

**THE CIRCUIT COURT OF JACKSON COUNTY  
SIXTEENTH JUDICIAL CIRCUIT OF MISSOURI**

THE STATE OF MISSOURI ex rel.  
ERIC S. SCHMITT,

*Plaintiff,*

v.

No. \_\_\_\_\_

FRANK WHITE, JR., in his official  
capacity as Jackson County Executive;

BRIDGETTE SHAFFER, in her official  
capacity as Health Director of Jackson  
County;

JACKSON COUNTY HEALTH  
DEPARTMENT; and

CALEB CLIFFORD, in his official  
capacity as Chief of Staff & Interim  
Emergency Management Coordinator of  
Jackson County,

*Defendants.*

**PETITION**

1. Jackson County has imposed an unlawful, arbitrary, and capricious mask mandate that is not supported by the data or the science.

2. In July 2021, after Kansas City announced it would issue a mask mandate, Jackson County Executive Frank White initially only stated his support for wearing masks indoors regardless of vaccination status and acknowledged that Jackson County “must also take into consideration a new state law that limits local government’s authority to impose public health orders . . . .” Press Release, *Jackson County Executive statement on CDC’s*

*mask guidance*, July 28, 2021, available at <https://www.jacksongov.org/Our-County/About-Us/Media-Releases/Media-Releases/2021-Media-Releases/Jackson-County-Executive-statement-on-CDC%E2%80%99s-mask-guidance>.

3. On August 4, 2021, Executive White announced that he would impose a mask mandate on Jackson County. Press Release, *Jackson County Executive to issue public health order requiring masks*, Aug. 4, 2021, available at <https://www.jacksongov.org/Our-County/About-Us/Media-Releases/Media-Releases/2021-Media-Releases/Jackson-County-Executive-to-issue-public-health-order-requiring-masks>.

4. There is no evidence that Executive White, Ms. Shaffer, the Jackson County Health Department, or Mr. Clifford (collectively, “Defendants”) considered the underlying data, science, and evidence that fail to justify issuing a mask mandate at this time.

5. The Defendants’ mandate is a continuation of a series of arbitrary, capricious, unlawful, and unconstitutional COVID-19 related restrictions. There is no reason to allow such orders to continue.

6. Missouri Attorney General Eric S. Schmitt seeks to protect the liberty and constitutional rights of the people of Missouri.

7. Attorney General Schmitt brings this action to prevent unlawful, unconstitutional, arbitrary, capricious, and unreasonable conduct by Defendants.

### **JURISDICTION AND VENUE**

8. This Court has jurisdiction under Mo. Const. art V, § 14(a), § 536.150, RSMo, §§ 527.010 et seq., RSMo, and other applicable law.

9. Venue is proper in this Court under § 508.010.2(2) RSMo.

**PARTIES**

10. Plaintiff State of Missouri is a sovereign State of the United States of America.

11. Eric S. Schmitt is the 43rd Attorney General of the State of Missouri. Attorney General Schmitt is authorized to “institute, in the name and on the behalf of the state, all civil suits and other proceedings at law or in equity requisite or necessary to protect the rights and interests of the state, and enforce any and all rights, interests or claims against any and all persons, firms or corporations in whatever court or jurisdiction such action may be necessary; and he may also appear and interplead, answer or defend, in any proceeding or tribunal in which the state’s interests are involved.” § 27.060, RSMo.

12. Attorney General Schmitt sues to vindicate Missouri’s sovereign interest in controlling the exercise of sovereign power over individuals and entities within its borders; Missouri’s sovereign interest in ensuring the enforcement of Missouri law within Missouri’s borders; and Missouri’s quasi-sovereign and *parens patriae* interest in the freedom, health, and physical, psychological, educational, and economic well-being of a significant segment of its populace. This interest includes, but is not limited to, preventing the spread of the COVID-19 virus within the state as well as protecting the health and welfare of the State’s residents from arbitrary and capricious policies.

13. Attorney General Schmitt sues to vindicate Missouri’s sovereign interest in ensuring that its municipal authorities do not exercise authority vested in them under state law in a fashion that violates the Missouri Constitution or Missouri law.

14. Attorney General Schmitt sues to vindicate Missouri’s interest in ensuring that the children of the State receive an appropriate education.

15. Frank White, Jr. is the Jackson County Executive. He is sued in his official capacity.

16. Bridgette Shaffer is the health director of the Jackson County Health Department. She is sued in her official capacity.

