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Hon. James D. Blacklock
Chief Justice Texas Supreme Court
201 West 14th Street
P.O. Box 12248
Austin, TX 78711

May 22, 2026

RE: Your Letter of May 19, 2026

Dear Chief Justice Blacklock,

Thank you for the opportunity to provide the Supreme Court with further information. I believe the following will provide a fuller, more accurate and complete picture of the purpose and need for my masking policy. My masking policy is in no way related to preventing the spread of COVID-19. To the extent that any COVID-19 policies remain on the County Website and on the OCA website, I have requested that those policies be removed. ¹

To set the stage, my courtroom is approximately 60 feet by 30 feet. It is an enclosed space in an old building with poor ventilation and asbestos in situ. *At my own expense*, for the purpose of protecting my health and for the health and safety of my court staff, I purchased hospital grade HEPA air filters for the courtroom and my chambers.^[1] In May of 2022, I was diagnosed with an extremely rare autoimmune disease and was advised by my physicians to take stringent precautions because any infection, illness or disease could be life threatening.

As previously mentioned, I am highly susceptible to infection and despite these precautions I am still prone to and have contracted viral infections during court proceedings. As you may be aware, people come to court in all stages of infection and various levels of exposure to others who are or

¹ Please note that in addition to the lingering unenforceable COVID-19 policy on my court website, which is maintained by the Dallas County IT Department, Judge Melissa Bellan's website for County Court at Law No.2 still maintains a COVID-19 related policy as does the Dallas County Government webpage related to the County Courts at Law in general. See Exhibit "A" Copies of COVID-19 policies referenced on the Dallas County Website.

may be ill. The Texas Health & Safety Code Section 81.002, entitled Responsibility of State and Public States as follows: “The state has a duty to protect the public health. *Each person shall act responsibly to prevent and control communicable disease.*” (emphasis added).

My high susceptibility to infection was unfortunately substantiated in January of 2025 when I suffered severe infection and related complications after a surgical procedure that resulted in me being admitted to an *Intensive Care Unit (ICU)* where I was placed in medical coma for 10 days. I spent three weeks in the hospital the majority of which time was spent in the ICU. After being released from the hospital, I was directly admitted into a rehabilitation hospital where I spent three weeks before being released to go home. I was home for approximately two weeks before I was again admitted to the hospital on an emergency basis for treatment of a severe infection of a vital organ. I remained in the hospital for five days. I was sent home afterwards with an intravenous antibiotic treatment which required in-home nursing care for several months.

As can clearly be seen from my recitation, I do not exaggerate the level of my susceptibility. My masking policy is based upon sheer medical necessity and recommendation. I was advised by my physician that my best protection (in addition to the precautions I had already undertaken) would be for people in my courtroom to wear masks.²

My masking policy is and has been as follows:

During in-person court proceedings the witness and I, as well as my court reporter remain unmasked behind plexiglass shields. *When side bar bench conferences take place, I wear a mask.* [2] Attorneys are *unmasked* when addressing the court, conducting voir dire, making opening statements, cross-examining witnesses, making closing statements and when making objections. During recesses, moving around the courthouse and while deliberating jurors are unmasked.

On any given day I may have multiple hearing dockets with as many as 30 or more cases some multiple counsel. Attorneys, parties and members of the public come and go. The amount of time that they spend in the courtroom and the number of other individuals to which they are exposed, is significantly less than the prolonged exposure experienced by a Court managing its docket.

Moreover, parties coming court are there to see the judge and pursue their legal matters before the court. They do not experience the prolonged exposure to the numerous individuals that the court does. The time visitors to the Court are asked to wear a mask is relatively negligible and significantly limited when compared to the level of exposure a Court experiences and should not be considered unfair or unduly burdensome.

In response to Mr. Hail’s assertions, some of which rise to the level of absurdity, Mr. Frenkel never spoke with me about my masking policy and despite his assertion that he was told he was barred

² I am happy to provide to the Court, *in a manner that protects my medical confidentiality from public disclosure*, a copy of the letter from my physician.

from my courtroom, I personally observed him masked and sitting in the back of my courtroom for several hours on multiple days during the trial he claims he was not allowed to handle. Additionally, his allegation that a bailiff told him that he would be sent to the 7th floor stretches credulity. The 7th floor of the George Allen courthouse where I preside is occupied by the Probate Courts and their administrative offices.

