NJ

INDICTMENT

Non-Comp

Clerk No. 23SC187602

FULTON COUNTY SUPERIOR COURT
May Term

THE STATE OF GEORGIA

V.

WILLIAM DAVID MILLER

Ct. 1: Medicaid Fraud
Ct. 2: Medicaid Fraud
Ct. 3: Medicaid Fraud
Ct. 4: Medicaid Fraud
Ct. 5: Medicaid Fraud
Ct. 6: Medicaid Fraud
Ct. 7: Medicaid Fraud
Ct. 8: Medicaid Fraud
Ct. 9: Medicaid Fraud
Ct. 10: Medicaid Fraud
Ct. 11: Medicaid Fraud
Ct. 12: Medicaid Fraud
Ct. 13: Medicaid Fraud
Ct. 14: Medicaid Fraud
Ct. 15: Medicaid Fraud
Ct. 16: Medicaid Fraud
Ct. 17: Medicaid Fraud
Ct. 18: Medicaid Fraud
Ct. 19: Medicaid Fraud
Ct. 20: Medicaid Fraud
Ct. 21: Medicaid Fraud
Ct. 22: Medicaid Fraud
Ct. 23: Medicaid Fraud
Ct. 24: Medicaid Fraud
Ct. 25: Medicaid Fraud
Ct. 26: Medicaid Fraud
Ct. 27: Forgery In The Second Degree
Ct. 28: Forgery In The Second Degree
Ct. 29: Forgery In The Second Degree

FILED IN OFFICE
MAY 15 2023
DEPUTY CLERK SUPERIOR COURT
FULTON COUNTY, GA

TRUE BILL

[redacted], 2023

[redacted]nd Jury Foreperson

CHRISTOPHER M. CARR, Attorney General

The Defendant waives copy of
indictment, list of witnesses,
formal arraignment
and pleads _____Guilty.

_____
Defendant

_____
Attorney for Defendant

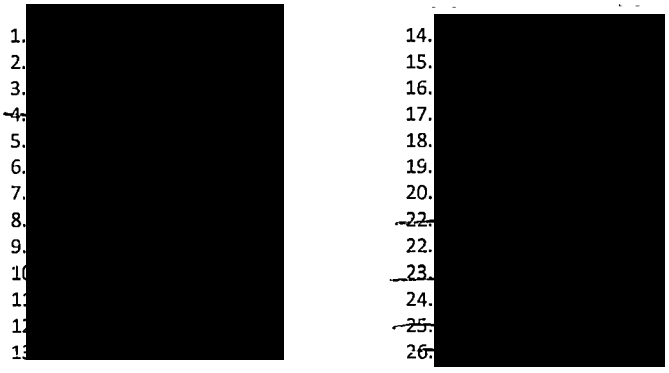
_____
Assistant Attorney General

This____day of_____, 20____.

STATE OF GEORGIA, COUNTY OF FULTON

IN THE SUPERIOR COURT OF SAID COUNTY–

THE GRAND JURORS, selected, chosen and sworn for the County of Fulton, to wit:



COUNT 1

The GRAND JURORS aforesaid, in the name of and on behalf of the citizens of the State of Georgia, charge and accuse

WILLIAM DAVID MILLER

With the offense of:

MEDICAID FRAUD
A felony, and violation of O.C.G.A. § 49-4-146.1(b)

For WILLIAM DAVID MILLER (referred to as "the Accused") in the County of Fulton and State of Georgia did on or about August 29, 2018 did obtain, attempt to obtain, and retain for himself payments to which he was not entitled and in amounts greater than that to which he was entitled from managed care programs reimbursed by Georgia Medicaid, by means of a fraudulent scheme as follows;

Background

1. At all relevant times during the period of this indictment WILLIAM DAVID MILLER was a licensed professional counselor in the state of Georgia.

2. On or about July 17, 2013, Defendant incorporated the business Domina Umbrae, LLC. with the Georgia Secretary of State. The mailing address for the business was listed as 2155 Meador Avenue, Atlanta, Georgia 30315. WILLIAM DAVID MILLER owned, operated, and controlled this business.

3. The Accused was authorized to submit claims for services provided to Medicaid members in order to be reimbursed by Georgia Medicaid.

4. Georgia Medicaid ("Medicaid") was a publicly funded health insurance program which provided healthcare items and services to individuals who, because of financial circumstances or other factors, would not typically have access to such items and services.

5. Individuals who are enrolled and eligible to receive items and services which are paid, at least in part, by Medicaid are commonly referred to as "beneficiaries" or "recipients."

6. Businesses and individuals who receive reimbursement from Medicaid for items and services rendered to beneficiaries are typically referred to as "providers." Prior to rendering covered services, a provider must enroll and be credentialed with Medicaid in order to receive reimbursement for such services.

7. In order for a provider to be reimbursed, they must timely submit a claim to the Medicaid program. The claim may be submitted either by paper or electronically. The claim identifies the name of the provider, the name of the beneficiary, the date the item or service was rendered, and the amount of reimbursement requested by the provider.

8. Companies known as Care Management Organizations ("CMOs") operate as fiscal intermediaries for Georgia Medicaid. The CMOs are reimbursed by the Georgia Medicaid program and served as agents of Georgia Medicaid by making payments to persons and providers submitting claims for reimbursements for covered services.