17. The Jackson County Health Department is an agency of Jackson County acting under the direction of Defendant White. Jackson County constitutes a “local public health agency” under Missouri Department of Health and Senior Services’ regulation 19 CSR 20-20.010(27).

18. Caleb Clifford is the Chief of Staff and Interim Emergency Management Coordinator of Jackson County. He is sued in his official capacity.

### **FACTUAL ALLEGATIONS**

19. Missouri incorporates by reference the allegations in all preceding paragraphs.

20. Jackson County is a charter county of the State of Missouri.

#### **I. The Jackson County Mask Mandate**

21. According to Jackson County’s Mask Mandate, “[a]n individual in an indoor place of public accommodation must properly wear a face covering or mask.” Order, signed Aug. 6, 2021 attached as Exhibit A (“Mask Mandate”) Section 4.

22. The Mask Mandate does not apply to the portions of Kansas City, Missouri

or Independence, Missouri.

23. Kansas City is the largest city in Jackson County.

24. Independence is the second-largest city in Jackson County.

25. The Independence mayor declined to unilaterally issue a mask mandate, and the Independence City Council voted down a mask mandate resolution on August 16, 2021.

26. The Mask Mandate indicates that the Defendants were concerned with potential litigation over the order, and made exceptions that demonstrate the arbitrary and capricious nature of the order.

27. Jackson County was understandably concerned with litigation after a federal judge allowed constitutional claims to proceed against Jackson County over a previous health order. *See Abundant Life Baptist Church of Lee's Summit, Missouri v. Jackson County*, 4:20-00367-CV-RK, 2021 WL 1970666 (W.D. Mo. May 17, 2021).

28. The Mask Mandate defines "places of public accommodation," which was not a defined term in the City's previous COVID-19 orders.

29. According to the Mask Mandate, "A 'place of public accommodation' means any place or business offering or holding out to the general public goods, services, privileges, facilities, advantages or accommodations for the peace, comfort, health, welfare, and safety of the general public. Public accommodation shall not include a private club or a place of public accommodation owned or operated on behalf of a religious corporation, association, or society." Ex. A, Mask Mandate, Section 3(b).

30. The Defendants acted arbitrarily and capriciously by not exempting other indoor public accommodations, such as those exemptions for private clubs and religious

organizations.

31. Although announced on August 4, 2021, the Mask Mandate was not signed until August 6, 2021, and did not become effective until August 9, 2021.

32. The Mask Mandate indicates it is subject to the requirements of § 67.265, RSMo. Ex. A, Mask Mandate, at 2.

33. The report to the Jackson County Legislature required by § 67.265.4 was not submitted until August 6, 2021, two days after Executive White announced that he had decided to impose a mask mandate on August 4, 2021.

34. The Jackson County Health Department's COVID-19 data dashboard is titled "Eastern Jackson County," which suggests that it does not include data from Kansas City.

35. The Jackson County Health Department's COVID-19 data dashboard reports that as of July 15, 2021, the data from the City of Independence has been removed.

36. The Jackson County Health Department's COVID-19 data dashboard does not include the date and time when it was last updated or when it will next be updated.

## **II. Enforcement of the Mask Mandate**

37. Under the Mask Mandate, Defendant Shaffer "requests that the Sheriff, all chiefs of police, Park Rangers in the County, and the Jackson County Environmental Health Department ensure compliance with and enforcement of this Order. The violation of any provision of this Order constitutes an imminent threat and menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment, or both. All remedies prescribed by this Order or otherwise available under applicable law, shall be cumulative, and the use of one or more remedies by Jackson County shall not bar the use

of any other remedy to enforce this Order.” Ex. A, Mask Mandate, Section 5.

38. Under the Mask Mandate, “[p]laces of public accommodation shall deny entry to and refuse to serve members of the public who refuse to wear face coverings or masks, unless a medical exemption applies or the individual is a child under the age of five.” Ex. A, Mask Mandate, Section 4(a).

39. Upon information and belief, the Jackson County Environmental Health Division began immediately inspecting and citing businesses at which customers or employees were found to not be wearing masks or not wearing masks correctly.

40. Upon information and belief, the Jackson County Environmental Health Division may provide one written warning of non-compliance.

41. Upon information and belief, in the written warning, the Jackson County Environmental Health Division warns that a future finding of non-compliance will result in the issuance of a ticket to appear in court.

42. Upon information and belief, Jackson County Environmental Health Division inspectors note whether a business has posted signs regarding masks. The Mask Mandate does not require businesses to post signs.

