Fulton County Superior Court
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IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

GOV. BRIAN P. KEMP, Plaintiff, v. HON. KEISHA LANCE BOTTOMS, FELICIA A. MOORE, CARLA SMITH, AMIR R. FAROKHI, ANTONIO BROWN, CLETA WINSLOW, NATALYN MOSBY ARCHIBONG, JENNIFER N. IDE, HOWARD SHOOK, J.P. MATZIGKEIT, DUSTIN R. HILLIS, ANDREA L. BOONE, MARCI COLLIER OVERSTREET, JOYCE SHEPERD, MICHAEL JULIAN BOND, MATT WESTMORELAND, and ANDRE DICKENS, Defendants.	*	CIVIL ACTION FILE NO. 2020CV338387

BRIEF OF *AMICI CURIAE* IN OPPOSITION TO PLAINTIFF'S MOTION FOR EMERGENCY INTERLOCUTORY INJUNCTION

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NOW COME AMICI CURIAE SOUTHERN REGION WORKERS UNITED; SERVICE EMPLOYEES INTERNATIONAL UNION; AMALGAMATED TRANSIT UNION LOCAL 732; BAKERY, CONFECTIONERY, TOBACCO WORKERS AND GRAIN MILLERS' INTERNATIONAL UNION LOCAL 42; INTERNATIONAL BROTHERHOOD OF TEAMSTERS LOCAL 528; AND COMMUNICATIONS WORKERS OF AMERICA LOCAL 3204, and by and through their counsel hereby file this brief as amici curiae in opposition to Plaintiff's motion for emergency interlocutory injunction and complaint for declaratory and injunctive relief.

Introduction

Amici curiae are six labor unions that represent hard-working men and women in Atlanta, including many workers who perform jobs that are "essential" to the reopening of the State and local economies and who have continued to perform those jobs even while the novel coronavirus ("COVID-19") continued to ravage their workplaces and neighborhoods. The COVID-19 pandemic has caused an unprecedented health and economic crisis in Georgia. Yet amici's members steadfastly go to work day after day, in industries critical to Georgia's economy—in warehouses, bakeries, college campuses, telecommunication centers, airports, and many other work sites throughout Atlanta—to provide critical goods and services to their fellow Georgians, while everyone struggles to survive this pandemic.

Amici labor unions have a significant interest in this lawsuit. The Governor's ill-conceived and unlawful effort to enjoin the implementation of the Mayor of Atlanta's mandatory face-covering order, if successful, would have devastating impacts on the health and economic well-being of amici's members, their families, and their communities and does not further any legitimate government purpose, public health or otherwise. Thousands of Atlantans have already contracted COVID-19 on the job. Many have died. Others will suffer health effects that may last for their lifetimes. Public health officials in Georgia and elsewhere, as well as the Governor himself, uniformly agree that masks save lives and thus, Mayor Bottom's Executive Order, adopted as a lawful exercise of municipal police power, will necessarily improve public health

and safety. It will also provide a critical level of reassurance to amici's members, whose jobs and economic circumstances require them to return to dangerous work environments on shift after shift, despite the terrifying risk of infection. Mayor Bottom's mask mandate, which ensures use of masks on public transit and in all workplaces, is Atlantans' best hope for avoiding this deadly virus and surviving its devastating health and economic consequences.

Amici's members include many of the front-line workers who are most at risk of infection. A large proportion of those workers are especially vulnerable as African Americans, who statistically face a far greater risk of hospitalization. As hospitals and ICU units in Atlanta and throughout Georgia reach and exceed their capacity (such as Grady Hospital, which is currently operating at 105% capacity),[1] the COVID-19 public health crisis threatens to overwhelm the State's available resources.

For the hundreds of Atlantans and thousands of Georgians who have already died from this terrible virus, Mayor Bottom's recent Order requiring masks and similar orders throughout the State come too late. But with thousands of Atlantans known to be infected, the Mayor's Order can limit the risk of further spread to family members, co-workers, and the public. Moreover, for the roughly 11 million residents of the State of Georgia, including those who may come in contact with Atlanta residents, and in particular for the 525,000 individuals who live and work in the metropolitan area, the Mayor's Order fulfills a crucial public health imperative by dramatically reducing their risk of infection, thereby also reducing the risk that the newly reopened local economy will grind to an even greater halt than before.