9. Amerigroup Georgia Managed Care Company, Inc. d/b/a Amerigroup Community Care ("Amerigroup") and WellCare Health Plans, Inc., d/b/a Wellcare of Georgia ("WellCare") are two CMOs operating in Georgia.

THE FRAUDULENT SCHEME

10. On or about August 26, 2018 WILLIAM DAVID MILLER submitted a fraudulent claim to WellCare and obtained and retained payments for that claim. The claim was fraudulent because it claimed that WILLIAM DAVID MILLER provided therapy services to the beneficiary identified in the claim when, in fact, no service occurred.

11. That claim specifically concerned a beneficiary with initials [redacted] whose Member ID ends in [redacted]. The claim alleged that services were provided on April 6, 2018. The procedure allegedly provided was 60 minutes of face-to-face individual psycho-therapy, a service "coded" in the Medicaid Program as [redacted].

12. As a result of the Accused's fraudulent scheme on or about August 29, 2018, the Accused did obtain and retain electronic funds payments from Georgia Medicaid, by and through the CMOs, in the amount of $71.50, an amount greater than that to which he was entitled.

COUNTS 2-26

The GRAND JURORS aforesaid, in the name of and on behalf of the citizens of the State of Georgia, charge and accuse

WILLIAM DAVID MILLER

With the offense of:

MEDICAID FRAUD
A felony, and violation of O.C.G.A. § 49-4-146.1(b)

For WILLIAM DAVID MILLER in the County of Fulton and State of Georgia between did obtain, attempt to obtain, and retain for himself payments to which he was not entitled and in amounts greater than that to which he was entitled from managed care programs reimbursed by Georgia Medicaid, by means of a fraudulent scheme as follows;

Background

13. Paragraphs 1 through 9 of this Indictment are incorporated by reference and restated as if fully set forth herein.

THE FRAUDULENT SCHEME

14. WILLIAM DAVID MILLER submitted fraudulent claims to WellCare and Amerigroup and obtained and retained payments for those claims. The claims were fraudulent because they claimed that WILLIAM DAVID MILLER provided therapy services to the beneficiary identified in the claim when, in fact, no service occurred.

15. Each claim submitted comprises a separate Count of this indictment. The details of each are in Table 1 below;

Count	Beneficiary Initials	Member ID (Last 4 Digits)	Date of Service	Date of Claim	Date of Payment	Procedure Code	Paid Amount
2	[redacted]	[redacted]	3/9/2018	8/26/2018	8/29/2018	90837	$71.50
3	[redacted]	[redacted]	3/9/2018	8/27/2018	8/30/2018	90837	$71.50
4	[redacted]	[redacted]	4/14/2018	4/17/2018	4/21/2018	90837	$86.11
5	[redacted]	[redacted]	4/14/2018	4/17/2018	4/21/2018	90837	$86.11
6	[redacted]	[redacted]	4/14/2018	4/17/2018	4/21/2018	90837	$86.11
7	[redacted]	[redacted]	4/12/2018	4/15/2018	4/18/2018	90837	$86.11
8	[redacted]	[redacted]	8/29/2018	9/6/2018	9/11/2018	90837	$65.00
9	[redacted]	[redacted]	8/29/2018	9/6/2018	9/12/2018	90837	$71.50
10	[redacted]	[redacted]	8/29/2018	9/6/2018	9/11/2018	90837	$71.50
11	[redacted]	[redacted]	8/29/2018	9/6/2018	9/12/2018	90837	$71.50
12	[redacted]	[redacted]	9/1/2018	9/8/2018	9/13/2018	90837	$71.50
13	[redacted]	[redacted]	2/23/2018	2/27/2018	3/3/2018	90837	$86.11
14	[redacted]	[redacted]	2/22/2018	2/26/2018	3/3/2018	90837	$86.11
15	[redacted]	[redacted]	2/23/2018	2/27/2018	3/3/2018	90837	$86.11
16	[redacted]	[redacted]	5/16/2018	5/20/2018	5/23/2018	90837	$86.11
17	[redacted]	[redacted]	5/16/2018	5/20/2018	5/23/2018	90837	$86.11
18	[redacted]	[redacted]	5/18/2018	5/20/2018	5/23/2018	90837	$86.11
19	[redacted]	[redacted]	5/14/2018	5/20/2018	5/23/2018	90837	$86.11
20	[redacted]	[redacted]	5/14/2018	5/20/2018	5/23/2018	90837	$86.11
21	[redacted]	[redacted]	5/18/2018	5/20/2018	5/23/2018	90837	$86.11
22	[redacted]	[redacted]	5/18/2018	5/20/2018	5/23/2018	90837	$86.11
23	[redacted]	[redacted]	5/18/2018	5/20/2018	5/23/2018	90837	$86.11
24	[redacted]	[redacted]	5/22/2018	5/22/2018	5/26/2018	90837	$86.11
25	[redacted]	[redacted]	5/21/2018	5/22/2018	5/26/2018	90837	$86.11
26	[redacted]	[redacted]	5/22/2018	5/22/2018	5/26/2018	90837	$86.11

16. As a result of the Accused's fraudulent scheme, the Accused did obtain and retain electronic funds payments from Georgia Medicaid, by and through the CMOs, in an amount greater than that to which he was entitled.

