

HARRIS COUNTY, TEXAS	§	
	§	IN THE DISTRICT COURT
Plaintiff	§	
	§	
v.	§	
	§	TRAVIS COUNTY, TEXAS
GREG ABBOTT, in his official capacity	§	
as Governor of Texas, and KEN	§	
PAXTON, in his official capacity as	§	
Texas Attorney General	§	
Defendants	§	

TEMPORARY RESTRAINING ORDER

HARRIS COUNTY, TEXAS, Plaintiff, has filed a petition for a temporary restraining order and a temporary and permanent injunction and, in connection therewith, has presented a request for a temporary restraining order, as set forth in its petition. The Court, having considered the pleadings, evidence, the arguments of counsel, and being otherwise fully informed in the premises, does hereby FIND:

1. The Petition for Temporary Restraining Order is hereby GRANTED.
2. Plaintiff Harris County has demonstrated a probable right to relief and imminent and irreparable injury.
3. Plaintiff has shown a probable right to relief on its claim that Tex. Gov't Code Section 418.016 only grants the Governor authority to suspend provisions of a regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster.
4. Plaintiff has shown a probable right to relief on its claim that Chapters 81, 121, and 122 of the Health and Safety Code, Chapter 54 of the Local Government Code, and Sections

418.015(b) and 418.108 of the Government Code, are not regulatory statutes prescribing the procedures of state business.

5. Plaintiff has shown a probable right to relief on its claim that strict compliance with Chapters 81, 121, and 122 of the Health and Safety Code, Chapter 54 of the Local Government Code, and Sections 418.015(b) and 418.108 of the Government Code would not in any prevent, hinder, or delay necessary action in coping with the COVID-19 disaster. The Governor does not have the authority to suspend Chapters 81, 121, and 122 of the Health and Safety Code, Chapter 54 of the Local Government Code, and Sections 418.015(b) and 418.108 of the Government Code.

6. Plaintiff has shown a probable right to relief on its claim that Sections 2, 3(b), 3(c), 3(g), 4, and 5 of the Governor's Executive Order GA-38 are *ultra vires*, unconstitutional, void, and unenforceable.

7. As the Court finds these sections of GA-38 unsupported by statutory or Constitutional authority, the Court finds the Harris County has demonstrated a probable right to relief that Defendant Governor Greg Abbott has acted *ultra vires* in issuing GA-38, as he seeks to suspend statutes beyond his authority, and Defendant Ken Paxton has sought to enforce these *ultra vires* orders. Specifically, the Plaintiff has a probable right to relief on its claim that Defendants' efforts to suspend laws and enforce an unlawful executive order violate Art. I, § 28 of the Texas Constitution.

8. Plaintiffs have demonstrated that imminent and irreparable injury will occur if GREG ABBOTT, in his official capacity as Governor of Texas, and KEN PAXTON, in his official capacity as Texas Attorney General, are not immediately restrained from enforcing GA-38. Harris County, Texas, and its citizens and students, who are currently facing a horrific and dangerous COVID-19 outbreak, will be subjected to an imminent increased risk of exposure to and infection

by COVID-19, posing an unreasonable, unnecessary and potentially life-threatening harm that is irreparable and for which there is no adequate remedy at law. The harm is irreparable as lives will be lost and many will be hospitalized and in need of treatment and hospital beds (both old and young). Harris County will be irreparably harmed if it is prohibited from actively mitigating the harms inflicted on its employees, visitors to County facilities, and its residents, by the COVID-19 virus and its variants. Harris County will be irreparably harmed if it is prohibited from implementing and enforcing Countywide policies consistent with scientific information it receives from its public health department and medical experts, including mask mandates, as well as vaccine and testing requirements. The harm to Harris County, its residents, and the public outweighs any potential harm caused to the Governor and Attorney General by entering this temporary injunctive relief. Further, the public interest is served by entering this injunctive relief.

9. Further, it is found that if this Temporary Restraining Order is not issued, Defendants will unlawfully enforce GA-38, enacted *ultra vires* beyond the Governor's authority, before a hearing is had on Plaintiffs' motion for a temporary injunction; and further, that if the commission of these acts is not restrained immediately, Harris County, its residents, and the public will suffer irreparable injury in the amount of lost lives, ill residents and employees, and unmitigated spread of COVID-19.

10. This injunctive relief is appropriate under traditional equitable standards and principles.

11. IT IS, THEREFORE, ORDERED that Defendants GREG ABBOTT, in his official capacity as Governor of Texas, and KEN PAXTON, in his official capacity as Texas Attorney General, and their employees, agents and representatives, are forthwith:

- Restrained from enforcing GA-38 against any local governmental entity, or employee or official of a local governmental entity in Harris County;
 - Restrained from seeking to fine any local governmental entity, or employee or official of a local governmental entity in Harris County, for alleged violations of GA-38; and
 - Restrained from suspending Texas Government Code §§ 418.1015 and 418.108; Chapter 81, Subchapter E of the Texas Health and Safety Code; Chapters 121, 122, and 341 of the Texas Health and Safety Code; Chapter 54 of the Texas Local Government Code; and any other statute that is not a regulatory statute and/or that is not on the suspension list required by Texas Government Code § 418.015.
 - **IT IS FURTHER ORDERED** that no bond is required as Plaintiff HARRIS COUNTY is exempt from bond requirements under Tex. Civ. Prac. & Rem. Code § 6.001.
 - IT IS FURTHER ORDERED that the petition of Plaintiff HARRIS COUNTY, TEXAS, for temporary injunction be heard on the ____ day of _____, 2021, at _____ o'clock ____ .m., in the _____ District Court of Travis County, Texas.
- Signed this _____ day of August, 2021.

JUDGE PRESIDING