By *mandating* the use of masks and other face coverings in public places, the Mayor has lawfully exercised her police power to protect all residents and workers in Atlanta, including the workers represented by amici who are on the front lines of the economy's reopening, and those workers' customers, co-workers, family members, and all those with whom they come into

[1] WABE News, Coronavirus Updates: Grady Hospital Operating At Full Capacity, CEO Says (July 21, 2020), available at https://www.wabe.org/coronavirus-updates-grady-hospital-operating-at-full-capicity-ceo-says/ (visited July 25, 2020).

contact. By requiring everyone to wear face coverings, the Order also facilitates the safe reopening of the economy, including by reducing the risk of costly outbreaks at work sites, which can lead to quarantines of multiple employees, lay-offs, and even company closures.

Amici submit this brief in part to present a clearer picture of who the workers are whose essential job functions compel them to risk their lives and health (and those of their families) for the benefit of their fellow residents and the local economy. Amici also submit this brief to demonstrate why the balance of hardships tilts so strongly in favor of the Mayor and her masking order and why the public interest demands that Atlanta's essential workers must be kept safe and able to continue serving the community without having to unduly jeopardize their lives in doing so. The Governor's motion for an emergency interlocutory injunction ignores the underlying equities entirely, even though no injunctive relief may be awarded without a careful assessment of the competing harms to the parties and the likely impacts on the public interest. Finally, amici explain why the Governor's efforts to enjoin the enforcement of Atlanta's mandatory mask requirement on legal grounds are not likely to succeed. Not only are those efforts short-sighted from a public health perspective, but from a legal perspective they are unavailing because they fail to promote public safety and thus exceed the Governor's emergency authority, and they would deprive Atlantans of their constitutionally protected due process rights.

Amici Curiae

Southern Region Workers United ("WUSR"), an affiliate of Service Employees International Union ("SEIU"), represents approximately 7,000 members in Georgia, with more than 5,000 members working in Atlanta and the surrounding metropolitan area. Affidavit of Chris Baumann ("Baumann Aff.") ¶3. WUSR's members are predominantly people of color and women; they work in the commercial laundry, manufacturing and distribution, food services, and janitorial industries, including for such large employers as Aramark, Sodexho, ABM Janitorial Services, and Mauser Packaging. *Id.* ¶4. Approximately 70% of WUSR's members were initially laid off due to lack of work as a result of the COVID-19 pandemic. *Id.* ¶5. Currently, many members have returned to work but remain "very concerned about the potential for

transmission of COVID-19 in their workplaces and the possibility that they will bring this deadly virus home to their families." *Id.* ¶¶5, 7. SEIU, with which WUSR is affiliated, is an international labor union representing more than two million employees nationwide, many of them in industries that have been deemed essential during the current pandemic.

Amalgamated Transit Union Local 732 ("Local 732") represents bus operators, mechanics, and other workers providing transportation services, with most members employed by Metropolitan Atlanta Rapid Transit Authority ("MARTA") or its contractors. Affidavit of Brit Dunams ("Dunams Aff.") ¶4. Local 732 represents approximately 3,000 members in the Atlanta metropolitan region. *Id.* ¶3. The majority of Local 732's members are African American and Local 732 is "extremely concerned about the disproportionate toll [COVID-19] is taking on [its] African American members," some 60 of whom have tested positive for the virus and four of whom have died. *Id.* ¶¶8, 13.

Bakery, Confectionery, Tobacco Workers and Grain Millers' International Union Local 42 ("Local 42") represents approximately 900 members working in Atlanta and the surrounding metropolitan area in bakeries, poultry processing, and other food processing facilities. Affidavit of David Cooper ("Cooper Aff.") ¶¶3, 4. Local 42's membership is largely made up of people of color and the majority of members working in Atlanta are African American. *Id.* ¶¶4, 8. Many of Local 42's members were laid off at the outset of the COVID-19 pandemic; although some have been called back to work, many are "still laid-off and not working." *Id.* ¶5. Local 42's members "are very concerned about the potential for transmission of COVID-19 in their workplaces and the possibility that they will bring this deadly virus home to their families," including to their children or elderly parents with whom they are living. *Id.* ¶7. Local 42 is particularly worried about the disproportionate impact that COVID-19 is having on African American members. *Id.* ¶8.