COUNT 27

The GRAND JURORS aforesaid, in the name of and on behalf of the citizens of the State of Georgia, charge and accuse

WILLIAM DAVID MILLER

With the offense of:

FORGERY IN THE SECOND DEGREE
A Felony in violation of O.C.G.A. § 16-9-1(c),

17. for the said accused person, in the County of Fulton and State of Georgia, **on or about September 22, 2020** did unlawfully and with the intent to defraud knowingly possess a writing in such a manner that the writing as made purports to have been made by another person, at another time, and by authority of someone else who did not give such authority, as follows:

18. The accused possessed forms titled, Statement of Client's Rights, Privacy Notice, and Office Policies, which were made in such manner to have purportedly been signed by [redacted] on October 10, 2016 when, in fact, [redacted] did not authorize such writings.

COUNT 28

The GRAND JURORS aforesaid, in the name of and on behalf of the citizens of the State of Georgia, charge and accuse

WILLIAM DAVID MILLER

With the offense of:

FORGERY IN THE SECOND DEGREE
A Felony in violation of O.C.G.A. § 16-9-1(c),

19. for the said accused person, in the County of Fulton and State of Georgia, **on or about September 22, 2020** did unlawfully and with the intent to defraud knowingly possess a writing in such a manner that the writing as made purports to have been made by another person, at another time, and by authority of someone else who did not give such authority, as follows:

20. The accused possessed forms titled, Statement of Client's Rights, Privacy Notice, and Office Policies, which were made in such manner to have purportedly been signed by [redacted] when, in fact, [redacted] did not authorize such writings.

COUNT 29

The GRAND JURORS aforesaid, in the name of and on behalf of the citizens of the State of Georgia, charge and accuse

WILLIAM DAVID MILLER

With the offense of:

FORGERY IN THE SECOND DEGREE
A Felony in violation of O.C.G.A. § 16-9-1(c),

21. for the said accused person, in the County of Fulton and State of Georgia, **on or about September 22, 2020** did unlawfully and with the intent to defraud knowingly possess a writing in such a manner that the writing as made purports to have been made by another person, at another time, and by authority of someone else who did not give such authority, as follows:

22. The accused possessed forms titled, Statement of Client's Rights, Privacy Notice, and Office Policies, which were made in such manner to have purportedly been signed by [redacted] on October 12, 2016 when, in fact, [redacted] did not authorize such writings.

At all times material to this count of the indictment, the crimes do not fall outside the period in which a prosecution against this defendant must be commenced because on March 14, 2020, the Georgia Supreme Court pursuant to OCGA § 38-3-61, declared a Statewide Judicial Emergency The Supreme Court of Georgia extended the Statewide Judicial Emergency on fifteen occasions, the last of which expired on June 30, 2021 at 11:59 PM.. Further, pursuant to OCGA § 38-3-62, during the period of the Statewide Judicial Emergency, Chief Justice Harold D. Melton, suspended, tolled, extended, and otherwise granted relief from any deadlines or other time schedules or filing requirements imposed by otherwise applicable statutes, rules, regulations, or court orders, whether in civil or criminal cases, or administrative matters, including any statute of limitation.

A copy of said Orders declaring and extending the Statewide Judicial Emergency are attached hereto and made a part of this Indictment, marked Exhibit A.

contrary to the laws of said State, the good order, peace and dignity thereof, Chris M. Carr, Attorney General, Fulton County Superior Court, May Term, 2023.

WITNESS LIST

Lee Thompson
Investigator
Georgia Medicaid Fraud Control Unit
Atlanta, GA

Cecilia Isaac Vazquez
Investigative Auditor
Georgia Medicaid Fraud Control Unit
Atlanta, GA

EXHIBIT A

SUPREME COURT OF GEORGIA

FILED
Administrative Minutes
June 7, 2021
Thérèse S. Barnes
Clerk/Court Executive
SUPREME COURT OF GEORGIA

FIFTEENTH ORDER EXTENDING DECLARATION OF STATEWIDE JUDICIAL EMERGENCY

On March 14, 2020, in response to the COVID-19 pandemic, the Honorable Harold D. Melton, as the Chief Justice of the Supreme Court of Georgia, issued an Order Declaring Statewide Judicial Emergency pursuant to OCGA § 38-3-61. That Order has been extended fourteen times, with modifications, by orders issued on April 6, May 11, June 12, July 10, August 11, September 10, October 10, November 9, and December 9, 2020 (with Section I (B) relating to conducting jury trials modified on December 23, 2020), and on January 8, February 7, March 9, April 8, and May 8, 2021.

