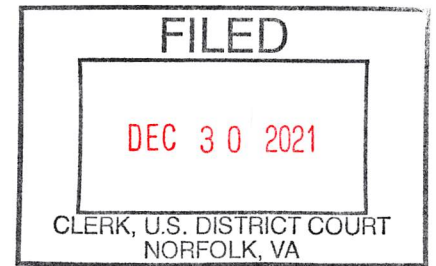


UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA



In re:  
COURT OPERATIONS UNDER THE EXIGENT  
CIRCUMSTANCES CREATED BY THE OUTBREAK  
OF CORONAVIRUS DISEASE 2019 (COVID-19):  
UPDATED MASK POLICY

Case No. 2:20mc7

General Order No. 2021-15

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. Notwithstanding ongoing COVID-19 vaccination efforts, the COVID-19 Delta and Omicron variants have recently caused a meteoric rise in the number of newly identified COVID-19 cases, and the associated "percent positivity" of newly performed tests, across this District. Just three weeks ago, the 7-day average for newly reported COVID-19 cases in Virginia was less than 2,500 daily cases, and the vast majority of the cities/counties surrounding our Courthouses and Court facilities were reporting COVID-19 test positivity between 3.5% and 7.5%. As of today: (1) the 7-day average for newly reported cases in Virginia is over 8,600 cases; (2) more than 12,000 newly reported COVID-19 cases have been identified on each of the last two days; and (3) all cities/counties surrounding our

Courthouses/facilities are reporting test positivity of 15% or higher, with multiple areas exceeding 20% positivity. The current 7-day average of newly reported cases and today's one-day total of newly reported cases are the highest these metrics have been since the pandemic began.

Ensuring the safety of Court employees, judges, litigants, attorneys, jurors, stakeholders from other agencies, contractors, vendors, and members of the public that enter our Courthouses and Court facilities is a critical priority to the undersigned Chief Judge. Cf. Federal Judiciary COVID-19 Recovery Guidelines, at 2 ("The health and welfare of each Judiciary employee, contractor, and member of the public that enters our facilities should be paramount in the decisions that are made as these guidelines are implemented."). Many Court employees interact directly with the public on a daily basis, and the Court cannot overstate the importance of adopting policies that allow the Court to continue to operate and satisfy its constitutional mission, while at the same time protecting the individuals ordered to appear in our Courthouses. Therefore, as a result of the increasing community spread of COVID-19 variants, to include the more transmissible Omicron variant, the Court has sought guidance from local public health officials regarding Courthouse and courtroom safety protocols. Such local officials have, in conjunction with national guidance from the CDC, indicated that using higher quality masks,

such as KN95 masks, is a useful option to reduce the risk of COVID-19 transmission in the current environment.

Having considered the local and national guidance in conjunction with the dual goals of ensuring the safety of all Court users and avoiding interruptions in Courthouse operations, and in light of the data revealing that fully vaccinated individuals are frequently contracting and contributing to the spread of the Omicron variant, the following precautionary measure is adopted Districtwide, effective **Monday, January 3, 2022**:

Regardless of vaccination status, **all individuals**, to include employees, litigants, attorneys, jurors, stakeholders from other agencies, contractors, vendors, and members of the public, shall be **required to wear an N95 or KN95** mask in **all indoor public areas and public-facing areas**<sup>1</sup> in our Courthouses and Court facilities, to include hallways, stairwells, elevators, and entrance foyers. The mask requirement applies inside all of our courtrooms unless otherwise directed by the presiding judge.<sup>2</sup> Additionally, the mask requirement remains subject to case-specific medical exceptions as

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<sup>1</sup> Public-facing areas include the areas in the Clerk's Office and Probation Office where Court employees assist litigants, attorneys, supervisees, or members of the public.

<sup>2</sup> A presiding judge may continue to exercise his or her discretion to allow jurors/prospective jurors, witnesses, parties, attorneys, and anyone else that needs to speak as part of the proceeding to temporarily remove their mask for the purpose of facilitating the hearing or otherwise promoting the functioning and effective operation of the Court. All efforts should be made to ensure that individuals permitted to remove their masks generally stay **at least six feet apart** from other individuals.

determined by the Chief Judge or the Senior Active Judge of the Division.

