

11-1-0005

J.C. Stephenson

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA Court Rule: www.cobbsuperiorcourtclerk.com
Jay C. Stephenson
Clerk of Superior Court Cobb County

Pursuant to the authority of Title 15 of the Official Code of Georgia Annotated and the Rules of the Supreme Court of Georgia, this Order is established to provide for the efficient and orderly management of jury operations in the Superior and State Courts of Cobb County, Georgia (the "County"). (This Order wholly supersedes and replaces the Jury Order filed in this Court on January 5, 2011 and all amendments thereto).

IT IS HEREBY ORDERED:

1.

Board of Jury Commissioners; Clerk of the Board of Jury Commissioners; Jury Clerk.

Pursuant to O.C.G.A. § 15-12-20, the County shall have a six-member Board of Jury Commissioners (the "Board"). The current members of the Board shall serve out their terms unless removed by the Chief Judge of the Cobb County Superior Court (the "Chief Judge") as provided by law. The Chief Judge shall appoint successors to said members as provided by law.

The County Superior Court Administrator shall serve as Clerk of the Board of Jury Commissioners and shall implement and maintain the jury selection and jury drawing process in accordance with the law and the orders of this court.

The County Superior Court Administrator shall serve as the Jury Clerk of the County.

2.

Funding for Jury Operations. The County shall provide necessary funding for adequate staff, equipment, supplies, a jury management computer system, and the Master Jury List to insure expeditious implementation and continuation of the provisions of this Order through operations of the Jury Clerk's Office on a year to year basis.

3.

County Master Jury List

- a) Effective July 1, 2012, the Board of Jury Commissioners shall receive the County Master Jury List annually from the Council of Superior Court Clerks of Georgia. Such lists shall constitute the jury list of the County effective as of July 1 of each such year.
- b) The Board of Jury Commissioners, the Jury Clerk, and the county governing authority shall cause the annual subscription invoice for the County Master Jury List to be promptly paid so as to facilitate certification of the County Master Jury List.

- c) The Jury Commissioners, as well as the Clerk to the Board of Jury Commissioners, may not add or delete names from the Master List.
- d) Effective July 1, 2012, all juries in all of the courts of the County shall be drawn from the Master List.

4.

Delegation of Authority to Defer, Excuse and Inactivate Jurors. Pursuant to O.C.G.A. § 15-12-1.1, the authority to defer and excuse jurors according to the guidelines as set forth in this Order is hereby delegated to the Jury Clerk and to such members of the Jury Clerk's staff as may be designated by the Jury Clerk from time to time, and to the State Court Administrator as to State Court cases.

5.

Guidelines for Deferral, Excusal, and Inactivation of Jurors and for Exclusion of Duplicate Records and Records Without a Valid Residence or Mailing Address

- a) 'Defer' shall mean a postponement of a person's jury service until a later date.
- b) 'Excuse' shall mean the grant of a person's request for temporary exemption from jury service.
- c) 'Inactivate' means removing a person's name and identifying information who has been identified on the county master jury list as a person who is permanently prevented from being chosen as a trial or grand juror because such person is statutorily ineligible or incompetent to serve as a juror. 'Remove' shall mean flagging the record of a person who has been identified on the county master jury list as a person who is permanently prevented from being chosen as a trial or grand juror (because such person is statutorily ineligible or incompetent to serve as a juror or who has requested inactivation pursuant to OCGA 15-12-1.1) so as to exempt that person from being thereafter selected for jury service. A person who is statutorily ineligible and inactivated may subsequently become eligible for service by elimination of the statutory impediment preventing the person from being eligible. 'Exclude' shall mean flagging a record on the county master jury list so as to exempt that record from the selection process set forth in Paragraph 9 of this Order.
- d) The Court hereby establishes the following guidelines for deferrals and excusals:
 - 1. Except for permanently mentally or physical disabled persons, all excusals shall be deferred by granting the excused person's request for temporary exemption from jury service.

2. Any subsequent excusals shall be made based upon good cause shown at the time of the subsequent request for excusal or deferral.

3. The following listed reasons for temporary excusal and deferral are established.
 - i. Any person who shows that he or she will be engaged during his or her term of jury duty in work necessary to the public health, safety, or good order or who shows other good cause why he or she should be exempt from current jury duty may have his or her jury service deferred by the Jury Clerk or excused by the Court. Such person shall execute an affidavit stating the facts substantiating such request.

 - ii. Any person who is a full-time student at a college, university, vocational school, or other postsecondary school who, during the period of time the student is enrolled and taking classes or exams, requests to be excused or deferred from jury duty shall be deferred until issuance of summons for the next available jury trial week that coincides with such person's availability, or excused if no date coincides with such person's availability over the following 12 months. Such person shall provide proof of enrollment and school calendar.