After consulting with the Judicial Council of Georgia and other judicial partners, and because the novel coronavirus continues to significantly affect Georgia's judicial system, it is hereby determined that the Order should be extended again. **However, as discussed in the Notice of Expected Termination of Statewide Judicial Emergency on June 30, 2021 issued separately today by the Chief Justice, it is anticipated that the Public Health State of Emergency declared by the Governor may expire at 11:59 p.m. on Wednesday, June 30, 2021. Accordingly, the Order Declaring Statewide Judicial Emergency, which would have expired on Monday, June 7, 2021, at 11:59 p.m., is further extended but only until Wednesday, June 30, at 11:59 p.m.** If the Public Health State of Emergency expires before June 30, the Order Declaring Statewide Judicial Emergency will expire at the same time by operation of law. Until this Order expires, all Georgia courts shall continue to operate under the requirements set forth in the Order as extended, as discussed below. However, **courts and litigants should prepare for the expiration of the statewide judicial emergency.**

All prior orders are available online, including on the Supreme Court's website, www.gasupreme.us, and an overview of the orders is provided in Section VII below. This extension order varies substantially from the prior orders as our State and its judicial system emerge from the pandemic. However, judges, lawyers, and litigants should be familiar with the prior orders to the extent that certain of their provisions may continue to affect particular matters. Where this order refers to "public health guidance," courts should consider the most specific current guidance provided by the federal Centers for Disease Control and Prevention (CDC), the Georgia Department of Public Health (DPH), and their local health departments.

I. Deadlines and Other Time Schedules and Filing Requirements

(A) **All deadlines suspended and tolled on March 14, 2020.** Pursuant to OCGA 38-3-62, the initial March 14, 2020 Order suspended, tolled, extended, and otherwise granted relief from any deadlines and other time schedules and filing requirements (referred to collectively herein as "deadlines") imposed by otherwise applicable statutes, rules, regulations, or court orders in civil and criminal cases and administrative matters.

(B) **Most deadlines on litigants reimposed as of July 14, 2020.** With the exceptions discussed below, deadlines were reimposed on *litigants* effective July 14, 2020.

(C) **Deadlines not reimposed on courts.** Recognizing the substantial backlogs of pending cases, deadlines imposed on *courts* have remained suspended and tolled. All courts should nevertheless work diligently to clear backlogs and to comply with usual deadlines and timetables to the extent safe and practicable.

(D) **Most grand jury and jury trial deadlines remain tolled.** Due to the lengthy prohibition on almost all grand jury proceedings and all jury trials and the substantial backlogs of unindicted and untried

criminal cases, deadlines for jury trial proceedings (including statutory speedy trial demands), deadlines for grand jury proceedings (with the exception of the statutory deadlines to indict detained individuals in OCGA §§ 17-7-50 and 17-7-50.1), and deadlines calculated by reference to the date of a civil or criminal jury trial or grand jury proceeding remain suspended and tolled. This provision does not apply to deadlines calculated by reference to the date of non-jury (bench) trials. Statutes of limitation in criminal cases also remain tolled.

(E) **Deadlines for indicting detained individuals reimposed as of May 14, 2021.** Because at least one grand jury should generally be able to operate safely in all counties, the deadlines in OCGA §§ 17-7-50 and 17-7-50.1 for presenting cases involving detained individuals to the grand jury are reimposed effective May 14, 2021.

(F) **Guidance on tolling and calculation of new deadlines.** Guidance on the tolling of filing deadlines and statutes of limitations and on deadlines and time limits calculated by reference to terms of court are included in the appendix to this order. Explanations and examples of how to calculate deadlines that were tolled on March 14, 2020 and later reimposed are provided in Section II of the July 10, 2020 extension order.

(G) **Extensions of time.** Litigants may apply in the normal way for extensions of reimposed deadlines for good cause shown, and courts should be generous in granting extensions particularly when based upon health concerns, economic hardship, lack of childcare, or other caregiving responsibilities.

(H) **Reimposition of all deadlines when the judicial emergency expires.** Courts and litigants should be aware that when this statewide judicial emergency order expires, *all* deadlines not already reimposed will immediately be reimposed (unless tolled by an applicable local judicial emergency order).

(I) **Authority of superior and state courts to continue tolling of statutory speedy trial requirements under Senate Bill 163.** Courts and litigants should be aware that the General Assembly has

passed Senate Bill 163, which will take effect on July 1, 2021. SB 163 authorizes the Chief Judge of a superior court or state court to toll, extend, modify, or otherwise grant relief from the statutory speedy trial requirements in OCGA §§ 17-7-170 and 17-7-171 *following* a judicial emergency if compliance with such requirements is impracticable in a particular county. An order granting such relief must be supported by a certification that considers specified factors and includes a plan to resolve cases in which a statutory speedy trial demand has been filed as expeditiously as possible. Each order is for a period of no more than eight months, and the authority granted by SB 163 will expire (sunset) on June 30, 2023. Model SB 163 orders and certifications are being developed by the councils of superior and state court judges.

(J) Courts and litigants should also be aware of House Bill 635, which provides additional tools to resolve backlogs of criminal cases, including broadened authority for superior courts to select juries and try cases in alternative facilities where greater social distancing may be possible; discretion of courts to try certain cases without a jury when the defendant so elects, even if the prosecutor requests a jury trial; and broadened authority of prosecutors to initiate certain cases by accusation rather than indictment. The latter two provisions will expire on June 30, 2022.

