

2/18/2022

JULIA C. DUDLEY, CLERK  
BY: A. Seagle  
DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA**

**IN RE:**

**COURT OPERATIONS UNDER )  
THE EXIGENT CIRCUMSTANCES )  
CREATED BY THE OUTBREAK ) Standing Order 2022-3  
OF COVID-19: )  
RESCINDING WEEKLY )  
COVID-19 TESTING, )  
STANDING ORDER 2021-17 )**

The United States District Court for the Western 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. The staggering surge of the Delta variant since August 2021 and more recently, the Omicron variant, caused the COVID-19 community transmission rates to be at the HIGH level throughout the Western District of Virginia. As of today, the transmission rate for the Omicron variant remains at the HIGH level throughout most of Virginia.<sup>1</sup>

According to the CDC, the Omicron variant is more highly contagious but produces milder symptoms with fewer hospitalizations and deaths than the Delta variant.<sup>2</sup> Based on current information, the Omicron variant produces cases of

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<sup>1</sup> <https://covid.cdc.gov/covid-data-tracker/#variant-proportions> and [https://covid.cdc.gov/covid-data-tracker/#county-view?list\\_select\\_state=Virginia&data-type=Risk&list\\_select\\_county=51195](https://covid.cdc.gov/covid-data-tracker/#county-view?list_select_state=Virginia&data-type=Risk&list_select_county=51195) (last visited February 18, 2022).

<sup>2</sup> <https://www.cdc.gov/coronavirus/2019-ncov/variants/omicron-variant.html>

COVID-19 infections in large numbers of the population regardless of vaccination status.

The safety of court employees, judges, litigants, counsel, and members of the public that enter the court facilities in the Western District is a critical priority. See 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 [COVID-19 recovery] guidelines are implemented.”). Standing Order 2021-17 required weekly testing of court staff who had not received the vaccine. This action was taken based on the information then currently available from the CDC, Governor of Virginia, and state and local health departments.

As the court continues to monitor the current information about the Pandemic, it appears that because the Omicron variant of COVID-19 spreads regardless of vaccination status, there is no longer a *bona fide* need to require unvaccinated court staff to undergo weekly COVID-19 testing to protect staff and the public who enter the courthouses. Accordingly, based on the current information, the court intends to rescind the requirement of weekly testing of staff who are unvaccinated.

The CDC continues to recommend the wearing of well-fitting masks that cover the nose and mouth when indoors, frequent washing of hands, social distancing, testing for those who have COVID-19 symptoms and those who have been exposed to someone with COVID-19, and quarantining and isolating for those with a known

exposure to COVID-19 and those testing positive for COVID-19, respectively.<sup>3</sup> The CDC provides guidance on who should get tested and what to do if the test result is positive for COVID-19. This court will continue to follow guidance from the CDC as well as guidance issued by the Administrative Office, and state and local health departments.<sup>4</sup>

Accordingly, it is **ORDERED** that (1) the requirement for weekly COVID-19 testing of court and chambers staff who are unvaccinated is rescinded; (2) court and chambers staff will continue to wear a mask while in the public spaces of our court facilities, except when alone inside a private enclosed office space which consists of a door, ceiling, and walls;<sup>5</sup> (3) mask wearing during court proceedings will be at the discretion of the presiding judge; (4) court personnel who have come into close contact with someone testing positive for COVID-19 or who are experiencing COVID-19 symptoms must stay at home and telework, if possible. Such persons should be tested<sup>6</sup> and quarantine for an appropriate period pursuant to CDC guidance before returning to court facilities; and (5) court personnel with a positive COVID-19 test result should

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<sup>3</sup> <https://www.cdc.gov/coronavirus/2019-ncov/testing/diagnostic-testing.html#who-should-get-tested>

<sup>4</sup> <https://www.vdh.virginia.gov/coronavirus/get-the-latest-guidance/businesses/>

<sup>5</sup> The currently in-force mask policy for vaccinated individuals is set forth in General Order No. 2021-11.

<sup>6</sup> In December 2021, President Biden announced plans to expand free COVID testing, and in January 2021, the President announced that each household would receive four, free in-home rapid COVID test kits. See <https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/02/fact-sheet-president-biden-announces-new-actions-to-protect-americans-against-the-delta-and-omicron-variants-as-we-battle-covid-19-this-winter/> <https://www.npr.org/2022/01/13/1072730868/biden-announces-plans-to-buy-500-million-more-covid-tests-and-to-offer-free-mask>

isolate for an appropriate period pursuant to CDC guidance before returning to court facilities.

This Order will take effect immediately and will remain in place until further order of the court.

It is **SO ORDERED**.

**ENTER:** This 18th day of February, 2022.



Michael F. Urbanski  
Chief U.S. District Judge  
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Michael F. Urbanski  
Chief United States District Judge