



made by the State's commander in chief during times of disaster.<sup>1</sup> But the Texas Legislature made the Governor—not a patchwork of city officials, county judges, superintendents, or school boards—the leader of the State's response to and recovery from a statewide emergency.<sup>2</sup>

2. GA-38 is a statewide order, issued using statewide emergency powers, with a statewide legal effect. It has the force and effect of state law, and state law preempts inconsistent local law. Defendants disagree with Governor Abbott's policy choice. But Defendants must recognize the fact that they are not above the law. The City of Denton's mask mandate should be immediately enjoined.

**REQUEST FOR AN EXPEDITED HEARING ON THE STATE'S APPLICATIONS FOR A  
TEMPORARY RESTRAINING ORDER AND A TEMPORARY INJUNCTION**

3. Given the important and urgent issues raised in this action, the State requests an expedited setting on its applications for a temporary restraining order and a temporary injunction.

4. The State is seeking non-monetary relief as well as costs and attorney's fees not to exceed \$250,000. Discovery is intended to be conducted under Level 1.

**PARTIES**

***Plaintiff***

5. Plaintiff is the State of Texas.

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<sup>1</sup> See Tex. Gov't Code § 418.015(c).

<sup>2</sup> *Id.* § 418.011.

**Defendants**

6. Defendant City of Denton is an incorporated municipality located in Denton County and a political subdivision of the State of Texas and may be served through Gerard Hudspeth, Mayor of the City of Denton, at his place of business: City Hall, 215 E. McKinney Street, Denton, TX 76201.

7. Defendant Sara Hensley is the Interim City Manager of the City of Denton and may be served at her place of business: City Hall, 215 E. McKinney Street, Denton, TX 76201.

8. Defendant Gerard Hudspeth is the Mayor of the City of Denton and may be served at his place of business: City Hall, 215 E. McKinney Street, Denton, TX 76201.

9. Defendant City Council of City of Denton is the City Council for the City of Denton and may be served through Gerard Hudspeth, Mayor of the City of Denton, at his place of business: City Hall, 215 E. McKinney Street, Denton, TX 76201.

10. Defendants Vicki Byrd, Brian Beck, Jesse Davis, Alison Maguire, Deb Armintor, and Paul Meltzer are members of the City Council of the City of Denton and may be served at their place of business: City Hall, 215 E. McKinney Street, Denton, TX 76201.

**JURISDICTION AND VENUE**

11. The subject matter in controversy is within the jurisdictional limits of this Court, and the Court has jurisdiction over the action under Article V,

Section 8 of the Texas Constitution and section 24.007 of the Texas Government Code, as well as under sections 37.001 and 37.003 of the Texas Uniform Declaratory Judgments Act and section 65.021 of the Texas Civil Practice and Remedies Code.

12. Venue is proper in Denton County under sections 15.002(a)(1), (a)(2), and (a)(3), and 65.023 of the Texas Civil Practices and Remedies Code.

### BACKGROUND

#### **I. The Texas Disaster Act of 1975 Makes the Governor the Leader of the State’s Emergency Response.**

13. Two core purposes of the Texas Disaster Act of 1975 (“TDA”) are to: (1) mitigate the “damage, injury, and loss of life and property” resulting from a disaster; and (2) “provide a setting conducive to the rapid and orderly restoration and rehabilitation of persons and property affected by disasters.”<sup>3</sup>

14. The TDA names the Governor the “commander in chief” of the State’s response to a disaster<sup>4</sup> and makes him “responsible for meeting . . . the dangers to the state and people presented by disasters.”<sup>5</sup>

15. The TDA grants the Governor vast powers to meet this obligation, which include the power to: (1) issue executive orders carrying “the force and

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<sup>3</sup> Tex. Gov’t Code § 418.002(1), (3).

<sup>4</sup> *Id.* § 418.015(c).