### **III. Authorization**

43. Any restrictions the mandate imposes cannot be “unconstitutional, unlawful, unreasonable, arbitrary, or capricious . . . . § 536.150.1, RSMo. Government action is arbitrary, capricious, and unreasonable when it is based on *post hoc* rationalization, when it fails to consider an important part of the problem it is addressing, and when it fails to consider less restrictive alternatives before infringing on citizens’ liberty. *See, e.g., Dep’t*

*of Homeland Sec. v. Regents of the Univ. of Cal.*, 140 S. Ct. 1891, 1905, 1909 (2020); *Michigan v. EPA*, 135 S. Ct. 2699, 2706 (2015). “[A]n agency which completely fails to consider an important aspect or factor of the issue before it may also be found to have acted arbitrarily and capriciously.” *Barry Serv. Agency Co. v. Manning*, 891 S.W.2d 882, 892 (Mo. App. W.D. 1995) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)). In addition, agencies must consider whether there are less restrictive policies that would achieve their goals. *See Regents of the Univ. of Calif.*, 140 S. Ct. at 1912 (quoting *State Farm Mut. Auto.*, 463 U.S. at 51).

44. The Defendants have a history of transgressing statutory and constitutional bounds in the COVID-19 orders they have issued.

45. The Defendants’ Mask Mandate is no different. It exceeds Defendants’ statutory and constitutional authority and trample the rights of their citizens.

**COUNT ONE – DECLARATION THAT THE MASK MANDATE IS SUBJECT TO § 67.265, RSMo**

46. Missouri incorporates by reference the allegations in all preceding paragraphs.

47. Missouri seeks a declaration that the Mask Mandate is subject to the requirements of § 67.265, RSMo.

48. There is an emergency order declared pursuant to chapter 44, RSMo.

49. The Mask Mandate is an “order” as defined by § 67.265.1, RSMo.

50. The Mask Mandate is an order that “directly or indirectly closes, partially closes, or places restrictions on the opening of or access to any one or more business

organizations, churches, schools, or other places of public or private gathering or assembly, including any order, ordinance, rule, or regulation of general applicability or that prohibits or otherwise limits attendance at any public or private gathering . . . .” § 67.265.1(1), RSMo.

51. The Mask Mandate places restrictions on access to “business organizations, churches, schools, or other places of public or private gathering or assembly,” § 67.265.1(1), RSMo, because it limits access to those entities only to masked individuals or to individuals who fall under an exception to the mask requirement.

52. Second, the Mask Mandate will indirectly close those “business organizations, churches, schools, or other places of public or private gathering or assembly,” § 67.265.1(1), RSMo, that wish to provide personal choice to their customers about whether they wear a mask or not. Furthermore, the Mask Mandate will also close those entities where masking is impossible or so uncomfortable as to be impossible.

53. The Mask Mandate specifically requires businesses to “deny entry to and refuse to serve members of the public who refuse to wear face coverings or masks, unless a medical exemption applies or the individual is a child under the age of five.” Ex. A, Mask Mandate, Section 4(a).

54. The Mask Mandate suggests the Defendants also believe Jackson County is subject to the requirements of § 67.265, RSMo, since Jackson County claims to have provided a report to the Jackson County Legislature pursuant to § 67.265, RSMo.

55. As a result, the Mask Mandate is subject to § 67.265, RSMo, and expires after thirty days absent authorization by a majority vote of Jackson County’s governing body.

**COUNT TWO – DECLARATION THAT THE MASK MANDATE IS  
ARBITRARY AND CAPRICIOUS AS APPLIED TO SCHOOLCHILDREN,  
§ 536.150.1, RSMo**

56. Missouri incorporates by reference the allegations in all preceding paragraphs.

57. The State of Missouri challenges the validity of the Mask Mandate, and seeks a declaration that it is “unreasonable, arbitrary, or capricious.” § 536.150.1, RSMo. The Mask Mandate is not subject to administrative review. *Id.*

58. The Mask Mandate imposes a duty on all elementary schoolchildren (defined as all children who are of the age to attend K-12 school) in Jackson County—except those in Independence or those attending a school owned or operated by a religious corporation, association, or society—to wear a mask with few exceptions when they are at school. The Mask Mandate is therefore an agency decision that determines “legal rights, duties, or privileges.” § 536.150.1, RSMo.

59. The schoolchildren of Jackson County are not validly subject to the Mask Mandate because it is “unreasonable, arbitrary, or capricious,” § 536.150.1, RSMo, for a number of reasons.