II. Proceedings Conducted Remotely Using Technology

(A) **Continued use of remote proceedings where legal, practicable, and safer.** All courts should continue to use technology to conduct remote judicial proceedings when doing so is a safer alternative to in-person proceedings, unless the proceeding is required by law to be in-person or it is not practicable for technical or other reasons for persons participating in the proceeding to participate remotely.

(B) **Emergency rule amendments.** Courts should understand and utilize the authority provided and clarified by the emergency amendments made to court rules on video conferences and teleconferences.

(C) **Compelled participation.** Courts may compel the

participation of litigants, lawyers, witnesses, and other essential personnel in remote judicial proceedings, where allowed by court rules (including emergency amendments thereto). Such proceedings, however, must be consistent with public health guidance, must not impose undue burdens on participants, and must not be prohibited by the requirements of the United States or Georgia Constitutions or applicable statutes or court rules.

(D) **Consent to remote proceedings when not otherwise authorized.** In civil, criminal, juvenile, and administrative proceedings, litigants may expressly consent in the record to remote proceedings not otherwise authorized and affirmatively waive otherwise applicable legal requirements.

(E) **Ensuring public access and defendant's rights.** Courts must ensure the public's right of access to judicial proceedings as required by law. In addition, in all criminal cases, courts must ensure the defendant's right to confrontation and right to a public trial unless the defendant affirmatively waives such right in the record.

(F) **Evaluation of proceedings that should be conducted remotely even when not required for public health reasons.** The pandemic has required courts to greatly expand the use of remote proceedings, which have been found to have both advantages (including significant savings in time and travel for participants) and disadvantages (including loss of in-person interactions and technical concerns, particularly in areas with poor internet service and for participants with limited access to or familiarity with the technology used). Courts should evaluate which of their proceedings should continue to be conducted remotely after the judicial emergency ends and, to the extent permanent amendments to court rules or statutes are needed to allow or improve such remote proceedings, courts should advise their court councils.

III. In-Person Proceedings Including Jury Trials and Grand Jury Proceedings

(A) **General discretion to conduct in-person proceedings**

under court operating guidelines when safe and lawful. Courts have discretion to conduct in-person judicial proceedings under the court's operating guidelines discussed in Section III (F) below, but only in compliance with public health guidance, this order, and the requirements of the United States and Georgia Constitutions and applicable statutes and court rules, including the public's right of access to judicial proceedings and a criminal defendant's rights to confrontation and an open courtroom. No court may compel the attendance of any person for a court proceeding if the court proceeding or the court facility in which it is held is not in compliance with this order. Courts should be particularly aware of scheduling proceedings that require numerous people to be in the courtroom or courthouse common areas, including large calendar calls.

(B) **Grand jury proceedings.** The Chief Judge of each superior court, in his or her discretion after consulting with the District Attorney, may authorize grand jury proceedings in-person or remotely (where consistent with law). Guidance for safely conducting in-person grand jury proceedings and guidance on conducting remote grand jury proceedings are included in the Appendix to this order. Courts and counsel are reminded that many criminal cases may proceed by accusation rather than grand jury indictment, and House Bill 635 gives prosecutors broadened authority to proceed by accusation.

(C) **Jury trials.** The Chief Judge of each trial court is authorized, in his or her discretion, to authorize the summoning of trial jurors and the conducting of jury trials in accordance with a final jury trial plan developed in collaboration with the local committee and incorporated into the court's operating guidelines as discussed in Section III (F) (3) below. Potential jurors should be informed in advance about the practices that the court will use to ensure their safety.

(D) **Continued tolling of most deadlines related to grand jury proceedings and jury trials.** As detailed in Section I (D) and (E) above, because of the substantial backlogs of unindicted and untried cases and because grand jury proceedings and jury trials even when resumed will not occur at the scale or with the speed as before the pandemic, deadlines calculated by reference to the date of grand jury proceedings or jury trials,

including but not limited to the speedy trial deadlines in OCGA §§ 17-7-170 and 17-7-171, remained suspended and tolled, although the deadlines for indicting detained individuals in OCGA §§ 17-7-50 and 17-7-50.1 are reimposed as of May 14, 2021.

(E) **ADR proceedings.** Courts may not compel in-person participation in any court-imposed alternative dispute resolution (ADR) session that is to be conducted in a manner inconsistent with applicable public health guidelines.

(F) **Operating guidelines for in-court proceedings.** Each court is required to have developed and implemented written guidelines as to how in-court proceedings generally, as well as particular types of proceedings including grand jury proceedings and jury trials, will be conducted to protect the health of litigants, lawyers, jurors, judges, court personnel, and the public.

(1) **Guidelines should be based on bench card and public health guidance.** The "Georgia Court Reopening Guide" bench card included in the Appendix to this order should be used as the template for such operating guidelines, which at a minimum should include all subject matters contained therein. Courts should also consider guidance from local health departments and guidance provided by CDC and DPH; if local public health guidance is more restrictive than the bench card, the local public health guidance should be followed instead.