<sup>5</sup> *Id.* § 418.011.

effect of law”;<sup>6</sup> (2) control the movement of persons and occupancy of premises;<sup>7</sup> (3) suspend statutes, orders, or rules;<sup>8</sup> and (4) use all available public resources, including resources of cities and counties.<sup>9</sup>

16. The TDA makes certain local officials “agents” of the Governor and gives them powers subordinate to the Governor’s.<sup>10</sup> Local officials who preside over an incorporated city or a county—meaning city mayors and county judges—are deemed “emergency management directors.”<sup>11</sup> These directors “serve[] as the governor’s designated agent in the administration and supervision of duties under this chapter.”<sup>12</sup> When serving in this capacity, these directors “may exercise the powers granted to the governor under this chapter on an appropriate local scale.”<sup>13</sup>

17. The TDA also allows these same local officials the power to control the movement of persons and the occupancy of premises in a local disaster area.<sup>14</sup>

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<sup>6</sup> *Id.* § 418.012.

<sup>7</sup> *Id.* § 418.018(c).

<sup>8</sup> *Id.* § 418.016(a).

<sup>9</sup> *Id.* § 418.017(a).

<sup>10</sup> *Id.* § 418.1015(b).

<sup>11</sup> *Id.* § 418.1015(a).

<sup>12</sup> *Id.* § 418.1015(b).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* § 418.108(g).

But as a power under “this chapter,” emergency management directors can wield it only in their capacities as the Governor’s “designated agent[s].”<sup>15</sup>

18. The TDA does not confer on county judges, city mayors, or any other local officials an independent power to issue emergency orders carrying the force and effect of law.

## **II. GA-38 Protects Individual Autonomy in Making Personal Health Decisions.**

19. On July 29, 2021, Governor Abbott issued executive order GA-38.<sup>16</sup>

20. GA-38 seeks to create a uniform response to the COVID-19 pandemic, one that gives individuals the autonomy to make personal health decisions free from government control.<sup>17</sup>

21. Towards this end, GA-38 enacts limits to “ensure that vaccines continue to be voluntary for all Texans and that Texans’ private COVID-19-related health information continues to enjoy protection against compelled disclosure . . .”<sup>18</sup>

22. Also, GA-38 protects businesses and other establishments from “COVID-19-related operating limits.”<sup>19</sup>

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<sup>15</sup> *Id.* § 418.1015(b).

<sup>16</sup> A copy of GA-38 is attached hereto as **Exhibit A**. GA-38 is publicly available at <https://tinyurl.com/eo-ga-38>.

<sup>17</sup> *See id.* at p. 1.

<sup>18</sup> *Id.* at pp. 2–3.

<sup>19</sup> *Id.* at p. 3

23. Further, GA-38 bans most state and local officials from mandating the wearing of facemasks.<sup>20</sup> GA-38 contains an exception that allows certain institutions—state supported living centers, government-owned hospitals, and jails—to require the wearing of facemasks.<sup>21</sup>

24. To ensure individual autonomy and promote uniformity, GA-38 supersedes conflicting local emergency orders.<sup>22</sup> For the same reasons, GA-38 also suspends certain listed statutes and any others “to the extent necessary to ensure that local officials do not impose restrictions in response to the COVID-19 disaster that are inconsistent with this executive order.”<sup>23</sup>

25. Importantly, under GA-38, any person who wants to wear a facemask, get a vaccine, or engage in social distancing can still do so.<sup>24</sup> GA-38 “strongly encourage[s]” such practices.<sup>25</sup> But GA-38 leaves individuals free to follow the safe practices they should have already mastered over the last 18 months.<sup>26</sup>

26. GA-38’s prohibition on local officials’ facemask mandates falls comfortably within Governor Abbott’s broad power to “control ingress and

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<sup>20</sup> *Id.* at pp. 3–4.

<sup>21</sup> *Id.* at p. 4.

<sup>22</sup> *Id.* at pp. 3–4.

<sup>23</sup> *Id.* at pp. 3–5.

<sup>24</sup> *Id.* at pp. 4.

<sup>25</sup> *Id.* at pp. 1.

<sup>26</sup> *Id.* at pp. 3.

egress to and from a disaster area and the movement of persons and occupancy of premises in the area.”<sup>27</sup>

27. Specifically, GA-38’s ban on facemask mandates controls “ingress and egress” to, “movement” in, and “occupancy of” a disaster area as it authorizes the entry of employees into city buildings who would be prohibited if a city was to require the wearing of facemasks. GA-38 also controls the conditions individuals may be subjected to when “occupying” premises in a disaster area.

