

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

ORDER REQUIRING SOCIAL)
DISTANCING AND WEARING OF)
FACE COVERINGS IN THE MARTIN)
V.B. BOSTETTER, JR. U.S.)
COURTHOUSE DUE TO COVID-19)
PANDEMIC,)

Standing Order 20-17

ORDER REQUIRING SOCIAL DISTANCING AND WEARING OF COVERINGS IN THE
MARTIN V.B. BOSTETTER, JR. U.S. COURTHOUSE

This Order is being issued in response to the recent outbreak of Coronavirus Disease 2019 (COVID-19) in the United States and the Commonwealth of Virginia. On March 11, 2020, the World Health Organization characterized the COVID-19 outbreak as a pandemic. On March 12, 2020, the Governor declared a state of emergency in the Commonwealth of Virginia due to the continued spread of COVID-19. On March 13, 2020, the President of the United States declared a national emergency as a result of the COVID-19 outbreak. To combat the spread of COVID-19, public health officials urge all people to stay at home when possible and to practice “social distancing” in public settings.¹ In addition, persons may be required to self-isolate entirely if they are at high risk of contracting or suffering complications from COVID-19, have a travel history to an area where COVID-19 is widespread in the community, or have been exposed to or diagnosed with COVID-19.² The Governor of Virginia modified his prior “stay at home” order, which had been in place since March 30, 2020, with the entry of a “safer at home” order that instituted Phase

¹ See Va. Dep’t of Health, <https://www.vdh.virginia.gov/coronavirus/prevention-tips/> (last visited April 27, 2020).

² See Va. Dep’t of Health, <http://www.vdh.virginia.gov/coronavirus/frequently-asked-questions/special-populations-immunocompromised-or-underlying-health-conditions/> (last visited April 27, 2020); <http://www.vdh.virginia.gov/coronavirus/local-exposure/> (last visited April 27, 2020); <http://www.vdh.virginia.gov/coronavirus/travel-to-areas-with-widespread-ongoing-community-spread/> (last visited April 27, 2020).

One easing of certain prior restrictions beginning on May 15, 2020.³ However, in so doing, the Governor emphasized that “[t]he path forward will not be business as usual” and that physical distancing and use of face coverings remain necessary.⁴ In addition, because COVID-19 infection rates are higher in certain areas of Virginia, the Governor entered an additional executive order that excepts thirteen (13) municipalities in Northern Virginia, the City of Richmond, and the County of Accomack from Phase One, returning those areas of Virginia to Phase Zero through May 28, 2020.⁵

On May 14, 2020, the Chief Judge of the United States District Court for the Eastern District of Virginia entered General Order No. 2020-14, attached hereto as Exhibit A, which implements a social distancing and face coverings policy for all employees, contractors, and visitors to the courthouses in the Eastern District of Virginia (“General Order No. 2020-14”).⁶ The United States District Court and the United States Bankruptcy Court share common divisional courthouse facilities in the Eastern District of Virginia except in the Alexandria Division. As a result, General Order No. 2020-14 provides that the Bankruptcy Court will address separately the policy for operations in the Martin V.B. Bostetter, Jr. United States Courthouse in the Alexandria Division (the “Bostetter Courthouse”).

On the basis of the sound reasoning articulated in General Order No. 2020-14 and in the interest of employing a consistent districtwide policy, the Court finds that mandates identical to

³ See Exec. Order 61, [https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-61-and-Order-of-Public-Health-Emergency-Three---Phase-One-Easing-Of-Certain-Temporary-Restrictions-Due-To-Novel-Coronavirus-\(COVID-19\).pdf](https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-61-and-Order-of-Public-Health-Emergency-Three---Phase-One-Easing-Of-Certain-Temporary-Restrictions-Due-To-Novel-Coronavirus-(COVID-19).pdf)

⁴ *Id.* at 2.

⁵ See Am. Exec. Order 62, <https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-62-and-Order-of-Public-Health-Emergency-Four-AMENDED.pdf>.