If any individual seeking to enter our Courthouses or Court facilities does not have an N95 or KN95 mask, one will be provided by the Court at the building entrance.<sup>3</sup> Existing policies that require six feet of social distancing and that outline the limited exceptions to mask requirements for employees working in non-public office areas remain unchanged by this General Order, though all prior references to situations requiring a "mask" should now be read to require an N95 or KN95 mask.<sup>4</sup>

To better inform those entering our Courthouses and Court facilities of the updated mask policy, the Court hereby **ADOPTS** the attached "Mask and Distancing Policy" public notice and **ORDERS** that it be posted at the public entrance of each respective Courthouse and Court facility in our District. The Court

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<sup>3</sup> Minor children are encouraged to bring their own KN95 or similar mask designed to fit properly based on the smaller size of their faces. In the event that a minor child seeks entry to our Courthouses or Court facilities and does not have his or her own KN95 or similar mask and cannot properly fit into one of the KN95 masks provided by the Court, such minor will be permitted to enter with a multi-layer cloth mask or a surgical mask (the latter of which can be provided by the Court). Ideally, minors without access to a properly fitting KN95 or similar mask should wear a surgical mask covered by a cloth mask (if the minor has a cloth mask), but double masking by minor children is not required for entry into our facilities.

<sup>4</sup> While other aspects of mask and distancing policies remain unchanged, certain temporary policies applicable solely to employees may be informally implemented as an additional layer of protection from the more transmissible Omicron variant (such as temporarily precluding employees from eating "communal" lunches in employee break rooms).

separately **ORDERS** that the attached "Mask and Social Distancing Policy," which reflects the changes adopted herein, be made available on the Court's public website.

The updated mask requirements, while temporary, will remain in place until further Order of the Court based upon emerging CDC guidance and the recommendations from state and local health officials.

**It is so ORDERED.**



/s/

Mark S. Davis

CHIEF UNITED STATES DISTRICT JUDGE

Norfolk, Virginia  
December 30, 2021



## Mask and Distancing Policy

### **All individuals, REGARDLESS OF VACCINATION STATUS:**

- Are **required to wear an N95 or KN95 mask** that covers their nose and mouth continuously unless it is medically unsafe for them to do so **and** they obtain permission from the Chief Judge or Senior Active Judge. Inside of each courtroom, the presiding judge may permit temporary removal of masks for the purposes of facilitating a hearing. If you do not have an N95 or KN95 mask, one will be provided by the Court at the entrance. *Minors unable to fit into a Court-provided KN95 mask who do not have their own properly fitting KN95 or similar mask may wear a surgical mask, or multi-layer cloth mask, or preferably, a surgical mask covered by a cloth mask.*
- Are **required to maintain six feet of distance** from all individuals from outside their household whenever possible.

***Any person who does not comply with these requirements may be denied entry or be subject to removal.***

## **Mask and Social Distancing Policy**

**The Court has found it necessary and appropriate to adopt a mask and social distancing policy for all individuals entering our Courthouses and Court facilities.**

As established by General Order 2021-11, and as modified by General Order 2021-15, **ALL individuals, regardless of vaccination status**, that appear in person in the Courthouses/facilities in this District, to include employees, litigants, attorneys, jurors, stakeholders from other agencies, contractors, vendors, and members of the public, **are required to:**

(1) **Wear an N95 or KN95 mask** that covers their nose and mouth continuously in all indoor public areas of our Courthouses/facilities unless it is medically unsafe for them to do so **and** they obtain permission from the Chief Judge or Senior Active Judge. Individuals without access to an N95 or KN95 mask will be provided a KN95 mask at the building entrance. Inside of each courtroom, the presiding judge may permit temporary removal of masks for the purposes of facilitating a hearing or otherwise promoting the functioning and effective operation of the Court, with efforts made to ensure that individuals permitted to remove their mask generally stay **at least six feet apart** from other individuals. *Minors unable to fit into an adult-sized Court-provided KN95 mask are encouraged to bring their own properly fitting KN95 or similar mask. However, minors without access to a properly fitting KN95 or similar mask will be allowed to enter our Courthouses/facilities wearing a surgical mask, or a multi-layer cloth mask, or preferably, a surgical mask covered by a cloth mask.*

(2) **Maintain six feet of distance** from all individuals from outside their household whenever possible.

(3) **Stay home if you are sick.**

Any visitor seeking entry to our Courthouses/facilities that does not comply with these requirements may be denied entry by security staff and will be asked to contact the office/chambers to be visited and determine whether alternate arrangements can be made to accomplish the business needs of the visitor without entry to the Courthouse.