### **III. City of Denton Issues a Facemask Mandate in Defiance of GA-38.**

28. On or about January 25, 2022, the City of Denton, acting through its Mayor and City Council, adopted the Nineteenth Order of the Council of the City of Denton which mandated masks in all City of Denton buildings (“Defendants’ Facemask Order”).<sup>28</sup>

29. Defendants’ Facemask Order is barred by GA-38, which explicitly prohibits local officials such as Defendants from issuing facemask mandates in response to COVID-19.

30. On February 14, 2022, Sara Hensley, Interim City Manager for the City of Denton, sent a letter to the City of Denton Employees regarding return to in-person operations to begin February 28, 2022.<sup>29</sup> In that letter,

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<sup>27</sup> Tex. Gov’t Code § 418.018(c).

<sup>28</sup> A copy of the Nineteenth Order of the Council of the City of Denton is attached at **Exhibit B**. The Order is publicly available at <https://tinyurl.com/yhvpw7d9>.

<sup>29</sup> A copy of the February 14, 2022 Letter from Sara Hensley is attached hereto as **Exhibit C**.



City Manager Hensley informs city employees that “[u]nder the Nineteenth Order of Council, masks are currently required for all employees and contractors within City of Denton Buildings.”<sup>30</sup> City Manager Hensley further threatens employees that “[c]orrective actions may be warranted is an employee does not comply with mask requirements.”<sup>31</sup>

31. On February 17, 2022, the Office of Attorney General sent a letter to City Manager Hensley, warning that the imposition of the mask mandate exceeded the City’s authority and violated GA-38. The letter requested City Manager Hensley to rescind the Facemask Order by 12:00 p.m. February 22nd.<sup>32</sup>

32. As of the filing of this Petition, the City has not rescinded its Facemask Order in response to the letter from Attorney General Paxton’s office.

#### **CLAIMS FOR RELIEF**

33. Pursuant to the *ultra vires* doctrine, the Uniform Declaratory Judgment Act and preemption principles, the State alleges as follows:

34. GA-38 has the force and effect of law. GA-38 preempts city ordinances that are in direct conflict with its prohibition on mask mandates. Cities are political subdivisions of the State, and a city ordinance, rule, or policy that “attempts to regulate a subject matter preempted by a state statute is

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<sup>30</sup> *Id.* at 1.

<sup>31</sup> *Id.*

<sup>32</sup> Exhibit D (February 17, 2022 letter to Sara Hensley).

unenforceable to the extent it conflicts with the state statute.”<sup>33</sup> In other words, a city’s general statutory authority does not allow it, or its officials, to violate GA-38. Instead, cities act as agents of the Governor and may only act within the scope of that agency. In the event of a conflict between a city’s authority and GA-38’s specific prohibition on mask mandates, GA-38’s specific prohibition controls. Therefore, the State requests a declaration that the enactment and enforcement of Defendants’ Facemask Orders is invalid, unlawful, and constitutes an *ultra vires* act.

**APPLICATIONS FOR A TEMPORARY RESTRAINING ORDER  
AND A TEMPORARY INJUNCTION**

35. A temporary restraining order serves to provide emergency relief and to preserve the status quo until a hearing may be held on a temporary injunction.<sup>34</sup> “A temporary injunction’s purpose is to preserve the status quo of the litigation’s subject matter pending a trial on the merits.”<sup>35</sup> The applicant must prove three elements to obtain a temporary injunction: (1) a cause of action against the adverse party; (2) a probable right to the relief sought; and (3) a probable, imminent, and irreparable injury in the interim.<sup>36</sup> These requirements are readily met here.

**I. The State will Likely Succeed on the Merits.**

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<sup>33</sup> *Dallas Merchant’s and Concessionaire’s Ass’n v. City of Dallas*, 852 S.W.2d 489, 491 (Tex. 1993) (citing *City of Brookside Village v. Comeau*, 633 S.W.2d 790, 796 (Tex. 1982)).

<sup>34</sup> *Texas Aeronautics Commission v. Betts*, 469 S.W.2d 394, 398 (Tex. 1971).

<sup>35</sup> *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002).

<sup>36</sup> *Id.*

36. The State will likely succeed on the merits because (1) GA-38 expressly preempts Defendants’ Facemask Order and (2) Governor Abbott lawfully suspended Defendants’ statutory authority to issue their Facemask Order.

