

Anti-vaccine Client and Jury Trial

I have a client with an upcoming jury trial and he refuses to get vaccinated. The Court just issued an order that anyone who is not fully vaccinated must be masked if they are to come into the courtroom. I've been fully vaccinated.

I really don't want my client to be wearing a mask in the courtroom.

I think it will seriously hurt his appearance and demeanor in the courtroom and seriously impact his presence to the jury.

Anyone else running into this?

What is the court's provision for people who are unable to get vaccinated or who have religious objections to getting vaccinated or who is unable for health reasons to wear a mask? Is there a way to request that your client be allowed to do what those people do?

Otherwise, I think your client is just going to have to deal with effects of his or her decision to not get vaccinated.

Naomi C. Fujimoto, Hawaii

The court's order is quite clear – if you've been vaccinated, you don't have to wear a mask. If you haven't, you must wear a mask.

He doesn't have a religious exemption – he's just very odd bird.

Sterling L. DeRamus, Alabama

Your client is certainly entitled to choose not to be vaccinated, and to accept the consequences, if any.

Wearing a mask in Court seems to be a consequence.

What can you do - ask that the Court, counsel, and any other participant knowingly lie to the Jury? NOT a good start, IMO.

Russ Carmichael, Pennsylvania

I'm not a criminal attorney, and not an attorney in your jurisdiction. I do practice in Florida, and there are plenty of folks here who aren't vaccinated and do not want to be vaccinated. So while I haven't run into your particular situation, I can understand it.

Frankly, I would put my recommendations in writing to the client to get vaccinated. Say something about how impressions and nonverbal communications and impressions are very important in a jury trial, and it is required that he comply with the court's order and wear a mask during the trial if he has not been fully vaccinated. He may be, and in your opinion would be, hampering his case by not getting vaccinated, and thus you recommend he do so as soon as possible so that he would then be able to have his full face visible during the trial. If client doesn't, then he doesn't, and you have done what you could.

As a possible compromise position, if you think it would help and it is the visibility of the face that is at issue (and not demeanor indicated by choosing not to get vaccinated,) then you should know that there are clear facemasks available. I'm not talking about a face shield, I mean the mask itself is completely clear or has a clear mouth panel. I first became aware of them as they are/were needed by members of the deaf community so they could lipread. Local courts did also require them for jury trials and any testifying witnesses earlier this year.

Here is a local administrative order addressing this:

http://brevardclerk.us/_cache/files/8/8/883d4fe8-e3ea-4ca3-bdf0-17da89abe170/C3FD4A78434E35BE8FFD8F57BCD6111E.21-11-amd.pdf

Cynthia V. Hall, Florida

Thanks, Cynthia!!

I just got off the phone and made your points to him and he agreed that he would get the Johnson and Johnson vaccine a few days before trial if he had to. He would otherwise wait to see if the case settles so he didn't have to. Sure enough, he ranted and raved about the vaccine and the whole COVID thing. I said that wasn't my concern. I'm not arguing about that. I'm saying you can't go in front of jury wearing a mask or it will hurt your case. But if that's what you want to do, you can do it.

Sterling L. DeRamus