International Brotherhood of Teamsters Local 528 ("Local 528") represents approximately 3,000 members working in Atlanta and the surrounding metropolitan area in the transportation, logistics, and warehousing industries, including for large employers in Atlanta

such as Gate Gourmet, Sysco Atlanta, and Avis Car Rental. Affidavit of Oliver Lawson ("Lawson Aff.") ¶4. The majority of Local 528's members working in Atlanta are African American. *Id.* ¶9. Although some of Local 528's members have worked throughout the pandemic, approximately 50% of the membership in Georgia is currently on layoff status. *Id.* at ¶¶5, 6. Local 528 is concerned that, without the mask requirement imposed by Atlanta's Mayor, there is a greater risk that COVID-19 infections in Atlanta will rise "and employers whose workforces we represent will be adversely impacted"—"leading to lay-offs of Local 528 members." *Id.* ¶11.

Communications Workers of America Local 3204 ("Local 3204") represents approximately 2,500 members working in and around Atlanta, and 5,000 members throughout the State of Georgia. Affidavit of Ed Barlow ("Barlow Aff.") ¶3. Local 3204 represents workers in the telecommunications industry, including employees of AT&T and AT&T Mobility. *Id.* ¶4. Many of Local 3204's members who were deemed essential and worked throughout the pandemic are worried about the potential for transmission of COVID-19 in the workplace and the possibility that they will bring the virus home to their families. *Id.* ¶7. Local 3204 members test positive for COVID-19 daily, meaning that many of their co-workers have to self-quarantine. *Id.* ¶8. Local 3204's experience is that requiring masks reduces the risk that workers will be infected, "reduces the risk of further spread of the virus in the economy at large, and reduces uncertainty and anxiety that would otherwise hurt the re-opening of the economy." *Id.* ¶12.

Factual Background

A. Amici's Members Are Working to Reopen the Economy While Facing the Risk That They Will Contract COVID-19

Atlanta has been hard hit by the COVID-19 pandemic. Fulton County has nearly 16,000 confirmed cases of COVID-19, with 2,777 of those confirmed this past week.[2] In Fulton and

[2] *See* Georgia Dep't of Public Health Daily Status Report ("DPH Status Report"), available at https://dph.georgia.gov/covid-19-daily-status-report (visited July 26, 2020); Georgia Coronavirus Map and Case Count, New York Times, available at https://www.nytimes.com/interactive/2020/us/georgia-coronavirus-cases.html (visited July 26, 2020); *see also* Willoughby Mariano, COVID-19 'superspreading' took place across metro

DeKalb Counties, 579 people had died of COVID-19 as of July 26, 2020, and 2,970 had been hospitalized.[3] Throughout Georgia, there are already nearly 168,000 confirmed cases, with 3,498 Georgians having already died and more than 17,000 Georgians having been hospitalized as the result of the virus.[4] This past Friday, Georgia set a new record for the highest number of new COVID-19 cases confirmed in a single 24-hour period.[5]

Despite the fact that the pandemic continues to rage throughout Atlanta and all of Georgia, amici's members and other essential workers continue to do their duty, risking their health and lives by coming to work each day to provide the critical services that are essential to keeping the economy alive and enabling others to continue functioning during these times of hardship. Amici's members work in Atlanta and the metropolitan region in a variety of positions, including as bus operators, mechanics, warehouse workers, janitors, bakery and food processing workers, rental car agents, food service providers, commercial laundry service providers, and telecommunications workers. Dunams Aff. ¶4; Affidavit of Andrew Buchanan ("Buchanan Aff.") ¶1; Affidavit of Angela Rucker ("Rucker Aff.") ¶1; Affidavit of Cynthia Hartfield ("Hartfield Aff.") ¶1; Affidavit of Darrell Lane ("Lane Aff.") ¶1; Affidavit of James Hill ("Hill Aff.") ¶1; Affidavit of Marsha Collins ("Collins Aff.") ¶1; Barlow ¶¶4-5.

All workers are at risk of on-the-job exposures to COVID-19. Many of amici's members have tested positive for COVID-19. As noted above, approximately 60 members of Local 732, which represents public transportation operators and mechanics, have tested positive for the

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Atlanta, study finds, Atlanta Journal-Constitution (July 2, 2020), available at https://www.ajc.com/news/state--regional/covid-superspreading-took-place-across-metro-atlanta-study-finds/MZXq4z4fmBRGm8pPVX9A6J/ (visited July 25, 2020).

[3] DHP Status Report (visited July 26, 2020).

