


JAN 04 2022

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF ARKANSAS

TAMMY H. DOWNS, CLERK  
By:   
DEP CLERK

IN RE: COURT OPERATIONS DURING COVID-19 PANDEMIC

**ADMINISTRATIVE ORDER NINETEEN**

The omicron variant has spread across the Eastern District of Arkansas. Many uncertainties remain, but this variant's vigorous transmissibility and the rapidly growing number of infections are clear. Several counties in the Eastern District have been leading our State in new infections. These numbers are likely undercounts given various testing-related challenges. Hospitalizations are increasing, though the pace is modest at present.\* Preliminary information suggests less severe illness from omicron than from delta, especially among the vaccinated, but only the fullness of time will tell a whole story. Notwithstanding a 95% vaccination rate, as well as masking and distancing in our courthouses, some Court personnel have tested positive. The Arkansas Department of Correction has returned to lock-down status. Several of the County Detention Centers where this Court is holding defendants in custody are facing an increasing number of infections, too. This Court will remain open in the coming weeks, as it

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\* [www.healthy.arkansas.gov/programs-services/topics/novel-coronavirus](http://www.healthy.arkansas.gov/programs-services/topics/novel-coronavirus)

has been throughout the pandemic. But we must adjust operations to reduce virus-related risks to citizens, litigants, lawyers, and Court personnel.

Effective today until 31 January 2022, all hearings civil and criminal will be held by video-teleconference or telephone or postponed unless the presiding Judge finds that exceptional circumstances require an in-person hearing. The applicable CARES Act provisions govern remote hearings in criminal cases. See Administrative Order Eighteen.

The omicron variant's extraordinary transmission rate presents challenges for holding trials in January, especially jury trials. Our Court, however, will press on—holding the trials that need to be held and continuing those that can wait. We will deploy all of our various mitigation measures (masking, distancing, multiples spaces, and staggered start dates) with redoubled vigilance. And we will continue to monitor closely the number of citizens who report that they are unable to serve as jurors for virus-related reasons. Each presiding Judge will decide, case by case, whether to postpone each January trial depending upon the particulars presented and the developing omicron circumstances. If there is no pending motion for a continuance, then counsel in every case set for trial in January must confer and file a joint report either indicating a willingness to go forward with the trial or seeking a continuance. That paper must be filed by Thursday,

6 January 2022. Where there are case-specific, virus-related reasons to do so, continuances will be freely granted.

All the active and senior United States District Judges and United States Magistrate Judges for the Eastern District of Arkansas concur in this Administrative Order.

So Ordered.

*D.P. Marshall Jr.*

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D.P. Marshall Jr.  
Chief Judge

*4 January 2022*

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