

CAUSE NO. DC-21-10101

J.J. KOCH,		§	IN THE DISTRICT COURT
	<i>Plaintiff,</i>	§	
v.		§	
CLAY JENKINS, IN HIS OFFICIAL		§	
CAPACITY,		§	
	<i>Defendant and</i>	§	
	<i>Counter-Plaintiff,</i>	§	
v.		§	
GREG ABBOTT, IN HIS OFFICIAL		§	
CAPACITY AS GOVERNOR OF THE		§	
STATE OF TEXAS,		§	116 th JUDICIAL DISTRICT
	<i>Counter-Defendant,</i>	§	
v.		§	
STATE OF TEXAS,		§	
	<i>Intervenor and</i>	§	
	<i>Counter-Defendant,</i>	§	
v.		§	
MINOR PLAINTIFF, O.D., BY AND		§	
THROUGH THEIR PARENT AND		§	
LEGAL GUARDIAN, LISA DURR, et al.,		§	
	<i>Intervenors and</i>	§	
	<i>Counter-Plaintiffs.</i>	§	DALLAS COUNTY, TEXAS

ORDER GRANTING TEMPORARY INJUNCTION

On August 24, 2021, came on for hearing (“Hearing”) the Application for Temporary Injunction (“Application”) filed by Counter-Plaintiff Clay Jenkins in his official capacity as County Judge of Dallas (“County Judge Jenkins”), due notice having been given. County Judge Jenkins, Counter-Defendant Greg Abbott in his official capacity as Governor of the State of Texas (“Governor”), and Intervenor/Counter-Defendant State of Texas appeared through their respective counsel.

After considering the Application, pleadings, exhibits, testimony, evidence admitted by affidavit or unsworn declaration at the Hearing, and the arguments of counsel, the Court finds and concludes that:

1. County Judge Jenkins has shown a probable right to relief on the merits of his claims against the Governor and the State of Texas.

2. County Judge Jenkins has shown that, unless the Governor and State of Texas are temporarily enjoined as described below, County Judge Jenkins and the residents of Dallas County whom he serves in his official capacity, will suffer probable imminent and irreparable injury through County Judge Jenkins being precluded from exercising his authority, as a County Judge who has declared a local state of disaster in Dallas County, to require persons in Dallas County to wear, or mandate the wearing of, masks or face coverings in Dallas County to reduce the spread of the COVID-19 virus, particularly the highly transmissible delta variant, which threatens to overwhelm the capacity of the healthcare system in Dallas County and result in increased hospitalizations and deaths in Dallas County. Each of these bases for probable imminent and irreparable injury independently supports the issuance of the requested temporary injunction.

3. The issuance of the temporary injunction described below will maintain the status quo between the parties during the pendency of such order by returning the County Judge to the position he was in before Executive Order GA 38 was put in place restraining local response to the more recent resurgence of COVID-19 infections and hospitalizations in Dallas County due to the highly contagious delta variant.

4. The cash deposit of \$500.00 previously made by County Judge Jenkins and accepted by the Dallas County District Clerk constitutes sufficient security, in lieu of bond, for issuance of the temporary injunction described below.

IT IS THEREFORE ORDERED that the Clerk of this Court issue a Temporary Injunction, operative until final judgment, restraining Greg Abbott in his official capacity as Governor of the


State of Texas, and each of his agents, servants, employees, attorneys, representatives, or any persons in active concert or participation with him who receive actual notice of the Temporary Injunction, and the State of Texas, and each of its agents, servants, employees, attorneys, representatives, or any persons in active concert or participation with the State of Texas who receive actual notice of the Temporary Injunction, from enforcing paragraphs (3)(b), (3)(g), and (4) of Governor Abbott's Executive Order GA-38 to the extent those provisions prohibit County Judge Jenkins from requiring persons in Dallas County to wear, or mandating the wearing of, masks or face coverings in Dallas County to address the particularized local disaster in such county in light of, among other things, the number of infections, hospitalizations, and overall ripple effect on the healthcare system.

IT IS FURTHER ORDERED that, in lieu of requiring County Judge Jenkins to execute and file a new bond for issuance of the Temporary Injunction, the \$500 cash deposit filed by County Judge Jenkins and accepted by the Dallas County District Clerk in connection with the Temporary Restraining Order signed in this lawsuit is hereby deemed extended in conformity with the law to the period during which the Temporary Injunction is in effect.

IT IS FURTHER ORDERED that trial on the merits of this cause is set on the 10th day of January 2022 at 9:00 a.m.

The State Defendants' Plea to the Jurisdiction was not set for hearing on August 24, 2021, has not been heard or determined, and remains pending before the Court.

SIGNED the 25th day of August 2021, at 11:30 a.m.



JUDGE PRESIDING