(2) **Isolation, quarantine, and notification requirements.** With regard to everyone who works in a court facility, the operating guidelines shall require isolation of any person with known or suspected COVID-19 and quarantine of any person with COVID-19 exposure likely to result in infection, in accordance with the DPH Thirteenth Amended Administrative Order for Public Health Control Measures, a link to which may be found in the Appendix, or any subsequent version thereof. When there is reason to believe that anyone who works at or has visited a court facility has been exposed to COVID-19, DPH or the local health department shall be notified, and notification of persons who may have been exposed shall occur as directed by DPH or the local health

department.

(3) **Local committees and jury trial plans.** Every county should have a local committee of judicial system participants, convened by the Chief Judge of the county's superior court, which is charged with developing a plan for safely resuming jury trials in the county as further described in the "Guidance for Local Committees on Resuming Jury Trials" included in the Appendix to this order. The local committees should use the "Guidance for Resuming Jury Trials" also included in the Appendix in developing their plans, which must be submitted to the Administrative Office of the Courts (AOC) before the jury trial process begins.

(4) **Coordination of operating guidelines.** Courts of different classes that share courthouse facilities or operate in the same county should coordinate their operating guidelines, and should seek to coordinate operating guidelines with non-judicial entities sharing courthouse facilities.

(5) **Updating and termination of operating guidelines.** Operating guidelines shall be modified as public health guidance is modified and shall remain in effect at least as long as this statewide judicial emergency exists continues.

(6) **Publication of operating guidelines.** Each court must submit its current operating guidelines to the AOC at https://georgiacourts.gov/covid-19-court-operating-guidelines-form to be posted at https://georgiacourts.gov/covid-19-court-operating-guidelines/ as a centralized website available to litigants, lawyers, and the public. Current operating guidelines also should be prominently posted at courthouse entrances and on court and local government websites to provide advance notice to litigants, lawyers, and the public.

IV. Discretion of Chief Judges to Declare More Restrictive Local JudicialEmergencies

(A) **Authority of Chief Superior Court Judges.** Nothing in the

Order Declaring Statewide Judicial Emergency as extended and modified limits the authority of the Chief Judge of a superior court judicial circuit under OCGA §§ 38-3-61 and 38-3-62 to add to the restrictions imposed by the statewide judicial emergency, if such additional restrictions are constitutional, necessitated by local conditions, and to the extent possible ensure that courthouses or properly designated alternative facilities remain accessible to carry out essential judicial functions.

(B) **Limitations on Authority.** A Chief Judge may impose such additional restrictions only by a properly entered order, but such orders may not disregard the restrictions imposed by this Order as extended and modified. Courts should be aware that only the Chief Justice of the Supreme Court and a Chief Judge of a superior court judicial circuit have authority to enter a judicial emergency order under OCGA § 38-3-61, see OCGA § 38-3-60 (a) (defining "authorized judicial official), and only the Chief Justice has the authority to extend a judicial emergency order for so long as a public health emergency declared by the Governor extends, see OCGA § 38-3-61 (b).

V. Guidance on Application of the Order

Included in the Appendix are several guidance documents that clarify the application of the order in particular contexts. Additional guidance documents may be posted on the AOC's website at https://georgiacourts.gov/judicial-council/aoc/. Guidance related to the tolling of deadlines should be read in light of the reimposition of deadlines by this order and by orders in specific cases.

VI. Professionalism

With regard to all matters in this challenging time, all lawyers are reminded of their obligations of professionalism, including the obligation to engage in discovery in good faith and in a safe manner. Judges are also reminded of their obligation to dispose of all judicial matters promptly and efficiently, including by insisting that court officials, litigants, and their lawyers cooperate with the court to achieve that end, although this

obligation must not take precedence over the obligation to dispose of matters fairly and with patience, which requires sensitivity to health and other concerns raised by court officials, litigants and their lawyers, witnesses, and others.

VII. Overview of This Judicial Emergency and Prior Orders

This extension order varies substantially from the prior orders issued during this statewide judicial emergency as Georgia emerges from the COVID-19 pandemic. The initial March 14, 2020 Order and all prior extension orders, along with related guidance documents and orders regarding court rules, are available online, including on the Supreme Court's website, www.gasupreme.us. **Judges, lawyers, and litigants should be familiar with those orders and guidance documents and should consult them for detailed information. The following is only an overview.**

On Thursday, March 12, 2020, as the novel coronavirus began spreading rapidly in Georgia and public and private events began to be canceled, the Chief Justice convened an emergency meeting of the Judicial Council of Georgia and advised the Chief Judges of the superior courts that they might need to exercise their authority under OCGA § 38-3-61 to declare local judicial emergencies and limit operations in their courts. Several Chief Judges issued such orders beginning that day. On Saturday, March 14, the Governor issued the first Declaration of Public Health State of Emergency, imposing strict limitations on a wide variety of activities to protect against the spread of the virus. Later that same day, **the Chief Justice issued the initial Order Declaring Statewide Judicial Emergency**, which applies to all courts and clerk's offices and all proceedings in Georgia's judicial system.