⁶ See U.S. Dist. Ct. for the E.D. Va. General Order No. 2020-14, <http://www.vaed.uscourts.gov/notices/Gen%20Order%202020-14%20Face%20Covering%20and%20Social%20Distancing.pdf>

those set forth in General Order 2020-14 should be imposed for the Bostetter Courthouse. Accordingly, it is hereby **ORDERED** that, **effective on Monday, May 18, 2020**, all individuals intending to appear in person in the Bostetter Courthouse, to include employees, vendors, contractors, litigants, attorney, stakeholders from other agencies, and members of the public, shall be required to:

- (1) **wear a face covering that covers your nose and mouth continuously when in public areas and shared common spaces in the Bostetter Courthouse**, to include hallways, entrance foyers, and courtrooms. Inside of each courtroom, the presiding judge may permit removal of face coverings 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 face coverings stay at least six feet apart from other individuals;
- (2) **engage in social distancing within the Bostetter Courthouse** whenever possible, which involves staying **at least six feet apart** from other individuals; and
- (3) **stay home if you are sick.**

Any visitor seeking entry to the Bostetter Courthouse without a face covering will 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 Bostetter Courthouse. Should a sufficient supply of face coverings/masks become available to the Alexandria Division of the Court, the Alexandria Division will provide a face covering/mask to those seeking entry that do not have their own covering. Any individual granted entry to the Bostetter Courthouse who refuses to continuously

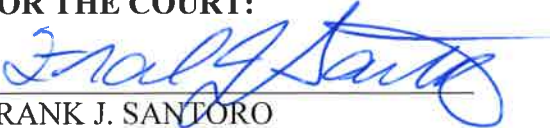
wear their face covering over their nose and mouth as required by this Order will be subject to removal from the Bostetter Courthouse.⁷

In private office areas within the Bostetter Courthouse, including the Clerk's Office, employees should be spaced at least six feet apart and maintain social distancing throughout the workday to the greatest extent practicable. If such employees do not have an enclosed office space or are unable to maintain six feet of distance between themselves and others, face coverings shall be worn in office settings, to include during all interactions with litigants, attorneys, supervisees, or members of the public. The Judges who maintain their Chambers in the Bostetter Courthouse are encouraged to implement these same social distancing and face covering precautions in their individual chambers.

The above-restrictions are temporary, but will remain in place until further Order of the Court.

IT IS SO ORDERED.

FOR THE COURT:

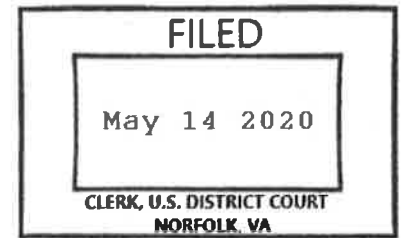

FRANK J. SANTORO
Chief United States Bankruptcy Judge

Dated: May 18, 2020

⁷ If an individual cannot safely wear a face covering/mask due to a medical condition that causes them to have difficulty breathing, such individual almost certainly qualifies as a "vulnerable individual" as defined by the CDC and should strongly consider avoiding entry into any public spaces, including our Bostetter Courthouse. However, to the extent a litigant, or other individual, has a condition where it is medically unsafe for them to wear a face covering (to include children under two years old) but also has a critical need to enter one the Bostetter Courthouse, the presiding judge may make exceptions to the face covering requirement.

EXHIBIT A

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA**



Case No. 2:20mc7

**In re:
COURT OPERATIONS UNDER THE EXIGENT
CIRCUMSTANCES CREATED BY THE OUTBREAK
OF CORONAVIRUS DISEASE 2019 (COVID-19):
FACE COVERINGS AND SOCIAL DISTANCING IN
COURTHOUSES ACROSS THE DISTRICT**

General Order No. 2020-14

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. Consistent with recent guidance released from the Administrative Office of the United States Courts (AO), the standard for determining the degree of operations at our Courthouses will draw heavily from state and local guidance, as well as complimentary CDC guidance, particularly with respect to face coverings.

Virginia has been under a "stay at home" order for many weeks. On May 4, 2020, the Governor of Virginia first announced that, if there was a continued downward trend in certain COVID-19 statistics in Virginia, starting on May 15, 2020, with appropriate social distancing and other restrictions in place, Virginia would begin a phased reopening that would allow more businesses to open their

doors and provide services to the public.¹ On May 13, 2020, the Governor confirmed his intention to begin a phased approach to re-opening some Virginia businesses on May 15, 2020, with the exception of multiple counties/cities in Northern Virginia due to the severity of the local COVID-19 outbreak in those areas. Notably, this Court's Albert V. Bryan U.S. Courthouse is located in Alexandria, Virginia,² in the area that will not begin easing restrictions on May 15, 2020. Accordingly, while Virginia is beginning to ease some restrictions on certain businesses and the overall movement of Virginians, the limited opening comes with substantial caveats aimed at limiting person-to-person contact, to include continuing to strongly encourage or require six foot social distancing and that individuals wear face coverings when in public settings (workers in certain businesses that are reopening or expanding operations will be required to wear face coverings).³