60. First, the masking requirement for schoolchildren is unreasonable, arbitrary, and capricious. Schoolchildren are generally not at risk of serious illness even if they get COVID-19, thus reducing the need for harsher non-pharmaceutical intervention. *See, e.g.,*

Marty Makary, Opinion, *The Flimsy Evidence Behind the CDC’s Push to Vaccinate Children*, WALL ST. J. (July 19, 2021) (“Our report found a mortality rate of zero among children without a pre-existing medical condition such as leukemia.”). On information and belief, Defendants failed to consider that fact in deciding to promulgate the Mask Mandate.

61. Second, on information and belief, Defendants failed to consider a number of important factors relating to masking for schoolchildren:

- a. To start, the Mask Mandate fails to account for the fact that children are less likely to contract COVID-19 and that, if they do contract it, display less severe symptoms. *See, e.g.*, Nicholas G. Davies, *Age-Dependent Effects in the Transmission and Control of COVID-19 Epidemics*, 26 NATURE MED. 1205, 1205 (2020) (concluding that susceptibility of infection in those under twenty is half that for those over twenty and that those under twenty do not manifest clinical symptoms as often). That suggests that children are also less likely to transmit the virus, *see id.* at 1208–09, which appears to be the consensus position.<sup>1</sup> There is thus a much less pressing need for

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<sup>1</sup> *See, e.g.*, Eun Young Cho et al., Letter to the Editor, *Interpreting Transmissibility of COVID-19 in Children*, 26 EMERGING INFECTIOUS DISEASES 3106, 3107 (2020) (interpreting data); Patrick Boyle, *Kids, School, and COVID-19: What We Know—and What We Don’t*, AAMC (Nov. 5, 2020), <https://bit.ly/3kQDvyG> (“Several studies have found that children transmit the virus, but perhaps not as often as adults, especially in younger age groups. It’s not clear why.”); Eli Somekh et al., *The Role of Children in the Dynamics of Intra Family Coronavirus 2019 Spread in Densely Populated Areas*, 39 PEDIATRICS INFECTIOUS DISEASE J. 202, 203–04 (2020) (noting studies indicating that children are less likely to get COVID-19, and finding similar results).

masking among young children. That includes within schools. One study found “an infection rate of 0.13% among students and 0.24% among staff” after analyzing in-school infection data from over 47 states. Patrick Boyle, *Kids, School, and COVID-19: What We Know—and What We Don’t*, AAMC (Nov. 5, 2020). Rather, schools are more likely to be affected by COVID-19 rates in the community than be sites of super-spreader events. *See id.*<sup>2</sup>

- b. But while the risks schoolchildren face from COVID-19, as well as the risk that they transmit the virus, are relatively low, there is a significant cost to forcing them to mask. For one, masks hinder “verbal and non-verbal communication.” Jonas F. Ludvigsson, Editorial, *Little Evidence for Facemask Use in Children Against COVID-19*, 110 ACTA PAEDITRICA 742, 742 (2021); *see* Connor Harris, *Do We Need Mask Mandates?*, CITY J. (Mar. 22, 2021), <https://www.city-journal.org/do-we-need-mask-mandates> (“Some child development researchers also worry that widespread mask-

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<sup>2</sup> *See also, e.g.*, CDC, *Science Brief: Transmission of SARS-CoV-2 in K-12 Schools and Early Care and Education Programs—Updated* (updated July 9, 2021), <https://bit.ly/3rxQeaR>; *Questions and Answers on COVID-19: Children Aged 1–18 Years and the Role of Schools Settings*, European Centre for Disease Prevention & Control (updated Jan. 25, 2021), <https://bit.ly/3j3yHDJ>. *But see* Zoe Hyde, Perspectives, *COVID-19, Children and Schools: Overlooked and at Risk*, 213 MED. J. AUSTL. 444, 446 (2020) (arguing that schools play a bigger role in transmission than assumed, but conceding that “[w]hether young and older children transmit the virus similarly is unknown and requires urgent clarification”).

wearing may hamper children’s linguistic and emotional development.”); *see also* John T. Brooks, et al., *Effectiveness of Mask Wearing to Control Community Spread of SARS-CoV-2*, JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION, Feb. 10, 2021, at 7 (finding that “children were less accurate with faces that wore a mask compared to faces that were not covered”). And the same risks associated with mask use in adults are present with respect to children—namely, that the masks may create a false sense of security and that failing to properly wear face masks over their nose and mouths and that touching the masks will eliminate, if not exceed, any benefit achieved by having students wear masks. *See id.*

