

Resumption of Jury Trials in Baltimore County

Maryland courts are currently scheduled to move to Phase V and resume jury trials on October 5, 2020. While COVID-19 infection risks remain significant and social distancing measures are required, the resumption of jury trials will not equate to a return to business as usual.

The major barriers include:

- The jury assembly room can only accommodate 60 people when social distancing measures are enforced;
- Our largest courtrooms can only hold 20 people as the benches are presently configured;
- Elevators are limited to 2 passengers, so moving large numbers of jurors within the building will be time consuming;
- Almost all jury rooms are too small to accommodate a full jury with proper social distancing.

We have been working diligently, along with leadership from Baltimore County Executive Johnny Olszewski's office, to explore available offsite locations for jury selection. Although public schools and Towson University seemed to be obvious potential solutions, they are not viable options. As we continue to explore possible remote locations, we are finalizing protocols to move forward in the event we only have current resources available.

Our capacity to handle jury trials will be restricted until social distancing measures are lifted. Our plans include:

- We are reconfiguring three or four courtrooms so that jurors will be socially distanced within the jury box and along one side of the courtroom. As a result, seating for family and spectators will be very limited.
- We are relocating jury deliberation rooms to larger spaces for each courtroom assigned for jury trials.
- Only jury selection will be conducted on the first trial day. Jury selection will take place in the area where the jury assembles, and one judge will be assigned to handle selection each day. Unless selection is proceeding in civil cases or in misdemeanor criminal cases, only one jury will be selected at a time.
- Once a jury is selected, they will be assigned to a courtroom and a judge and instructed to report the following day. The jury will be sworn when the trial commences the following day.
- At any given time, only three jury trials can proceed within the courthouse, based upon accommodations that need to be made to courtrooms and deliberation rooms.
- Consistent with the Baltimore County Circuit Court Re-Opening Plan, priority will be given to criminal cases beyond the original Hicks date, based upon the age of the case

and, within that group, whether the defendant remains incarcerated. Civil cases specially assigned and cases with multiple prior postponements will also be given priority.

With limited exception, most civil cases that are trial ready already have assigned trial dates. The cases that were postponed because we were closed to the public, or juries were not being empaneled, are currently being re-scheduled by the Assignment Office.

Criminal cases that were specially set, which include all murders, manslaughters, and complex matters, have not yet been re-set. The Assignment Office is in the process of re-scheduling those cases and has prioritized them based upon the age of the case. Counsel will be contacted for agreed dates, and cases will be re-assigned to trial judges based upon availability on the assigned date. The Assignment Office has been directed to schedule trial dates for all specially assigned criminal cases within eight months of the resumption of jury trials.

In order for the Court to maximize our capacity to conduct jury trials, we need cooperation from the bar. If a case is going to plead or settle, that needs to occur before jury selection commences. This is not a time for gamesmanship. For instance, requesting a jury trial simply as a negotiation tactic, or to bluff in a case that you know cannot proceed, cannot occur. We will do whatever we can to select juries so cases can proceed. But we cannot squander juror resources on cases that are not going to be tried.

Status calls will be held on all jury trials one to two days in advance of trial. Counsel will be advised where they stand in the cases set for selection that day. If a case is not reached on the date scheduled, it will be postponed.

Voir dire must be filed through MDEC no later than the day prior to trial. Jurors report at 8:30 and will go through orientation as soon as check-in is completed. Therefore, counsel must be present and ready to start jury selection at 9:00 a.m., unless instructed to report at a later time. Witnesses should be on call to start promptly the following day.

We understand these processes are new. We also acknowledge that many more cases are set for trial than we will be able to reach with the limitations that remain in place during this public health crisis. Our trial postponement policy will remain liberal throughout the COVID-19 restrictions, as we are cognizant of the time and expenses associated with trial preparation for a matter that is unlikely to be reached. If there is some prospect that a case can be resolved without trial, civil cases can be re-set for another settlement conference, or criminal cases can be set for a status hearing, upon request. If parties agree to waive their right to a jury trial, please notify the court, as we have greater capacity to reach cases set for a bench trial.

As we get closer to October 5th, and we know with greater certainty whether that date is realistic, additional information will be circulated. And we continue to explore off-site selection sites.

Thank you for your patience as we work through these challenges.

Judge Kathleen Cox
Administrative Judge

Judge Robert E. Cahill, Jr.
Lead Criminal Judge

Judge Judith C. Ensor
Lead Civil Judge