The March 14 Order suspended, tolled, extended, and otherwise granted relief from any deadlines or other time schedules or filing requirements imposed by otherwise applicable statutes, rules, regulations, or court orders, whether in civil or criminal cases or administrative matters. It directed that to the extent court proceedings were held, they

should be done where possible in a manner to limit the risk of exposure to the virus, such as by videoconferencing. But the Order also directed that, to the extent feasible, courts should remain open to address essential functions, and in particular that courts should give priority to matters necessary to protect the health, safety, and liberty of individuals. In accordance with that directive, **Georgia's courts have never been closed; they continued to perform essential functions despite the pandemic.**

Over the next two months, lawyers and litigants adjusted to work during the pandemic and courts rapidly expanded their technological ability to conduct proceedings remotely, aided by a number of orders making **emergency amendments to court rules regarding videoconferencing and related matters**. The May 11, 2020 extension order provided further guidance on conducting remote proceedings as a safer alternative to in-person proceedings while also emphasizing the need to ensure the public's right of access to judicial proceedings and, in all criminal cases, a criminal defendant's rights to confrontation and an open courtroom unless affirmatively waived in the record. The May 11 order appended several **guidance documents** regarding the tolling of filing deadlines, statutes of limitation, deadlines and time limits defined by reference to terms of court, and the continued authority of grand juries impaneled before the March 14 Order.

The May 11 order gave judges authority on a case-specific basis to reimpose certain deadlines that would otherwise be tolled and to conduct non-essential in-person proceedings, but only in compliance with public health guidance as well as legal requirements. **Jury trials and almost all grand jury proceedings, however, remained prohibited** because of the large groups of people who are normally assembled for such proceedings, including jury selection. **Each court was directed to develop detailed written guidelines on how in-person proceedings would be conducted** to protect the health of all persons involved; the May 11 order established a **Judicial COVID-19 Task Force** comprised of judges from the various classes of court, along with advisors from key judicial stakeholders, to assist courts in conducting remote proceedings and restoring more in-court proceedings, including policies for safe grand jury

and jury proceedings. The order also emphasized the importance of **professionalism** by both lawyers and judges while dealing with the many challenges resulting from the pandemic. Finally, the May 14 order explained that **Chief Judges of superior courts could issue local emergency orders** adding to the restrictions imposed by the statewide orders when necessitated by local conditions. A number of such local orders have been issued during the pandemic, particularly in response to COVID-19 exposure in particular courthouses.

In order to allow more pending cases and newly filed cases to move forward in the judicial process, per notice provided in the June 12, 2020 extension order, **many of the deadlines imposed on *litigants* in civil and criminal cases that had been suspended, tolled, or extended since the March 14 Order were reimposed as of July 14, 2020. Details about which deadlines were reimposed and how new deadlines should be calculated were included in the June 12 order and repeated in subsequent extension orders.** Because all jury and almost all grand jury proceedings remained prohibited, however, **deadlines for jury trial proceedings (including statutory speedy trial demands), deadlines for grand jury proceedings, and deadlines calculated by reference to the date of a civil or criminal jury trial or grand jury proceeding remained suspended and tolled.** In addition, recognizing the substantial backlog of pending cases, **deadlines imposed on *courts* remained suspended and tolled**, although all courts were directed to work diligently to clear the backlog and to comply with usual deadlines and timetables to the extent safe and practicable. The June 12 order also appended a bench card entitled **"Georgia Court Reopening Guide"** to be used as the template for courts' operating guidelines for in-person proceedings. Those guidelines are posted at courthouse entrances and on local court and government websites and are collected by the AOC at https://georgiacourts.gov/covid-19-court-operating-guidelines/.

Following cases of COVID-19 in several courthouses, the July 10, 2020 extension order emphasized that in-person court proceedings, in particular large calendar calls, as well as court-imposed in-person alternative dispute resolution (ADR) sessions, could be conducted only in

compliance with the statewide judicial emergency order. The July 10 order also required **court operating guidelines to require isolation, quarantine, and notification processes** for known or suspected COVID-19 cases in accordance with DPH and local health department direction.

The August 11 and September 10, 2020 extension orders recognized that the judicial system, and the criminal justice system in particular, must have some capacity to resolve cases by indictment and trials, even as the pandemic continued. **The September 10 order authorized the Chief Judge of each superior court, in his or her discretion after consultation with the District Attorney, to resume grand jury proceedings in-person or remotely (where consistent with law)** as local conditions allow and in accordance with the order and appended guidance for resuming in-person grand jury proceedings. The September 10 order also directed the Chief Judge for each superior court to convene for each county in his or her circuit a **local committee of judicial system participants to develop detailed guidelines for the resumption of jury trials** in the county using the safe jury trial guidelines developed by the Judicial COVID-19 Task Force. Guidance for the local committees was also appended.

After September 10, some counties resumed grand jury proceedings, and the October 10, 2020 extension order authorized the Chief Judge of each trial court, in his or her discretion, to resume the jury trial process if local conditions allowed and the Chief Judge, in collaboration with the local committee, had developed and issued a **final jury trial plan** incorporated into the court's operating guidelines for in-person proceedings. As counties issued their jury trial plans, a few jury trials were held, and more counties resumed grand jury proceedings as well.