**A. GA-38 Expressly Preempts Defendants’ Facemask Order.**

37. The point is simple. Governor Abbott’s emergency orders carry the force and effect of law.<sup>37</sup> His emergency orders, which are issued using statewide powers and which have a statewide legal effect, are effectively “state laws.” Traditional preemption principles dictate that when a state law conflicts with a local law, the state law controls.<sup>38</sup>

38. Here, GA-38 supersedes and preempts any local orders or local requirements that are inconsistent with GA-38.<sup>39</sup> Defendants’ Facemask Order imposes facemask requirements that are at odds with, and expressly prohibited by, GA-38. As such, Defendants’ Facemask Order is expressly preempted by GA-38 and thus should be enjoined.

39. A review of the Legislature’s intent, which is a focus of a preemption analysis,<sup>40</sup> supports this conclusion. Recently, an array of public officials—the Governor, city mayors, county judges, public health authorities, school board

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<sup>37</sup> Tex. Gov’t Code § 418.012.

<sup>38</sup> See, e.g., *BCCA Appeal Grp., Inc. v. City of Houston*, 496 S.W.3d 1, 18–19 (Tex. 2016); see also *City of Laredo v. Laredo Merchants Ass’n*, 550 S.W.3d 586, 593 (Tex. 2018); *S. Crushed Concrete, LLC v. City of Houston*, 398 S.W.3d 676, 678 (Tex. 2013).

<sup>39</sup> Ex. A at pp. 3–4.

<sup>40</sup> *BCCA Appeal Group, Inc.*, 496 S.W.3d at 8.

trustees, etc.—have been relying on different statutes to issue conflicting orders on the facemask issue. One of these orders *must* control.

40. Of these officials, the Governor is the only one with the authority to issue (1) *statewide* emergency orders<sup>41</sup> (2) that explicitly carry the force and effect of *state* laws.<sup>42</sup> Also, the Governor is the only official made explicitly responsible for meeting the dangers to the state and its people presented by a disaster.<sup>43</sup> Further, the Governor is the only one with the emergency powers to suspend laws;<sup>44</sup> use all available public resources, including resources of cities and counties;<sup>45</sup> and control the movement of persons and occupancy of premises on a statewide level.<sup>46</sup> The Legislature’s intent is clear. In the event of a conflict, Governor Abbott’s emergency orders control; his orders *must* have preemptive effect or else they are meaningless.

41. This conclusion is further supported by the principle that specific statutes control over local ones when a conflict is irreconcilable.<sup>47</sup> But here harmonization *is* possible: cities’ general authority is not abolished, but merely circumscribed, by GA-38’s prohibitions. Just as the general authority

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<sup>41</sup> See Tex. Gov’t Code §§ 418.014–.015.

<sup>42</sup> *Id.* § 418.012.

<sup>43</sup> *Id.* § 418.011.

<sup>44</sup> *Id.* § 418.016(a).

<sup>45</sup> *Id.* § 418.017.

<sup>46</sup> *Id.* § 418.018.

<sup>47</sup> See, e.g., *id.* § 311.026.

of a city does not exempt that city from complying with a municipal building code,<sup>48</sup> so too does that general authority not exempt a city from complying with GA-38. GA-38's ban on mask mandates functions as a particular limit on cities' general authority.

42. The TDA reflects the Legislature's comprehensive allocation of powers and responsibilities during declared disasters. Cities are subject to the TDA and GA-38 just like any other state law.<sup>49</sup> In the context of conflicting orders targeted at the subject of a declared disaster, the TDA is what controls, not the general-authority statutes Defendants will likely rely on when opposing this Petition.

43. Further, any alternative conclusion would have absurd and potentially disastrous results. As noted above, the Legislature gave only the Governor the emergency power to issue orders carrying the force and effect of law. City mayors and other local officials are not granted this specific power.<sup>50</sup> City ordinances are *not* imbued with the force and effect of law and cannot preempt the Governor's orders under the TDA could not preempt local city ordinance. This inversion of authority would turn dozens of state and local emergency orders into impotent non-binding recommendations. It would

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<sup>48</sup> See *Port Arthur Indep. Sch. Dist. v. City of Groves*, 376 S.W.2d 330, 334 (Tex. 1964).

