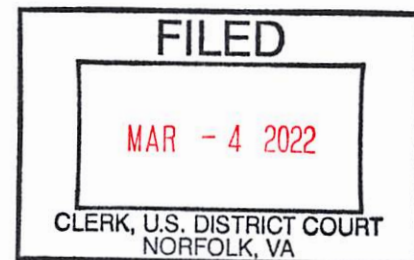


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA



In re:
COURT OPERATIONS UNDER THE EXIGENT
CIRCUMSTANCES CREATED BY THE OUTBREAK
OF CORONAVIRUS DISEASE 2019 (COVID-19):
MODIFICATION OF COVID-19 PROTOCOLS,
INCLUDING MASK AND DISTANCING POLICY

Case No. 2:20mc7

General Order No. 2022-02

The United States District Court for the Eastern District of Virginia has continued to closely monitor the outbreak of Coronavirus Disease 2019 (COVID-19), as well as the developing guidance from the Centers for Disease Control and Prevention (CDC) and state and local health authorities. From the beginning of the pandemic, the Court has been transparent about its efforts to closely follow the guidance of health officials when determining which layered COVID-19 mitigation strategies best allow the Court to satisfy its constitutional responsibility to continue operations while at the same time protecting employees, judges, litigants, attorneys, jurors, stakeholders from other agencies, contractors, vendors, and members of the public that enter our Courthouses and Court facilities, to include those individuals ordered to appear. Though the scope of this Court's in-person operations has varied as pandemic conditions have evolved, the Court has remained operational through all of the emerging challenges.

Recently, the CDC established a new method of categorizing COVID-19 risk levels on a county by county basis as determined by locality-specific factors.¹ The CDC's three-tiered system assigns a Low, Medium, or High "COVID-19 Community Level" to each locality and recommends universal indoor masking only in localities with a High Community Level. See <https://www.cdc.gov/coronavirus/2019-ncov/science/community-levels.html> (last visited Mar. 4, 2022). As of the date of this General Order, all of the Courthouses in the Eastern District of Virginia are located in areas that fall into the CDC's newly defined Low Community Level category.

A. Mask and Distancing Policy

Based on the CDC's updated COVID-19 Community Level standard, and the CDC's associated recommendations for preventative steps, **effective March 7, 2022, the Court SUSPENDS ITS MASK AND SOCIAL DISTANCING POLICY** in all four of its Divisions. Individuals may, of course, elect to wear a mask in our Courthouses and Court facilities based on their own personal preferences and risk tolerances. For those individuals that feel more comfortable wearing a high-quality mask, but do not have such a mask, the Court

¹ The CDC's updated guidance is driven by high levels of population immunity from both vaccination and infections, the risk of medically significant disease (which is presumably impacted by the reduced virulence of the currently circulating Omicron variants), the increased availability of therapeutics to treat COVID-19, and the rapidly decreasing number of new COVID-19 cases and hospitalizations as the Omicron surge subsides.

will provide a surgical mask or a KN-95 mask at Courthouse entrances and in Courtrooms, if supplies are available.²

All Court employees and Courthouse users should be aware that mask and distancing requirements may be reinstated if local metrics move a Courthouse into the "High" Community Level category or if worsening pandemic conditions otherwise warrant renewed safety precautions. Although mask and distancing requirements are suspended in all Divisions regardless of vaccination status, employees and Courthouse users are reminded that the CDC strongly encourages all persons, including those living and working in Low Community Level areas, to stay up to date with their vaccines and vaccine boosters in order to reduce the likelihood that they contract, or become seriously ill from, COVID-19.

The suspension of the Districtwide mask and distancing requirements does not preclude a presiding judge, including a judge presiding over a grand jury proceeding, from requiring masks or distancing in his or her courtroom should the judge determine that such safety measures are appropriate based on the number of people present, the courtroom layout, current community conditions, the

² Because masks are optional, individuals that elect to wear a mask may wear whatever type of mask they prefer. However, the Court will endeavor to make high-quality masks available to individuals that prefer a more protective mask. See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/masks.html> (last visited Mar. 4, 2022) (explaining that while "any mask is better than no mask," you should generally wear "the most protective mask you can that fits well and that you will wear consistently").

medical risk factors or vaccination status of those present (to include witnesses and litigants compelled to appear), or other relevant factors. For example, presiding judges may require masks or some degree of distancing during the jury selection process to ensure that the large number of prospective jurors compelled to appear feel safe and comfortable. Individual judges may also, of course, elect to maintain mask or distancing requirements for their chambers.

An amended "Mask and Distancing" Notice will be posted at public entrances to our Courthouses and Court facilities, and the Court's public facing website will be updated to indicate that masks are now optional in all Divisions. Should community conditions in a locality where one of our Courthouses is located regress to the point where that locality falls into the CDC's High Community Level category, the Chief Judge may: (1) address such matter by issuing a General Order reinstating a mask and/or distancing requirement; or (2) upon consultation with the Senior Active Judge of the impacted Division, elect instead to update the Division-specific signs posted at Courthouse entrances and notify all local employees that masks or distancing will be temporarily required in the impacted Division. In the event that the instant General Order conflicts with posted signs establishing Courthouse entry requirements, the posted entry requirements will control.

B. Additional Policy Updates

Based on the CDC's updated COVID-19 community protocols and the Low Community Levels in the areas where our Courthouses are located, the following COVID-19 mitigation protocols previously adopted by this Court are **WITHDRAWN** or **MODIFIED** in all Divisions of the Court:³

- **Employee Vaccination and Testing Policy** - The Court's vaccination and testing policy applicable to Court employees and Court contractors, as adopted in **General Order 2021-12**, is **MODIFIED** to the extent that it required twice-a-week testing for certain individuals that are not fully vaccinated. Going forward, all Court employees and contractors who are not fully vaccinated are only required to provide results from once-a-week testing, regardless of exemption status.
- **Admitted Counsel Vaccination and Testing Policy** - The Court's vaccination and testing policy for admitted counsel and employees of their offices, as adopted in **General Order 2021-13**, is hereby **WITHDRAWN**. Accordingly, counsel and their employees/contractors will no longer be required to submit attestation forms,

³ As with the mask and distancing policy, the Court may reinstate one or more safety protocols in the future should pandemic conditions worsen.

and individuals who are not fully vaccinated will no longer be required to submit proof of a negative COVID-19 test prior to entering our Courthouses and Court facilities. Counsel are **ADVISED** that while there is no longer a Districtwide vaccination and testing requirement, presiding judges continue to have the authority to determine appropriate safety protocols in their courtrooms. Counsel should therefore be prepared to address their vaccination status (as well as the vaccination status of their employees, their contractors, and their clients), with the presiding judge or the judge's designated judicial staff.

- **International Travel** - The Court will no longer require a quarantine period before international travelers are allowed to enter our Courthouses and Court facilities, with all air travelers currently required to be tested within a day of boarding a flight to the United States, and non-citizens required to be fully vaccinated before traveling to the United States. All employees and Court users that have recently traveled internationally should monitor themselves for symptoms after their trip and are encouraged by the CDC and the Court to get tested for COVID-19 three to five days after traveling (the

Court will post updated Courthouse entry notices that no longer contain a post-travel quarantine requirement).

The national emergency declaration for the COVID-19 pandemic issued by the President remains in place, and the Court will continue to monitor pandemic conditions to determine whether any suspended or withdrawn COVID-19 safety protocols should be reintroduced, or whether additional safeguards currently in place should be relaxed.

It is so ORDERED.

/s/ 

Mark S. Davis
CHIEF UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
March 4, 2022