

JURY TRIAL PLAN (SAN JUAN COUNTY)

1. Preparations in Advance of Trial

San Juan County is currently convening jury trials. As pandemic conditions continue, we will coordinate between Superior Court and District Court to ensure that both courts can meet health and safety recommendations from state and county health officials. This will allow for safe and efficient management of jurors and successful completion of the selection process.

All in-person jury selection and voir dire for both courts will occur in the Superior Court courtroom. The District Court courtroom will be utilized for trial after empaneling the jury, unless there is insufficient space for members of the public to attend in the smaller courtroom due to high public interest in a particular case. Any civil bench trials scheduled during in-person voir dire may be rescheduled by Superior Court Administration or may be heard in the District Court courtroom.

A. Mask Policy

In general, masks are still required for all jury trial participants and observers in the courtroom during jury trials, regardless of vaccination status. Anyone who is required to wear a mask **must** wear a KN95/N95 mask or a surgical procedure mask. The Court will provide such masks free of charge.

The following narrow exceptions apply:

- **If they comply with rapid testing protocols, attorneys are permitted to unmask while addressing the jury or witnesses.**
 - o **Rapid testing protocol:** Each attorney will be provided rapid antigen tests supplied by the Courts. Each attorney must test 24 hours before the start of the first day of trial, and each **morning** of trial, daily thereafter. Each attorney must present their test results by email to the Court Administrator prior to arriving at the courtroom, by 8:30a.m. If an attorney tests positive, the Court Administrator will report to the Judge for further instruction.
 - o Attorneys must continue to wear their masks when they are not addressing the jurors or witnesses.
 - o Attorneys may not unmask if they are experiencing cold and/or flu symptoms.
- **While seated on the witness stand , witnesses must remove their masks.**
 - o If a witness is not willing to testify unmasked, counsel must bring this to the attention of the court prior to the scheduled testimony.

B. Exhibit Policy

- District Court trials: exhibits should be pre-marked as much as possible outside the presence of the jury, and may be marked throughout the trial.

- Superior Court trials: Plaintiff(s) shall be pre-assigned exhibit numbers 1-50 and Defendant(s) shall be pre-assigned exhibit numbers 51-100. In a case where there are additional parties, the Clerk will pre-assign additional exhibit increments. Each party shall submit their original documentary exhibits to the Clerk for marking by *12:00 noon one court day* before trial in the following format: in hard copy; unbound and without hole punches; with slip sheets between each exhibit indicating the intended exhibit number; and with the entire set of exhibits secured by binder clips(s). Each set of exhibits shall be submitted to the Clerk with an exhibit list in hard copy and electronic Word version prepared by the submitting party, *on the clerk's form*. The party should include pre-assigned numbers as described above, as well as the description of the exhibit that party intends the clerk to use on the master exhibit list. Please consider when preparing exhibits that the clerk will mark them in the lower right corner with a 1" by 3" label. The parties are encouraged but not required to confer in advance about exhibits, including to reduce duplication in exhibits being marked for identification, and to create a joint exhibit list with consecutive numbering if desired. If the parties create a joint exhibit list with consecutive numbering, they need not use the pre-assigned exhibit numbers addressed above. Courtesy copies of documentary exhibits should be provided to the Judge at or before the time the exhibit is offered for admission.

C. Preparing for Courtroom Technology

Attorneys are encouraged to schedule a technology review session with the appropriate Court Administrator during the week before trial. Attorneys who do not conduct a technology review session will not be provided an opportunity during the trial to “troubleshoot” technology or receive instruction on how to use devices.

Exhibits may be published to the jury via connection from the presenting attorney’s laptop to the courtroom A/V system by the attorney “sharing” their screen through the Teams meeting interface, by connecting their laptop with the cables provided in the courtroom, or by placing a hard copy of the exhibit on the document camera available in the courtroom. Attorneys are encouraged to have conducted trial runs of the required technology for publishing exhibits and to have a back-up method for publishing exhibits ready.

D. Pretrial Motions

All pretrial motions (including motions in limine) must be completed no later than the day before the start of trial, unless otherwise scheduled at omnibus or trial readiness; the courtroom will not be available to attorneys/parties for motions on the day of trial due to its use for juror assembly and orientation.

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 4-month deferral directly from the Jury Manager.

Once a summons is returned, any juror not excused, deferred, or rescheduled may be provided a juror questionnaire by mail, email, or in person. This juror questionnaire is appended as Attachment A. 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 asks jurors to give a sworn statement verifying their vaccination status. The questionnaire also asks jurors if they have access to technology to remotely participate in a Teams video call or telephonic conference. Jurors are instructed to complete and submit the questionnaire within 5 business days.

If a juror asks to be excused due to hardship on the jury summons, 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;

the juror will be asked if they wish to participate remotely from a computer, tablet or telephone in 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, and a Superior Court trial confirms for that jury term at a trial readiness hearing, 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 on which day of the week to report based on whether a Superior Court or District Court trial is scheduled. The "Jury Duty" page (<https://www.sanjuanco.com/955/Jury-Duty>) on the county website is been updated weekly with this information.

3. Juror Hardship Conference

Before trial, the Court may schedule a Hardship Conference where the judge, and counsel (and in criminal trials, the defendant) will meet on the record to discuss hardship excusals in a Hardship Conference. (This conference may be waived on the stipulation of the parties.) For Superior Court trials, the Hardship Conference will occur on the Tuesday of the week prior to the trial at 1:30 p.m. in the Superior Court courtroom. For District Court trials, the Hardship Conference will occur on the afternoon of the trial readiness hearing date (the Wednesday before

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

trial) at 2:00 pm. Potential jurors who have requested hardship excusal are expected to attend remotely. The judge may appear remotely. Counsel and the Defendant may appear remotely if the Defendant waives in writing their right to attend in-person and the State does not object to remote appearance; if an objection is raised, the Court will determine whether to allow remote appearance under the applicable court rule. At the Hardship Conference, the judge and counsel will discuss hardship excusals on the record, and if necessary, conduct further voir dire.