<sup>49</sup> *Payne v. Massey*, 196 S.W.2d 493, 495 (Tex. 1946) ("Municipalities are creatures of our law and are created as a political subdivision of the state as a convenient agency for the exercise of such powers are conferred upon them by the state.")

<sup>50</sup> See Tex. Gov't Code § 418.108.

make local officials the true leaders of the State’s response to a statewide emergency as opposed to the Governor. This is not what the Legislature intended when it enacted the TDA, and it is not the law.

44. In sum, GA-38 was a lawful use of Governor Abbott’s power to preempt inconsistent local orders. It has the force and effect of state law and must be followed, regardless of whether local officials agree with it. Defendants acted *ultra vires* when they issued their Facemask Order barred by GA-38.

**B. Governor Abbott Suspended Defendants’ Authority to Issue a Mandatory Facemask Requirement Under the Circumstances.**

45. Governor Abbott, using his TDA-granted power,<sup>51</sup> suspended “any . . . relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to this COVID-19 disaster that are inconsistent with this executive order . . . .”<sup>52</sup> Under the circumstances, Defendants had no authority to issue and enforce a mandatory facemask requirement that is expressly barred by GA-38. This makes Defendants’ Facemask Order invalid and their conduct *ultra vires*.

46. In *State v. El Paso County*, the El Paso Court of Appeals found that this suspension power should be interpreted broadly.<sup>53</sup> That court noted that the common dictionary meaning for the term “regulate” included “to control

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<sup>51</sup> TEX. GOV’T CODE § 418.016(a).

<sup>52</sup> Ex. A at ¶ 5.

<sup>53</sup> 618 S.W.3d 812, 823–25 (Tex. App.—El Paso 2020, no pet.), mandamus dismissed (Nov. 20, 2020).

or supervise by means of rules and regulations.”<sup>54</sup> The court found that § 418.018 and the local emergency order issued thereunder fit within the “classic definition of regulation.”<sup>55</sup>

47. The court then analyzed the term “state business.” The court found that “state business” did not “mean only the activities of state agencies and actors.”<sup>56</sup> The court reasoned that “had the Legislature meant to so limit the term, it would have said ‘official state business,’ as it has done in many other statutes.”<sup>57</sup> The court found that the local emergency order’s restrictions readily qualified as matters of “state business” under this interpretation.<sup>58</sup> The El Paso Court of Appeals’ reasoning applies equally here.

48. Realistically, in the context of a worldwide pandemic, even local disaster responses are matters of “state business,” especially when local officials are undermining the Governor’s attempt to craft a uniform statewide response to that pandemic. GA-38’s suspensions are valid under § 418.016(a).

49. To be clear, GA-38 is supported by two independent gubernatorial powers—the power to preempt and the power to suspend. Knock out just one of these powers, and GA-38 is lawful under the other. Defendants will need to

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<sup>54</sup> *Id.* at 824 (citing various dictionaries).

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* (citing Tex. Gov’t Code §§ 660.009, 660.043, 1232.003).

<sup>58</sup> *Id.*

invalidate both powers to overcome the State's claims. Defendants will not be able to do so.

## II. The State will be Irreparably Injured Absent an Injunction.

50. The State's injuries are irreparable. The Supreme Court of Texas recently held as much in *State v. Hollins*.<sup>59</sup>

51. There, the Court explained that a century's worth of precedent establishes "the State's 'justiciable interest in its sovereign capacity in the maintenance and operation of its municipal corporation in accordance with law.'"<sup>60</sup> The Court noted that an *ultra vires* suit is a necessary tool to reassert the State's control over local officials who are misapplying or defying State laws.<sup>61</sup> The Court reasoned: "[This] tool would be useless . . . if the State were required to demonstrate additional, particularized harm arising from a local official's specific unauthorized actions."<sup>62</sup>

52. The Court continued that "[t]he [State] would be impotent to enforce its own laws if it could not temporarily enjoin those breaking them pending trial."<sup>63</sup> The Court found that, "[w]hen the State files suit to enjoin *ultra vires*

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<sup>59</sup> 620 S.W.3d 400, 410 (Tex. 2020).

<sup>60</sup> *Id.* (quoting *Yett v. Cook*, 281 S.W. 837, 842 (Tex. 1926)).