 - iii. Any person who is the primary caregiver having active care and custody of a child six years of age or younger and who executes an affidavit stating that such person has no reasonably available alternative child care shall be excused from jury duty.

 - iv. Any person who is a primary teacher in a home study program meeting the requirements as provided for by law who executes an affidavit stating that such person has no reasonably available alternative for the child or children in the home study program shall be deferred until issuance of summons for the next available jury trial week that coincides with such person's availability, or excused if no date coincides with such person's availability over the following 12 months. Such person shall provide proof of home study program and school calendar.

 - v. Any person who is the primary unpaid caregiver for a person over the age of six; who executes an affidavit stating that such person is responsible for the care of a person with such physical or cognitive limitations that he or she is unable to care for himself or herself and cannot be left unattended and that there is no reasonably available alternative to provide for the care shall be excused from jury duty. In addition such person shall furnish a statement of a physician, or other medical provider, supporting the affidavit's statements related to the medical condition of the person with physical or cognitive limitations.

 - vi. Any person on ordered military duty which requires such person to be at least 50 miles from his or her home or the spouse of any such service member who requests to be excused or deferred shall be excused or deferred from jury duty

upon presentation of a copy of a valid military identification card and execution of an affidavit for deferral or excusal. Such person shall be an active duty member of the regular or reserve component of the United States armed forces, the United States Coast Guard, the Georgia National Guard, or the Georgia Air National Guard who was on ordered federal duty for a period of 90 days or longer.

- vii. Any legislator in the General Assembly shall be excused from such service during attendance in the Legislature.
 - viii. Any person who has a documented temporary medical condition that would prevent attendance on the dates for which presence is required for service shall be deferred until issuance of summons for the next available jury trial week that coincides with such person's availability, or excused if no date coincides with such person's availability over the following 12 months. A statement from a physician stating such fact shall be presented to the Clerk prior to deferral or excusal.
 - ix. Any person who will be traveling out of the county having made travel or accommodation arrangements that cannot be reasonably altered shall be deferred from jury duty.
 - x. Any person who is a sole proprietor whose business will suffer an extreme hardship without such person's presence for the dates required for jury service shall be deferred from jury duty.
 - xi. The Jury Clerk shall excuse any person summoned for grand jury duty that does not meet the additional statutory qualifications for grand jurors.
4. The following listed reasons for inactivation are established (any affidavits for excusal or deferral shall be as determined by the Jury Clerk):
- i. Any person who is 70 years of age or older shall be entitled to be inactivated from jury service. The request shall be accompanied by an affidavit providing such information as the board may require. The board of jury commissioners shall inactivate such person. The Clerk may temporarily grant such inactivation pending final inactivation by the board of jury commissioners.
 - ii. Any person identified as being a noncitizen of the United States shall be inactivated.
 - iii. Any person identified as not having attained the age of 18 years shall be inactivated.
 - iv. Any person identified as a convicted felon who has not had their civil rights restored shall be inactivated.

- v. Any person identified as being declared mentally incompetent by a Court shall be inactivated.
- vi. Any person identified as a nonresident of the County shall be inactivated.
- vii. Any person identified as deceased shall be inactivated.
- viii. Any person who has a documented permanent medical condition that would prevent attendance for jury service shall be permanently inactivated. A statement from a physician stating such fact shall be presented to the Clerk prior to inactivation.

5. The following listed reasons for exclusion are established:

- i. Because they do not contain a valid residence or mailing address, records in the County Master Jury list matching the following Address Rules shall be excluded:
 - 1)Both of the following are true:
 - Field #12 NCOA Residence Address Validity Flag = 'U'
 - Field #22 NCOA Mail Address Validity Flag = 'U'
 - 2)All of the following are true:
 - Field #12 NCOA Residence Address Validity Flag = 'U'
 - Field #22 NCOA Mail Address Validity Flag is empty or = 'D'
 - Field #16 Mail Address is empty
 - 3)All of the following are true:
 - Field #8Residence Address is empty
 - Field #12 NCOA Residence Address Validity Flag is empty or = 'D'
 - Field #22 NCOA Mail Address Validity Flag = 'U'
 - 4)Both the following are true:
 - Field #8Residence Address is empty
 - Field #16 Mail Address is empty
- ii. Records that are duplicates of other records in the County Master Jury list shall be excluded. A "duplicate" is a record with First Name, Last Name, and Date of Birth Fields identical to other records in the County Master Jury List. One of the duplicate records will remain active in the County Master Jury List.

6.

County Master List Maintenance

- a) The Jury Clerk may perform local maintenance of the Master Lists by notation or flagging of jurors who have been excused, deferred or inactivated as provided by law or this Order. The reason for a permanent inactivation shall be included as a notation or flag. In the maintenance of the lists no names shall be actually deleted from the lists.