[4] *Id.*

[5] WSB-TV, Georgia sets new record for most new coronavirus cases in a 24-hour period (July 24, 2020), available at https://www.wsbtv.com/news/local/atlanta/georgia-sets-new-record-most-new-coronavirus-cases-24-hour-period/G4GIPJCSAFFXPDIHENX4NLL6EE/ (visited July 25, 2020); *see also* Jeff Amy, Associated Press, COVID-19 Deaths Surge Anew in Georgia as Hospitals Stay Full, U.S. News & World Report (July 22, 2020), available at https://www.usnews.com/news/best-states/georgia/articles/2020-07-22/covid-19-deaths-surge-anew-in-georgia-as-hospitals-stay-full.

virus, and four have tragically died. Dunams Aff. ¶¶4, 8. Almost all of the WUSR-represented employers in the Atlanta metropolitan region have had employees among their workforces who tested positive for COVID-19. Baumann Aff. ¶8. AT&T telecommunications workers who work as technicians and at call centers and retail stores in Atlanta are testing positive on a daily basis. Barlow ¶8. At the Mondelez bakery in Atlanta, about every three weeks a worker tests positive for COVID-19, after which some of the worker's colleagues are instructed to quarantine. Lane Aff. ¶3. Sysco warehouse, cleaning personnel, and laundry drivers have also fallen ill as a result of the virus. *See* Hartfield Aff. ¶2; Rucker Aff. ¶6; Collins Aff. ¶7; Buchanan Aff. ¶5.

Workers face an increased risk of contracting COVID-19 when they interact with members of the public and their co-workers, a risk that is significantly heightened when those with whom they are interacting are not masked. For example, bus drivers and other operators of public transit are required to interact with passengers, many of whom do not wear masks. Dunams Aff. ¶11. Cleaning personnel at facilities such as Spellman College and the airport interact with members of the public who may choose not to be masked. Rucker Aff. ¶7; Hartfield Aff. ¶7. Telecommunication workers, whether working in retail or in the field, can be exposed to COVID-19 when customers and members of the public with whom they have contact fail to wear masks. Barlow Aff. ¶10. Warehouse workers, laundry workers, and bakery workers similarly fear returning to work every day because co-workers may not be required to wear masks. Buchanan Aff. ¶7; Lane Aff. ¶5; Collins Aff. ¶5.

The accompanying affidavits, provided by a cross-section of amici's members, demonstrate that although amici's members are committed to performing their jobs despite the risks caused by the ongoing pandemic, they are increasingly concerned that, absent a requirement that everyone wear masks, they will not be safe at work—and that they may not only get infected themselves, but pose a high risk of transmitting the virus to others in their families, communities, and workplaces.

James Hill, a 14-year employee at Avis Car Rental at the Hartsfield-Jackson Airport, is an African American who regularly interacts with airport customers. Because Mr. Hill "come[s]

in close contact with customers every day[,]" he is "extremely worried about going to work" "[w]ithout a requirement that everyone wear a mask, including customers." Hill Aff. ¶7. He explains in his affidavit that customers without masks pose a real and troubling threat to his health and that of his co-workers, as "[s]ome customers do not wear masks when they approach the rental counter and talk with me and my co-workers." *Id.* ¶¶1, 4.

Angela Rucker, a 24-year employee of Aramark who is African American and works as a cleaner at Spelman College, explains that she has "continued to come to work despite the very serious risks of working during the pandemic because [she] know[s] that [her] work is important" and necessary to allowing the campus to be "safe for everyone who works at the College during the pandemic." Rucker Aff. ¶¶2, 3. Ms. Rucker takes the MARTA train and bus to work and explains that "not everyone wears masks on the bus and train," so she also worries that she may "contract COVID-19 because [she] need[s] to ride public transportation." *Id.* ¶9.

Cynthia Hartfield, an African American resident of Atlanta who has worked as a janitor at Hartsfield-Jackson Airport for more than 37 years, is also concerned about contracting the virus through work. Hartfield Aff. ¶2. Despite her reasonable fears, she knows that her job is essential and she has therefore continued to work, even after her daughter, who had lived with her, moved out to avoid becoming infected as a result of Ms. Hartfield's work. *Id.* ¶6. Like Ms. Rucker, Ms. Hartfield takes MARTA to and from work and is concerned that, "without a mask rule in Atlanta some MARTA passengers will continue to not wear masks" and she may contract the virus on her way to work. *Id.* ¶9.