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*



action by a local official, a showing of likely success on the merits is sufficient to satisfy the irreparable-injury requirement for a temporary injunction.”<sup>64</sup>

53. Per *Hollins*, the irreparable injury requirement favors the State.

54. The El Paso Court of Appeals rightly viewed *Hollins* “as controlling” on the irreparable injury issue.<sup>65</sup>

### **III. Emergency Injunctive Relief is Necessary to Preserve the Status Quo.**

55. “The status quo is the last actual, peaceable, noncontested status which preceded the pending controversy.”<sup>66</sup> There was no controversy over Defendants’ Facemask Order until they issued that order, which occurred after Governor Abbott enacted GA-38. The State is merely asking to bring Defendants back to their position prior to their facemask mandate.

56. The Texas Supreme Court has given unequivocal direction to lower courts who are considering local officials’ attempt to usurp the Governor’s power to control the direction of the State’s response to the COVID-19 pandemic. The status quo favors the State.

57. Recently, the Texas Supreme Court overturned two temporary restraining orders and one temporary injunction enjoining GA-38’s ban on

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<sup>64</sup> *Id.*

<sup>65</sup> *El Paso County*, 618 S.W.3d at 826.

<sup>66</sup> *Sharma v. Vinmar Intern., Ltd.*, 231 S.W.3d 405, 419 (Tex. App.—Houston [14th Dist.] 2007, no pet.).

facemask mandates.<sup>67</sup> Each time, the Court overturned these injunctions because they altered the status quo.<sup>68</sup>

58. The Court spoke in particularly clear and unmistakable terms in its most recent order dated August 26, 2021.<sup>69</sup> The Court explained that these facemask cases turn on a pure legal question: “[W]hich government officials have the legal authority to decide what the government’s position on [facemasks] will be.”<sup>70</sup> The Court continued: “The status quo, for many months, has been gubernatorial oversight of such decisions at both the state and local levels.”<sup>71</sup> The Court held that the status quo of “gubernatorial oversight” of disaster-related decisions “should remain in place while the court of appeals, and potentially this Court, examine the parties’ merits arguments to determine whether plaintiffs have demonstrated a probable right to the relief sought.”<sup>72</sup>

59. Texas Supreme Court precedent requires that this Court enjoin Defendants’ Facemask Order and restore the status quo of gubernatorial control. Binding precedent still matters, even during a pandemic.

#### **APPLICATION FOR A PERMANENT INJUNCTION**

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<sup>67</sup> See Exhibits M–O.

<sup>68</sup> *Id.*

<sup>69</sup> Ex. O.

<sup>70</sup> *Id.* at ¶ 2.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

60. The State also asks the Court to set its request for a permanent injunction for a trial on the merits, and after the trial, issue a permanent injunction as set forth above.

**PRAYER**

61. For the reasons discussed above, the State respectfully prays that this Court:

- A. Through counsel below, enter an appearance for the State in this cause;
- B. Issue a temporary restraining order, which will remain in force until a temporary injunction hearing is held, restraining Defendants and any of their officers, agents, servants, employees, attorneys, representatives, or any other persons in active concert or participation with them who receive actual notice of the Order from enforcing Defendants' Facemask Orders for as long as GA-38 (or a future executive order containing the same prohibitions) remains in effect;
- C. Set a date and time for a hearing on the State's application for a temporary injunction;
- D. Declare Defendants' Facemask Orders to be invalid and unlawful;
- E. Issue temporary and permanent injunctions that order Defendants to: (1) stop, or order stopped, all enforcement efforts of their Facemask Orders; (2) rescind their Facemask Orders; and (3) refrain from issuing any new emergency restrictions that conflict with GA-38;
- F. Award Supplemental Relief under Tex. Civ. Prac. & Rem. Code § 37.011 as necessary to enforce the declaratory judgment issued by this Court;
- G. Award attorneys' fees and costs; and
- H. Award any further relief that the Court deems just and proper.

Respectfully submitted,

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**ATTORNEYS FOR THE STATE OF TEXAS**



Original Petition and Applications for Temporary Restraining Order and Temporary and Permanent Injunctive Relief are true and correct. This verification is based on my review of the State and local emergency orders in question and other publicly available materials which this Court will be able to take judicial notice of.

Executed in Travis County, State of Texas, on the 22nd day of February 2022.

/s/ William D. Wassdorf

William D. Wassdorf