The December 9, 2020 extension order, however, recognized that COVID-19 conditions were worsening dramatically in many parts of the State and that courts might need to revise and potentially delay or cancel their plans for jury trials, grand jury proceedings, and other in-person proceedings. The winter surge of COVID-19 cases became severe

enough that **on December 23, 2020, the December 9 order was modified to prohibit all jury trials not already in progress until at least mid-February 2021.** The modification order again urged the use of remote proceedings when practicable and lawful and limited in-person proceedings to those that could be conducted in full compliance with public health guidance and the other requirements of the December 9 order. The January 8, 2021 extension order continued these restrictions, placing particular emphasis on the need for courts to manage their case calendars to minimize the number of participants gathering both in the courtroom and in common areas outside of courtrooms. As the surge declined, **the March 9, 2021 extension order lifted the prohibition against conducting jury trials, and trial courts, in their discretion, could resume jury trials as local conditions allowed. Numerous courts then began to conduct jury trials.**

Even as grand jury proceedings and jury trials have been authorized, the orders have recognized that such proceedings will not actually start until a month or longer after the process for resuming them begins in a particular county or court, due to the time required to summon potential jurors for service. The orders have also recognized that **there are substantial backlogs of unindicted and untried cases and, due to ongoing public health precautions, these proceedings will not occur at the scale or with the speed they occurred before the pandemic.** Accordingly, while our justice system must resume moving cases to indictment and trial as rapidly as can be done safely, **the statutory deadlines based on indictments and jury trials have remained suspended and tolled.** However, the April 8 extension order announced that, because at least one grand jury should now be able to operate safely in all counties, **the deadlines in OCGA §§ 17-7-50 and 17-7-50.1 for presenting cases involving detained defendants to a grand jury, which have been tolled since the initial order, would be reimposed as of May 14, 2021.**

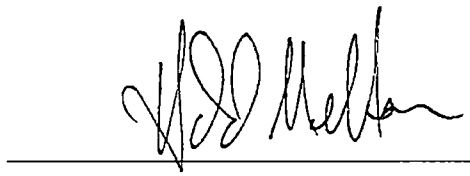
VIII. Notice Provisions

(A) **Notice of expected termination.** Prior extension orders have stated that notice will be provided as to the expected termination of the Order as extended and modified at least one week in advance. Such notice is being provided in the Notice of Expected Termination of Statewide Judicial Emergency on June 30, 2021 issued separately today by the Chief Justice, which advises that it is expected that **the Chief Justice's Order Declaring Statewide Judicial Emergency, as extended and modified, will expire at 11:59 p.m. on Wednesday, June 30, 2021.**

(B) **Notice of additional local measures.** Courts should make available to the public additional steps they are taking to safely increase operations while responding to the pandemic. Recognizing that not all courts have a social media presence or website, the AOC will continue to post court-specific information as it becomes available on the AOC website at https://georgiacourts.gov/covid-19- preparedness.

(C) **Notice of this extension order.** Pursuant to OCGA § 38-3-63, notice and service of a copy of this order shall immediately be sent to the judges and clerks of all courts in this State, including the clerk of the Court of Appeals of Georgia, such service to be accomplished through means to assure expeditious receipt, which include electronic means. Notice shall also be sent to the news media, the State Bar of Georgia, and the officials and entities listed below and shall constitute sufficient notice of the issuance of this order to the affected litigants, counsel for the affected litigants, and the public.

IT IS SO ORDERED this 7th day of June, 2021, and effective at 11:59 p.m.



Chief Justice Harold D. Melton
Supreme Court of Georgia

APPENDIX

Guidance on Tolling of Filing Deadlines (March 27, 2020)

Guidance on Tolling of Statutes of Limitation (April 6, 2020)

Guidance on Deadlines and Time Limits Defined by Reference to Terms of Court (May 4, 2020)

Guidance on Grand Juries (May 4, 2020)

Further Guidance on Grand Juries (May 11, 2020)

Georgia Court Reopening Guide (June 11, 2020)

DPH Thirteenth Amended Administrative Order for Public Health Control Measures (April 8, 2021)

Guidance for Resuming In-Person Grand Jury Proceedings (September 10, 2020)

Guidance for Local Committees on Resuming Jury Trials September 10, 2020)

Guidance for Resuming Jury Trials (September 21, 2020)

Guidance for Remote Grand Jury Proceedings (October 26, 2020)

Notice of Expected Termination of Statewide Judicial Emergency on June 30, 2021 (June 7, 2021)

Governor Brian P. Kemp
Lt. Governor Geoff Duncan
Speaker David Ralston
State Bar of Georgia
Administrative Office of the Courts
Judicial Council of Georgia
Council of Superior Court Clerks of Georgia
Department of Juvenile Justice
Criminal Justice Coordinating Council
Council of Accountability Court Judges
Georgia Commission on Dispute Resolution
Institute of Continuing Judicial Education of Georgia
Georgia Council of Court Administrators
Chief Justice's Commission on Professionalism
Judicial Qualifications Commission
Association County Commissioners of Georgia
Georgia Municipal Association
Georgia Sheriffs' Association
Georgia Association of Chiefs of Police
Georgia Public Defender Council
Prosecuting Attorneys' Council of Georgia
Department of Corrections
Department of Community Supervision
Georgia Court Reporters Association
Board of Court Reporting
State Board of Pardons and Paroles
Constitutional Officers Association of Georgia
Council of Magistrate Court Clerks
Council of Municipal Court Clerks

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

, Clerk