- b) The Jury Clerk may update residence or mailing address information of a person on the Master List.
- c) The Jury Clerk may update the name of a person upon finding that the person has had a legal name change.

7.

Recurring and Repetitive Service

- a) No person shall serve on the trial jury for more than four weeks in any one year unless he or she is actually engaged in the trial of a case when the four weeks expire. For purposes of this paragraph, "one year" means any consecutive twelve month period.
- b) Any person who has served as a juror in Superior or State Court shall be ineligible from serving for a year from the date of selection for service.
- c) No other restrictions shall be implemented so as to avoid or limit the recurring or repeat service of any person.
- d) If jurors are summoned and, after the jurors appear, all cases scheduled to be tried have been settled, continued or are otherwise not subject to trial, the jurors scheduled for appearance shall be excused from further service and not be deferred.

8.

Transitional Issues to Master Lists

- a) On and after July 1, 2012, upon court order, the Clerk shall choose a random list of persons from the county master jury list to comprise the venire for a term of court. Any jurors chosen and actually summoned prior to July 1, 2012, shall remain eligible to comprise the venire for a term of court commencing after July 1, 2012. The order directing a selection using the jury list in effect prior to July 1, 2012 for appearance subsequent to July 1, 2012 shall specifically provide for choosing jurors using the list in effect prior to July 1, 2012.
- b) Persons chosen and deferred prior to July 1, 2012 to a date certain after July 1, 2012 shall continue to be a part of the venire for the term to which they were reset.
- c) Persons chosen and deferred prior to July 1 of any given year following 2012 to a date certain after July 1 shall continue to be a part of the venire for the term to which they were reset.

- d) Permanent excusals or inactivations granted following submission of the permanent excusal list to the Council of Superior Court Clerks in February and/or March 2012 shall be noted or flagged as inactivated in the county master list effective July 1, 2012 and shall be caused to not be subject to selection.

9.

Computer Jury Management System

- a) Pursuant to O.C.G.A. § 15-6-61, the Jury Clerk shall acquire, keep, and maintain an automated computer based jury management system that facilitates the maintenance, operation, and usage of the county master jury list and system.
- b) The County shall provide necessary funding for equipment, software, supplies, and maintenance for such computer system to insure the effective continuation of the jury processes of the Court.
- c) The county master lists shall be entered into the jury management system under the direction and control of the Jury Clerk.
- d) Adequate backup copies of the master lists shall be periodically saved to such media as directed by the Jury Clerk and placed in the vault of the Jury Clerk's office or other secure location for safekeeping or restoration in case of loss for any reason.
- e) Annually, following July 1 of each year, the Jury Clerk shall create and store a backup copy of the List which was used for the previous year. Such copy shall be available for examination upon order of the Court.
- f) Potential jurors shall be chosen for appearance using the jury management system by randomly selecting names from the master list in a manner that does not deliberately or systematically exclude identifiable or distinct groups to serve at a particular term of court. Names shall be chosen for jury pools by the use of the following random process designed to provide each eligible person in the master list an equal chance of being selected unless such person is ineligible for service as provided for by this Order:
 - 1. In the Jury Administrators User Interface program, input the "Pool Size Request". This request is from either Superior Court Administration or State Court Administration.
 - 2. In the Jury Administrators User Interface program, input the "Judges Starting Point" number. This is a six-digit number selected by the Superior and State Court judges using the following method:
 - i. The Superior Court Clerk shall keep a mechanical bingo cage (the "Cage") which (1) contains ten balls numbered from zero to nine and (2) when operated, ensures that balls drawn from the Cage are randomly selected. The Clerk shall keep the Cage in a secure location.