If a juror attends the Hardship Conference 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 a juror does not attend the Hardship Conference, 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 or otherwise scheduled.

4. Juror Arrival at Courthouse

The first group of jurors will start arriving the morning of the first day of trial at approximately 8:30am. Jurors will report to the Courthouse lobby for check-in. 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, regardless of vaccination status. Jurors may wear a cloth mask of their own under a procedure mask, and are encouraged to do so during voir dire.² If a juror refuses to wear a mask, their jury service will be deferred for up to 4 months. If a juror claims a medical exemption to wearing a mask, the juror's service will be deferred for up to 4 months, and the deferment may be renewed if masks are still necessary at that time.

A sign will be placed outside the door telling persons with the identified COVID-19 symptoms NOT to enter, but to call the Jury Manager/bailiff at a designated number.³ If a juror reports they have symptoms or have been exposed, they will be asked to leave the premises and their service will be deferred for up to 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 the Superior Court Courtroom. Within the courtroom, all benches have been marked to allow jurors adequate physical distancing, and additional chairs have been spaced to allow adequate physical distancing. The Judge may choose not to require physical distancing, depending on local conditions at the time

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.

³ We also will post a message on the juror hotline and jury website listing the symptoms and asking jurors to call rather than appearing if they have had the symptoms in close proximity to their day of jury service.

of trial. Requests by jurors to be seated physically distant from other jurors will be handled on a case-by-case basis.

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. 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 to provide better identification from a distance.

5. Jury Selection

Regardless of vaccination status, all jurors will be required to wear KN95 or surgical/procedure masks during jury selection. Glass has been 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 three feet.

When the District Court Courtroom is not in use, the District Court Courtroom may be made available as a remote viewing area. All members of the public attending jury selection in person must wear a KN95 or surgical/procedure 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 jurors must wear their mask whenever they are inside the courtroom and will review CDC hygiene and safety recommendations in effect at the time of the trial.

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 lectern stand in the middle of the well. If they have complied with the rapid testing protocol, attorneys may unmask while questioning jurors, but must otherwise remain masked throughout the voir dire. In order to ensure that everyone can hear and that a proper record of voir dire can be created, jurors may be asked to stand when they speak to answer questions. If determined necessary, and as a last resort, 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 at its discretion.

Next, the court will hear from jurors who have expressly requested to be heard outside the presence of the other jurors because the discussion is expected to be personal or to raise issues that other jurors should not hear. 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 to hold the other remaining jurors.

Once all questioning has ended and for-cause challenges have been ruled on, the parties will pass the group for cause. If only one group of jurors is needed to conduct voir dire, the parties will either conduct the peremptory challenges at a sidebar conference or go to the Superior Court jury room to exercise peremptory challenges outside the presence of the jury. If the parties conduct peremptory challenges in the jury room, the defendant may accompany defense counsel to the jury room. The parties will then return to the courtroom to empanel the selected jurors and release excused jurors.

If additional groups are scheduled to be called in, the judge will instruct the jurors that they remain under their preliminary instructions. The judge will instruct the jurors to return to the Courthouse Lobby 30 minutes before the anticipated conclusion of voir dire to check in with the bailiff (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. The next group of jurors will check in, 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. The anticipated “rounds” of voir dire, after check-in and orientation, are expected to be 9:30a.m. and 1:00p.m., with a third round to be scheduled, if necessary.

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

For District Court trials, after the jury is empaneled, the trial will proceed in the District Court courtroom. Jurors will be seated in the jury box and will not be required to physically distance. For Superior Court trials, after the jury is empaneled, the trial will proceed in the Superior Court courtroom. Jurors will be seated in the front rows of the gallery until the jury box is reconstructed, but they will no longer be required to physically distance. Requests by jurors to be seated physically distant from other jurors will be handled on a case-by-case basis.

All trial participants and attendees must wear a KN95 mask or procedure mask during trial except as specifically exempted in this policy. During trial, a new KN95 mask or procedure mask will be issued daily to seated jurors. Jurors must remain masked while seated in the courtroom during the trial. All counsel who have completed the rapid testing protocol will be permitted to remove their masks while addressing the jury during opening statement and closing argument, and while questioning witnesses. To ensure the safety of all trial participants, counsel must

remain at either the lectern provided in the Superior Court courtroom or counsel table while their masks are removed.

During testimony, the witness will not wear a mask while on the stand unless all parties agree to the witness wearing a mask; however, the witness shall wear a KN95 or procedure 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.

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 unless sitting at counsel table.

During recesses, jurors must wear masks at all times when inside the courtroom. Jurors may only remove their masks while outside the courtroom and will be provided opportunities to go outside during breaks. 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 for trial participants and witnesses. Counsel may summarize or expand upon the instructions as desired, but are directed to address each of the items with witnesses and participants prior to trial.

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 courtroom will be sanitized 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. After the jurors have concluded their deliberations, the parties and jurors will return for the verdict. If counsel wish to speak with the jurors after verdict, jurors and counsel should continue to wear their masks while remaining in the jury room and courtroom area.

Attachment A
(Juror Questionnaire)

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

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- 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

Attachment B
(Instructions)

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:
 - Cough
 - Chills
 - Repeated shaking with chills
 - Muscle pain
 - Headache
 - 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.