Judge Benson's COVID-19 Procedures for County Court at Law No. 1:

- (1) are directly contrary to Texas Health & Safety Code S 81C.002 and therefore fail to comply with Texas Rule of Civil Procedure 3a(b); (*sic*)

Mr. Hail wrongly asserts that Texas Health & Safety Code S 81C.002 is the basis for his client's complaint. **There is no provision of the Texas Health & Safety Code entitled "Texas Health & Safety Code S 81C.002"**. See Exhibit "B". I assume Mr. Hail intends to reference Texas Health & Safety Code Section 81B.002. That provision in subsection (a) states "Except as provided by Subsection (b), a governmental entity may not implement, order, or otherwise impose a mandate requiring a person to wear a mask or other face covering *to prevent the spread of COVID-19*. (emphasis added). See Exhibit "C". It is not a general prohibition on requiring masks, it is a **specific prohibition on requiring masks to prevent COVID-19**. I, reiterate, my masking requirement *is not related to preventing the spread of COVID-19*. My requirement is based upon my personal health condition.

- (2) infringe on the constitutional right to a fair trial by jury by inhibiting the jury's role in assessing witness credibility, as well as the rights of a client to have counsel of their choice represent them in a court enforcing illegal orders; (*sic*)

Clearly Mr. Hail has failed to apprise himself of my actual masking policy and how it is implemented. He has never asked me about my policy, nor has he apparently ever been present in my courtroom during court proceedings. Nothing about my policy prohibits a jury from assessing a witness's credibility. As stated above, witnesses are fully visible to the jury and counsel, ***are unmasked*** and sit behind a plexiglass shield like the one that surrounds my bench. See Exhibit "D".

- (3) lack any supporting legal authority due to the expiration of all emergency COVID—19 orders; (*sic*)

As previously stated, my masking requirement *is not related to preventing the spread of COVID-19*. My requirement is based upon my personal health condition. My policy is supported by legal authority as previously stated:

Attorney General Opinion KP-0322 referencing Chapter 21 of the Texas Government Code states in pertinent part:

We next address the authority of a "court presiding over a courtroom in a county owned or controlled courthouse" to require any person who enters the

courthouse to wear a facial covering while in the courthouse. Request Letter at 2. ***Among its inherent powers, a court possesses “broad discretion over the conduct of its proceedings” in the courtroom. State ex rel. Rosenthal v. Poe, 98 S.W.3d 194, 199 (Tex. Crim. App. 2003). Emphasis added.*** “A court has all powers necessary for the exercise of its jurisdiction and the enforcement of its lawful orders, including authority to issue the writs and orders necessary or proper in aid of its jurisdiction.” TEX. GOV’T CODE § 21.001(a); *see Lantrip v. State, 336 S.W.3d 343, 351–52 (Tex. App.—Texarkana 2011, no pet.) (recognizing that a court’s inherent power to control the courtroom includes reasonable attire restrictions). Emphasis added.*

(4) are also unduly burdensome in requiring counsel, witnesses, and all jurors to wear a face mask while participating in court proceedings without any specific justification; and

Mr. Hail fails to state and specific burden my policy creates and makes generic unsubstantiated allegations. As previously stated, my requirements are not unduly burdensome. They are justified and predicated upon medical advice and the need to protect my personal health. As previously stated, the Texas Health & Safety Code Section 81.002, entitled Responsibility of State and Public States as follows: “The state has a duty to protect the public health. *Each person shall act responsibly to prevent and control communicable disease.*” (emphasis added).

(5) defy all norms of common sense and propriety in conducting courtroom business

Contrary to Mr. Hail’s assertions, common sense and propriety demand that society protect the most vulnerable and one another. My policies are based upon common sense and medical advice. See also, Texas Health & Safety Code Section 81.002, *supra*.

Thank you again for this opportunity to respond to your inquiry. I await your further instruction.

Sincerely,

D’Metria Benson

D’Metria Benson
Judge Dallas County
County Court at Law No. 1

c: rulescomments@txcourts.gov

Hon. Ray Wheless, Presiding Judge 1st AJR