtroom.
- If you come into contact with any person who is confirmed to have COVID-19 in the two weeks before your court date, please call or email the attorney who summoned you **before** coming to the courthouse.
- If you experience **two or more** of the following symptoms in the past 3 days before your court date, please call or email the attorney who summoned you **before** coming to the courthouse:
 - o Cough
 - o Chills
 - o Repeated shaking with chills
 - o Muscle pain
 - o Headache
 - o Sore throat

- New loss of taste or smell
 - Nausea, vomiting or diarrhea
- If you experience a fever of 100.4° or higher anytime in the 3 days before you testify, please call or email the attorney who summoned you **before** coming to the courthouse. On the day of your testimony, please check your temperature at home before coming to the courthouse.
- Court staff will confirm with you that you have not had a fever or symptoms anytime in the 3 days prior to your appearance, and that you have not had contact with any person who has COVID-19 in the 14 days prior to your appearance.
- Before or after your testimony, and on any other days in which you physically appear in the courtroom, we ask you to fill out the COVID-19 contact tracing log in the rear of the courtroom. By providing a contact name and phone number for your household, you may be contacted in the event of a confirmed COVID-19 case with potential exposure in the courtroom.
- While you are in the courthouse, please avoid touching your face. Any time you must touch your face, please use hand sanitizer before touching any papers or surfaces. Any time that you use the restroom, please wash your hands with soap for at least 20 seconds, and/or use hand sanitizer. Please stay 6 feet apart from any other person in the courthouse.
- We thank you for your help in keeping the courthouse safe for everyone in the trial. By following these rules, you will greatly help us reduce the risk of COVID-19, and reduce the risk of having to hold a new trial.

IN THE SUPERIOR AND DISTRICT COURTS OF THE STATE OF WASHINGTON
FOR SAN JUAN COUNTY

TO PROSPECTIVE JURORS

This questionnaire is designed to obtain information about your availability and qualification to sit as a juror in upcoming cases in San Juan County. Normally, all potential jurors must report to the courthouse in person for jury selection, including jurors asking to be excused. Due to the public health risks caused by COVID-19, we are asking you to provide written answers to the questions below before we decide if you need to report in person to answer additional questions. The information you provide will be used by the judge and the lawyers during the jury selection process. By answering these questions, the in-person process for jury selection will go faster.

Please respond to the questions as completely as possible and provide your contact information. If any question asks for information about which you are not sure, give the best and most complete answer that you can. Where appropriate, you may answer "not applicable" or "no opinion." Because this is part of the jury selection process, **you must answer all questions truthfully.**

Please complete this questionnaire in blue or black ink and return it within 5 business days

- By mail: San Juan County Courthouse, PO Box 127, Friday Harbor, WA 98250, Attn: Jury Manager
- By email: jurymanager@sanjuanco.com
- Drop off: A secure drop box is available at the Courthouse outside the Sheriff's Office

Thank you for your cooperation.

JUROR QUESTIONNAIRE

Section 1: Contact Information

Juror Number on Summons: _____

Required: Provide a phone and email address should we need to contact you about jury service:

Phone: _____ Email: _____

1.1 Do you have access to a computer, tablet, or telephone with a reliable internet connection and video and audio capability? Yes No

1.2 If yes, are you able and willing to participate in some portion of jury selection by telephone or video conference? Telephone
Video
(Please provide the phone number and/or email you would use to participate below) Neither

Section 2: Health

Please contact the jury manager to reschedule your jury service if you are experiencing symptoms of COVID-19, have been exposed to a confirmed case of COVID-19, or if you are at high risk of complications from COVID-19.

2.1 Do you have a condition that would make it uncomfortable to sit for several hours a day? If yes, please explain briefly on the next page: Yes No

-
-
- 2.2 If yes, would being able to stand and stretch every 30-60 minutes and take a restroom break every two hours allow you to serve as a juror? Yes No

Section 3: Hardship

The right to trial by jury is a fundamental right preserved in the constitutions of the United States and the State of Washington. Jury service is a critical part of our justice system. However, we understand that jury service can cause hardship.