- ii. On a day selected by the Court Administrator or on such other day as designated by the Presiding Judge, a Judge of this Court, in open court, shall draw balls from the Cage to establish beginning selection numbers to be utilized as explained below.
 - iii. To establish a beginning selection number, the Judge shall draw a ball from the Cage, note its number, replace the ball in the Cage, and repeat this process until the required number of balls have been selected – six balls for the Petit Jury File; four balls for the Grand Jury File. The first item drawn shall be the first digit of the beginning selection number (reading from left to right), the second item drawn shall be the second digit, and so on. For example, in regards to the Grand Jury File, if the Judge draws a “2”, then a “3”, then a “2”, then a “9”, then the beginning selection number would be 2329.
 - iv. The Judge shall then enter an Order setting forth the beginning selection numbers obtained during the above-described process.
 3. In the Jury Administrators User Interface program, input the type of pool being created, the number of jurors to be selected, and the reporting date for the pool being created. The computer program uses this input information along with the “Judges Starting Point” number, selected in Paragraph 9, Section (f)2 above, to select jurors from the Master Jury List as follows:
 - i. If the “Judges Starting Point” number is greater than the number of jurors remaining for selection in the County Master Jury List, then the system subtracts the number of jurors remaining for selection in the County Master Jury List from the “Judges Starting Point” number until the difference is less than the number of jurors remaining for selection in the County Master Jury List. This produces the “Actual Starting Point”. This “Actual Starting Point” can never fall on a previously selected record because when a record is selected, it is marked as selected in the County Master Jury List.
 - ii. The Jury Administrators User Interface program calculates the “Source Fixed Interval” by taking the quotient of the “Number of Jurors remaining for selection from the Source file” divided by the “Pool Size Request”. This interval must be greater than or equal to 1 and is rounded downward.
 - iii. Beginning with the “Actual Starting Point” and incrementing by the “Source Fixed Interval”, the system cycles through the remaining Jurors from the County Master Jury List selecting jurors until the “Pool Size Request” has been reached.
 4. The presiding Judge shall order the clerk to choose the number of jurors necessary to conduct the business of the court. The clerk shall choose the names of persons to serve as trial jurors for the trial of civil and criminal cases in the court.

10.

Selection of grand jurors

- a) Grand jurors shall be chosen and summoned using the same methods as for selection of trial jurors following the issuance of the order described above in Paragraph 9, Section 4.
- b) In the event that juror questionnaires are employed by the Jury Clerk, potential grand jurors shall be asked the following questions relating to their qualification as grand jurors:
 1. If such person has resided in the County for at least six months preceding the time of their proposed service.
 2. If such person is the current holder of any elective office in state or local government or held any such office within two years preceding the time of their proposed service.
 3. If such person is 18 years of age or older.
 4. If such person has been convicted of a felony and has not had his or her civil rights restored.
 5. If such person has been judicially determined to be mentally incompetent.
- c) The Jury Clerk shall excuse any person summoned for grand jury duty that does not meet the additional statutory qualifications for grand jurors.

11.

Juror Information

- a) On and after July 1, 2012, upon the request of a party or his or her attorney, the Jury Clerk shall make available for review by such persons the county master jury list.
- b) Except as provided for above, jury list data, including, but not limited to persons' names, dates of birth, addresses, ages, race, gender, telephone numbers, ethnicity or other confidential identifying information in the county master list shall not be required to be subject to public disclosure. The Jury Clerk or jury commissioners shall make such information available for examination pursuant to a court order in connection with a challenge to the array.

12.

Juror Questionnaires

- a) The Jury Clerk shall determine if and when juror questionnaires shall be used and the content of same. In the event questionnaires are employed in connection with potential grand jurors, the questions as provided in paragraph 10 shall be propounded.
- b) Juror questionnaires shall be confidential and shall be exempt from public disclosure. Any questionnaires shall be provided to the court and to the Parties at any stage of the proceedings, including pretrial, trial, appellate, or post-conviction proceedings, and shall be made a part of the record under seal. The information disclosed to a Party shall be used by the Parties only for purposes of pursuing a claim, defense, or other issue in the case.

13.

Summoning Jurors

- a) The Jury Clerk shall be authorized to mail all summonses by first-class mail addressed to the prospective jurors' most notorious places of abode at least 25 days prior to the date of the court the prospective jurors shall attend.
- b) The Jury Clerk shall use the following address prioritization criteria for records in the County Master Jury List to determine the address for mailing the summonses:

Priority 1 Address:

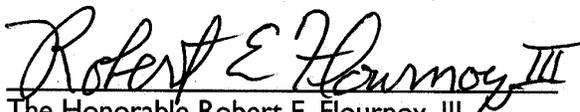
Use Field #8 Residence Address if it is populated and
Field #12 NCOA Residence Address Validity Flag is empty or = 'D'
NOTE: Also use Field numbers 9, 10, and 11 (City, State, Zip)

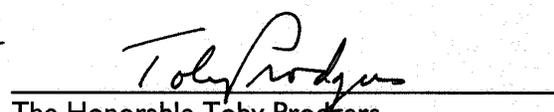
Priority 2 Address:

Use Field #16 Mail Address if it is populated and
Field #22 NCOA Mail Address Validity Flag is empty or = 'D'
NOTE: Also use Field numbers 19, 20, and 21 (City, State, Zip)

- c) For any jurors chosen prior to July 1, 2012 for appearance and service after July 1, 2012 summons shall be issued and mailed prior to July 1, 2012.

SO ORDERED this day of June 27, 2012.


The Honorable Robert E. Flournoy, III
Chief Judge, Superior Court of Cobb County


The Honorable Toby Rodgers
Chief Judge, State Court of Cobb County