- c. There are also common-sense concerns with having schoolchildren wear a face mask all day while at school, such as general discomfort. *See Harris, supra* (“In a self-selected survey of German schoolchildren, more than half of the participants reported headaches.”). Similarly, mask requirements also take up instructional time as teachers police mask compliance, take mask breaks outdoors, send students to get masks, and punish students for failing to comply.
- d. Finally, children with special needs may find it especially difficult to wear masks but may not be able to take advantage of any of the exceptions in the Mask Mandate. The mandate thus jeopardizes their ability to be in public places under the Mask Mandate. *See The*

*Challenge of Face Masks*, ORG. FOR AUTISM RES. (Nov. 12, 2020),  
<https://bit.ly/3eVYRa3>.

62. On information and belief, Defendants failed to consider those factors in applying the Mask Mandate to schoolchildren. They therefore failed to engage in reasoned decision-making, and, as a result, subjected schoolchildren in Jackson County to an unnecessary, burdensome, and harmful mask mandate.

63. For those reasons, the Mask Mandate is unreasonable, arbitrary, and capricious and the schoolchildren of Jackson County should not be subject to it.

**COUNT THREE – DECLARATION THAT THE MASK MANDATE IS UNLAWFUL AS TO SCHOOLCHILDREN, § 536.150.1, RSMo**

64. Missouri incorporates by reference the allegations in all preceding paragraphs.

65. The State of Missouri challenges the validity of the Mask Mandate, and seeks a declaration that it is “unlawful” and therefore the people of cannot be lawfully subjected to it. § 536.150.1, RSMo. The Mask Mandate is not subject to administrative review. *Id.*

66. By law, local health authorities may create and enforce only orders “adequate . . . to prevent the spread of [a] disease and other measures considered by the . . . local health authority as appropriate disease control measures based upon the disease . . . .” 19 C.S.R. § 20-20.040.2(G).

67. For the reasons discussed in Count Two, the Mask Mandate is not an appropriate disease control measure for schoolchildren and is not adequate to prevent the spread of COVID-19 in that group.

68. For those reasons, the Mask Mandate is an unlawful order and the schoolchildren of Jackson County should not be subject to it.

**COUNT FOUR – DECLARATION THAT THE MASK MANDATE IS  
ARBITRARY AND CAPRICIOUS, § 536.150.1, RSMo**

69. Missouri incorporates by reference the allegations in all preceding paragraphs.

70. The State of Missouri challenges the validity of the Mask Mandate, and seeks a declaration that it is “unreasonable, arbitrary, or capricious.” § 536.150.1, RSMo. The Mask Mandate is not subject to administrative review. *Id.*

71. The Mask Mandate imposes a duty on all citizens in Jackson County (except in Independence) to wear a mask with few exceptions when they are in a public space. It therefore is an agency decision that determines “legal rights, duties, or privileges.” § 536.150.1, RSMo.

72. The citizens of Jackson County are not validly subject to the Mask Mandate because it is “unreasonable, arbitrary, or capricious,” § 536.150.1, RSMo, for a number of reasons.

73. To start, the Mask Mandate clearly fails the requirement of reasoned decision-making. It provides no discussion of how the mandate addresses the harms it identifies and for their particular community. The Mask Mandate therefore suggests that the Defendants failed to grapple at all with a large swath of relevant science, data, statistics, studies, or alternatives.

74. The Mask Mandate is arbitrary and capricious because it fails to account for over a year of data that showed the previous Jackson County restrictions were less effective than counties that had no restrictions.

75. The Mask Mandate is arbitrary and capricious because it requires vaccinated individuals to wear masks, despite all the data showing that vaccinated individuals face minor risk from the virus. The Mask Mandate fails to address this issue.

76. On information and belief, Defendants failed to consider whether the Mask Mandate—because it treats vaccinated individuals like unvaccinated ones—discourages people from receiving the vaccine by implying that vaccines have limited efficacy. *Cf.* Rachel Holloway et al., *Updated Preparedness and Response Framework for Influenza Pandemics*, MORBIDITY & MORTALITY WEEKLY REPORT, Sept. 26, 2014, at 6 (saying vaccine availability is a consideration when determining what actions to take during a pandemic).

77. For those reasons, the Mask Mandate is unreasonable, arbitrary, and capricious and the people of Jackson County should not be subject to it.