Consistent with AO guidance, this Court has continued to evaluate the appropriate level of operations in our facilities,

¹ See [https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-61-and-Order-of-Public-Health-Emergency-Three---Phase-One-Easing-Of-Certain-Temporary-Restrictions-Due-To-Novel-Coronavirus-\(COVID-19\).pdf](https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-61-and-Order-of-Public-Health-Emergency-Three---Phase-One-Easing-Of-Certain-Temporary-Restrictions-Due-To-Novel-Coronavirus-(COVID-19).pdf) (explaining that the path forward in Virginia "will not be business as usual" and that we must all "continue to practice physical distancing . . . and to wear [a] face covering whenever possible").

² The Martin V.B. Bostetter, Jr. U.S. Courthouse is also located in Alexandria, Virginia, and the Chief Bankruptcy Judge will address the appropriate operational procedures for the Bankruptcy Court in that facility.

³ See <https://www.governor.virginia.gov/media/governorvirginiagov/governor-of-virginia/pdf/Virginia-Forward-Phase-One-Business-Sector-Guidelines.pdf>.

always mindful of its responsibility to balance the health and safety of jurors and prospective jurors, court employees, criminal defendants, counsel, judges, and the public with its Constitutional responsibility to continue federal court operations during the COVID-19 outbreak. In order to supplement steps previously taken by this Court, and in accordance with public health authorities' continued advisories to public and private agencies to take necessary and appropriate precautions to reduce the possibility of exposure to COVID-19 and to slow the spread of the disease, this Court finds it necessary and appropriate to adopt a social distancing and face covering policy for all Courthouse employees, contractors, and visitors. Such policy is adopted in conformity with recommendations from Virginia health authorities and the CDC, with the CDC advising that face coverings should be worn in public places when social distancing may be difficult to maintain, especially in areas with significant community-based transmission.⁴ Unquestionably, Northern Virginia remains an area with significant community-based transmission, and there has likewise been continuing community transmission in the cities/counties surrounding the other Courthouses in this District. Accordingly, to safeguard the health and safety of the general public, court personnel, counsel, litigants, other case

⁴ See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html>.

participants, and visitors to our Courthouses, it is hereby **ORDERED** that, **effective Friday, May 15, 2020**, all individuals intending to appear in person in the Courthouses in our District, to include employees, vendors, contractors, litigants, attorneys, stakeholders from other agencies, and members of the public, shall be required to:

- (1) **wear a face covering that covers your nose and mouth continuously when in public areas and shared common spaces in our Courthouses**, to include hallways, entrance foyers, and courtrooms. Inside of each courtroom, the presiding judge may permit removal of face coverings 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 face coverings stay at least six feet apart from other individuals;
- (2) **engage in social distancing within our Courthouses** whenever possible, which involves staying **at least six feet apart** from other individuals; and
- (3) **stay home if you are sick.**

Any visitor seeking entry to our Courthouses without a face covering will 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. Should a

sufficient supply of face coverings/masks become available to individual Court units, such Court units will provide a face covering/mask to those seeking entry that do not have their own covering. Any individual granted entry to our Courthouses that refuses to continuously wear their face covering over their nose and mouth as required by this Order will be subject to removal from the Courthouse.⁵

In private office areas within our Courthouses, employees of the Clerk's Office and the Probation Office should be spaced at least six feet apart and maintain social distancing throughout the workday to the greatest extent practicable. If such employees do not have an enclosed office space or are unable to maintain six feet of distance between themselves and others, face coverings shall be worn in office settings, to include during all interactions with litigants, attorneys, supervisees, or members of the public. Judges of this Court are encouraged to implement these same social distancing and face covering precautions in their individual chambers.

⁵ If an individual cannot safely wear a face covering/mask due to a medical condition that causes them to have difficulty breathing, such individual almost certainly qualifies as a "vulnerable individual" as defined by the CDC and should strongly consider avoiding entry into any public spaces, including our Courthouses. However, to the extent a litigant, or other individual, has a condition where it is medically unsafe for them to wear a face covering (to include children under two years old) but also has a critical need to enter one of our Courthouses, the presiding judge at each Courthouse may make exceptions to the face covering requirement.

The above restrictions, while temporary, will remain in place until further Order of the Court, based upon recommendations of national and state, and local health officials.

It is so ORDERED.

/s/ 

Mark S. Davis
CHIEF UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
May 14, 2020