



The Supreme Court of Texas

CHAMBERS OF
THE CHIEF JUSTICE

201 West 14th Street Post Office Box 12248 Austin TX 78711
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May 13, 2026

Hon. D'Metria Benson
Judge, County Court at Law No. 1
Dallas County

via email

RE: Courtroom Mask Mandate

Dear Judge Benson:

It has come to my attention that you may be requiring people entering your courtroom to wear facemasks and to divulge intimate information about their health. *See* Mark Curriden, *Dallas Lawyer Challenges Judge's Mask Mandate*, THE TEX. LAWBOOK (May 12, 2026) (attached). If this is not true, I apologize for wasting your time.

If this is true, please carefully reconsider whether you have legal authority for these actions. Article I, section 13 of the Texas Constitution guarantees that "[a]ll courts shall be open." I am aware of no legitimate basis on which a Texas judge may condition a person's presence in a courtroom on a mask requirement or on a heightened health screening.

Under Rule 10(f) of the Rules of Judicial Administration, "The Supreme Court may direct a court to amend or withdraw a local rule, form, or standing order if the Supreme Court determines that the rule, form, or standing order . . . is unfair or unduly burdensome." Please respond either by clarifying that you do not require masks or heightened health screenings as a condition of entry into or presence within your courtroom, or by explaining why the Court should not direct you to withdraw any such requirement. **Please respond via email by 5 p.m. Friday, May 15.** You may send your response to rulescomments@txcourts.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Blacklock".

James D. Blacklock
Chief Justice

c: Hon. Ray Wheless, Presiding Judge, 1st AJR

via email

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Dallas Lawyer Challenges Judge's Mask Mandate

MAY 12, 2026 | MARK CURRIDEN

Products liability and medical malpractice trial lawyer Scott Frenkel has filed a legal challenge against a Dallas judge who continues to require the people in her courtroom to wear Covid-19-era facemasks.

In a 14-page letter to First Administrative Judicial Region Judge Ray Wheless obtained by *The Texas Lawbook*, a lawyer for Frenkel said Dallas County Court at Law Judge D'Metria Benson has a standing order that illegally requires lawyers, witnesses, jurors and others who enter her courtroom to wear masks and requires them to tell court officials if they have diarrhea.

"It is hard to imagine a more degrading scenario," [Brian Hail](#), a partner at Kane Russell Coleman Logan, wrote in the letter to Judge Wheless demanding that the court order Judge Benson to withdraw her standing order.

The letter states that Judge Benson implemented her own order March 2, 2023, two days after the Texas Supreme Court ended its statewide "Final General Emergency Order Regarding the COVID-

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19 State of Disaster,” which empowered judges to implement mandatory masks and other measures.

As a result, Judge Benson’s standing order “lacks any supporting legal authority” and infringes “on the constitutional right to a fair trial by jury by inhibiting the jury’s role in assessing witness credibility.”

Frenkel, according to the letter, was recently counsel in two different cases in Judge Benson’s court but was not allowed in the courtroom to represent his clients because he declined to wear a mask.

“The unauthorized mask mandate presents a myriad of logistical problems and fundamental unfairness, and additionally punishes those that cannot be masked for a lengthy period of time for medical or other reasons,” Hail wrote in the letter to Judge Wheless. “Mr. Frenkel is one that cannot wear a mask covering his nose and mouth for very long. It is not the business of the judiciary to require any further explanation on this issue.”

“Mr. Frenkel told the bailiff that the order was unlawful and he would not put on a mask,” the letter states. “Mr. Frenkel was given the choice of entering wearing a mask, leaving or continuing to argue and ‘ending up on the 7th floor.’ Mr. Frenkel left and did not participate in that trial,” the letter states.

Hail states that Frenkel was lead counsel in a trial in Judge Benson’s court in February, but “was not allowed to enter the courtroom without a mask.” The letter says that Frenkel had one of his associates lead the case instead.

“During this 3-day jury trial, that involved the presentation of eight witnesses, Judge Benson invoked her COVID-19 Procedures to require all counsel, clients, witnesses, and jury members to wear masks for the entirety of their time in the courtroom each day,” Hail wrote to Judge Wheless. “Such mask mandate was enforced under threat of contempt for any non-compliance.”

“Disturbingly, Judge Benson exempted herself from her own COVID-19 Procedures and was the only person in the courtroom who did not wear a mask during the entirety of the trial,” the letter states. “To recap, my client goes to jail as lead counsel in a trial for his client if he doesn’t wear a mask, but the Judge can conduct a trial in the comfort of no mask.”

Efforts to obtain comments from Judge Wheless and Judge Benson have been unsuccessful.

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Dallas Lawyer Challenges Judge’s Mask Mandate

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Frenkel issued a written statement to *The Lawbook* stating that he has “the deepest respect for Judge Benson.”

“In fact I helped to get her elected to the bench 20 years ago and have supported her in every election except the last one,” Frenkel wrote. “But, as it is every judge’s duty to enforce the law, every judge must also follow the law. Unfortunately, Judge Benson has been blatantly violating Texas law and must stop.”

Mark Curriden

Mark Curriden is a lawyer/journalist and founder of The Texas Lawbook. In addition, he is a contributing legal correspondent for The Dallas Morning News.

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