**COUNT FIVE – DECLARATION THAT THE MASK MANDATE IS  
UNLAWFUL, § 536.150.1, RSMo**

78. Missouri incorporates by reference the allegations in all preceding paragraphs.

79. The State of Missouri challenges the validity of the Mask Mandate, and seeks a declaration that it is “unlawful” and therefore the people of Jackson County cannot be

lawfully subjected to them. § 536.150.1, RSMo. The Mask Mandate is not subject to administrative review. *Id.*

80. By law, local health authorities may create and enforce only orders “adequate . . . to prevent the spread of [a] disease and other measures considered by the . . . local health authority as appropriate disease control measures based upon the disease . . . .” 19 C.S.R. § 20-20.040.2(G).

81. For the reasons discussed in Count Four, the Mask Mandate is not an appropriate disease control measure and is not adequate to prevent the spread of COVID-19.

82. For those reasons, the Mask Mandate is an unlawful order and the people of Jackson County should not be subject to it.

**COUNT SIX – DECLARATION THAT THE MASK MANDATE IS UNCONSTITUTIONAL AS VOID FOR VAGUENESS, § 536.150.1, RSMo**

83. Missouri incorporates by reference the allegations in all preceding paragraphs.

84. The State of Missouri challenges the validity of the Mask Mandate, and seeks a declaration that the Mask Mandate is “unconstitutional” and therefore the people of Jackson County cannot be lawfully subjected to it. § 536.150.1, RSMo. The Mask Mandate is not subject to administrative review. *Id.*

85. The Missouri Constitution prohibits government restrictions that are unconstitutionally vague. “The test in enforcing the doctrine is whether the language conveys to a person of ordinary intelligence a sufficiently definite warning as to the

proscribed conduct when measured by common understanding and practices.” *Feldhaus v. State*, 311 S.W.3d 802, 806 (Mo. banc 2010). And “[t]here must be sufficient guidance provided by the statute so as to avoid arbitrary and discriminatory applications.” *State v. Stokely*, 842 S.W.2d 77, 81 (Mo. banc. 1992).

86. The Mask Mandate does not define what health conditions permit an individual to avoid wearing a mask, or even provide exemplars beyond suggesting (without being clear the suggestion is part of the exemption) that the health condition must be “substantial impairment to their health and well-being upon medical, behavioral, or legal direction.” Ex. A, Mask Mandate, Section 4(a). Furthermore, what constitutes “direction” is not defined. As a result, the order is vague and vests too much discretion in officials to make on-the-spot determinations of whether a health condition falls within the exemptions scope or whether the person has received qualifying direction.

87. What is “actively engaged in consuming food or drink” is also not defined in the order. Ex. A, Mask Mandate, Section 4(a). But the scope of that exception is also incredibly vague. It is unclear, for example, whether it requires masking between bites or sips, or whether it permits people to remain unmasked throughout the meal, or something in between.

88. The lack of clear terms is especially troublesome given the wide latitude those charged with enforcing the Mask Mandate have to determine an action is “an imminent threat and menace to public health.” Ex. A, Mask Mandate, Section 5.

89. For those reasons, the Mask Mandate is unconstitutional and the people of Jackson County should not be subject to it.

## CONCLUSION

WHEREFORE, Plaintiff respectfully requests that this Court:

- a. Declare that Defendants' Mask Mandate is unconstitutional, unlawful, arbitrary, capricious, unreasonable, and invalid under Missouri law as to schoolchildren (Counts Two and Three); declare that Defendants' Mask Mandate is unconstitutional, unlawful, arbitrary, capricious, unreasonable, and invalid under Missouri law (Counts Four, Five, and Six);
- b. Grant relief by injunction, certiorari, mandamus, prohibition, or other appropriate action, providing that Defendants' Mask Mandate is unconstitutional, unlawful, arbitrary, capricious, unreasonable, and invalid under Missouri law as to schoolchildren (Counts Two and Three); grant relief by injunction, certiorari, mandamus, prohibition, or other appropriate action, providing that Defendants' Mask Mandate is unconstitutional, unlawful, arbitrary, capricious, unreasonable, and invalid under Missouri law (Counts Four, Five, and Six);
- c. Declare that Defendants' Mask Mandate is subject to § 67.265, RSMo, (Count One);
- d. Enter a final judgment in Plaintiff's favor on all Counts in this Complaint; and
- e. Grant such other and further relief as the Court deems just and proper under the circumstances.

Dated: August 19, 2021

Respectfully submitted,

**ERIC S. SCHMITT**  
**Attorney General of Missouri**

*/s/ Justin D. Smith*

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