This summons will require you to be available for the length of the trial. Some trials are estimated to last one to two days, but others may take multiple weeks to conduct. Therefore, we are asking questions about any hardships you may have from the start date on your summons for a period of two weeks.

If you are making a hardship request, you may be asked to have a phone or video conference with the Court on the Friday before the date on which you are required to report for jury duty. You will be provided with the call information when you return your completed questionnaire. *You must complete the entire questionnaire regardless.*

Please contact the jury manager to reschedule your jury service to due to existing plans or appointments.

- 3.1 Do you have prearranged travel plans during the period listed above that you cannot change? Yes No
- 3.2 Do you have a medical appointment or procedure scheduled that you cannot change, or for which changing would present negative health consequences? Yes No
- 3.3 If you are unable to reschedule your jury service, please provide additional details including dates, locations, etc. for the court's consideration: Yes No

- 3.4 Would serving on a jury for the period of time listed above cause you significant financial hardship? If you answer yes, please explain in detail what you believe the financial hardship would be, such as: if you are an hourly wage earner, describe the financial impact. Yes No

- 3.5 Please describe in detail any other request to be excused from jury duty for undue hardship.

Section 4: Specialized Training, Education, or Experience

Have you, or has anyone close to you, had specialized training, education, or work experience in any of the following fields or areas? If "Yes," please describe in the area provided below.

- 4.1 The fields of law, courts, criminal justice or legal system? Yes No
- 4.2 The fields of law enforcement, police procedures, forensics, corrections or supervision/ parole, or security fields? Yes No
- 4.3 The fields involving treatment of drug, alcohol, chemical or substance abuse/ addiction? Yes No
- 4.4 The fields of psychiatry, psychology, social work, or counseling? Yes No
- 4.5 Do you have a personal relationship with any employee of the San Juan County Sheriff's Office, Prosecuting Attorney's Office, Public Defender, Clerk, or Courts? Yes No
If yes, please identify the person and briefly explain:

Section 5: Violence, Crime, Courts, Jury Service

- 5.1 Have you or anyone close to you been the victim of a crime? Yes No
If yes, describe:

- 5.2 Have you or anyone close to you ever been a witness to a crime, whether or not it ever came to court? Yes No
If yes, describe:

- 5.3 Have you or anyone close to you ever participated in a criminal court case either as a victim, defendant or witness? Yes No
If yes, describe:

- 5.4 Have you ever served on a jury? Yes No
If yes:
How many times? #: _____
Was it a criminal case, a civil case or both? Criminal Civil
Was the jury able to reach a unanimous verdict? Yes No
Do you have any strong feelings about jury service or serving on a jury again that would affect your ability to be fair and impartial? Yes No
(If so, please explain briefly on the next page.)

5.5 Have you or anyone close to you ever been convicted of, charged with, or arrested for a crime? If Yes, briefly describe the crime and circumstances: Yes No

Section 6: Other Issues Related to Jury Service

6.1 Do you have any religious or philosophical views that would make it difficult to sit as a juror in a criminal case? Yes No
If Yes or Maybe, please explain:

6.2 It is your duty to accept the Court's instructions on the law, even if you believe the law should be different. Would you be able to follow the Court's instructions on the law even if you disagree? Yes No
If No or Maybe, please explain:

6.3 Is there anything not covered in this questionnaire that you feel we should know about you that pertains to your ability to be a fair and impartial juror in a criminal case? Yes No
If Yes or Maybe, please explain:

SIGNATURE UNDER PENALTY OF PERJURY:

I declare, under penalty of perjury that the answers given herein are true and correct to the best of my knowledge and belief.

Signature: _____ Date: _____

Return to: Jury Manager
San Juan County
PO Box 127
Friday Harbor, WA 98250

Jury Hotline: 360-378-9407
Drop-off: Outside SJC Sherriff's Office FH
Email: Jurymanager@sanjuanco.com