

# As Dallas Businesses Scramble to Comply with Murky Mask Mandate, Governor Files Court Challenge



By [Janet A. Hendrick](#)

On the heels of Dallas County Judge Tonya Parker's August 10, 2021 [temporary restraining order](#) nullifying Governor Abbott's July 2021 prohibition on mask mandates within Dallas County, Dallas County Judge Clay Jenkins [issued an order](#) mandating masks for many Dallas employers effective August 12, 2021. In addition to requiring universal indoor masking for all Dallas County public schools and childcare centers, and in buildings owned or operated by Dallas County, and encouraging masks in all public indoor spaces, the order requires "all commercial entities in Dallas County providing goods or services directly to the public" to develop, implement, and post a health and safety policy. The policy must include at a minimum universal indoor masking for all employees and visitors to the entity's premises or other facilities and may also include other mitigating measures designed to control and reduce the transmission of COVID-19, such as temperature checks or health screenings. Businesses that fail to comply within three days risk fines of up to \$1,000 per violation.



Janet A.  
Hendrick

Although the language regarding “commercial entities” appears to be limited to only those businesses that provide “goods or services directly to the public,” [the FAQs](#) on the Dallas County website broadly state that “[b]usinesses operating in Dallas County must develop a Health and Safety Policy and this policy must mandate that all employees and visitors wear a mask while on any property owned or operated by the business.”

Lack of clarity in Judge Jenkins’ order means businesses within Dallas County must decide whether to comply, even if they do not arguably provide goods or services directly to the public, or risk fines. The most risk-averse route for Dallas County businesses is to (1) mandate masks for all employees and visitors, and (2) prepare a health and safety plan that includes the mask mandate and any other transmission-mitigating measures the business chooses to include. Employers that choose this path should post the health and safety plan prominently near the entrance to their premises before midnight on August 14, 2021 to avoid the possibility of a fine for noncompliance.

Just hours after Judge Jenkins’ issued his order, Texas Governor Greg Abbott and Attorney General Ken Paxton filed a mandamus petition with the Dallas Court of Appeals to strike down the order. A hearing is set for August 24, 2021 before Judge Parker, at which point she will decide whether to turn the temporary restraining order into a temporary injunction pending a trial.

*Janet Hendrick is a Shareholder and a member of the Firm's [Labor and Employment](#) Practice Group.*

---

**We will continue to monitor developments regarding the Dallas County order and are available to discuss its implications and requirements.**

- **To contact Janet A. Hendrick, please call 469.485.7334 or [email](#).**
- **To contact Michele C. Spillman, please call 469.485.7342 or [email](#).**



*Follow our coverage on [FACEBOOK](#)*