Marsha Collins is an African American resident of Atlanta who has worked for Aramark Laundry in Atlanta for approximately 20 years, and sorts dirty linens that come from hospitals before they are washed. Collins Aff. ¶¶1, 2. She has continued to perform her essential work despite the risks of doing so, including the risk that she could bring COVID-19 home to her 73-year-old mother with whom she lives. *Id.* ¶¶4, 6. Having had a co-worker and a relative contract the virus, and a friend hospitalized in Atlanta because of COVID-19, Ms. Collins worries: "I have seen the real toll that the virus has on my community and do not know how I would manage

if my mother or I were to get infected. . . . Having the Mayor require everyone to wear a mask makes me more confident that my co-workers and I can continue to do our job." *Id.* ¶8.

Darrell Lane, a 37-year employee of an Atlantan bakery and President of Local 42, similarly explains that "[r]equiring everyone to wear a mask makes me more confident that my co-workers and I can continue to do our jobs." Lane Aff. ¶7; *see also id.* ¶6 (describing how Mr. Lane is concerned about bringing COVID-19 home to his family from work); *see also* Buchanan Aff. ¶7.

Amici's members are eager for the State and local economy to reopen. They depend on their jobs to support their families. They need to work to pay for housing, food, and transportation. Buchanan Aff. ¶¶5-6; Rucker Aff. ¶11; Hartfield Aff. ¶7; Collins Aff. ¶8. But they are fearful that working without proper protections will inevitably result in further shutdowns, lay-offs, and loss of productivity. Hill Aff. ¶9; Collins Aff. ¶10; Rucker Aff. ¶10; *id.* ¶6 (describing how employees who worked with employee who tested positive for COVID-19 were instructed to quarantine); *see also* Hartfield Aff. ¶11 (describing how employees were furloughed at the beginning of the outbreak); Dunams Aff. ¶14 (public transportation workers who contract COVID-19 have to be out of work for extended periods); Barlow Aff. ¶8 (describing how co-workers of telecommunications workers who test positive for COVID-19 have to self-quarantine); Cooper Aff. ¶11 ("[s]ome members of Local 42 work for businesses that have recently increased operations, and a single outbreak of COVID-19 would risk having to shut down the entire sector again or, at a minimum, lead to additional worker lay-offs").

As one example, Andre Buchanan, a loader at a Sysco Atlanta warehouse, describes how his work hours were reduced at the height of the pandemic, requiring him to deplete his savings to pay for the basics for himself, his wife and two children. Buchanan Aff. ¶¶2, 5, 6. Although his hours are starting to pick up again, Mr. Buchanan is concerned that the risk of an outbreak at his jobsite would result in reductions of work hours and even layoffs. *Id.* ¶¶2, 9. While he is "eager for the economy to re-open, … as an essential worker who has had to face the risks of working during the pandemic, [he] know[s] that any re-opening of the economy needs to be done

safely." *Id.* ¶10. Mr. Buchanan explains that "Atlanta's mask requirement not only keeps workers safe, but it also ensures that we will be able to keep our jobs and provide for ourselves and our families." *Id.*; *see also* Lane Aff. ¶10; Hill Aff. ¶10.

In short, fears of getting sick in the workplace and spreading the virus to others, coupled with the very real likelihood that outbreaks of COVID-19 will increase without a mask mandate, have a direct, negative effect on the economy:

> Without a face mask mandate, employees are increasingly worried about getting sick. Every positive COVID-19 case in each plant creates more fear in the workforce. Mandatory mask wearing would decrease fear among employees and increase production and the economic viability of employers in Atlanta.

Cooper Aff. ¶11; *see also* Dawson Aff. ¶12; Baumann Aff. ¶11; Barlow Aff. ¶12.

B. COVID-19 Disproportionately Affects the African American Community in Georgia

The majority of workers in Atlanta represented by amici unions are African American and thus face even greater risks during this pandemic. Amici are particularly concerned with the disproportionate impacts COVID-19 is having on their African American members. *See* Baumann Aff. ¶8; Dunams Aff. ¶8; Cooper Aff. ¶8; Lawson Aff. ¶9; Barlow Aff. ¶9. Local 732's members, transportation workers who allow Atlanta's public transportation to continue functioning during the pandemic, are predominantly African American and all of the members who have tested positive for COVID-19 are African American. Dunams Aff. ¶¶4, 8, 13.

The Center for Disease Control ("CDC") has determined that African Americans in Georgia who are infected with the virus are far more likely to be hospitalized than whites who are infected.[6] A study of COVID-19 patients from six metropolitan Atlanta hospitals and their associated outpatient clinics demonstrated that hospitalized patients were 79% more likely to be African American than non-hospitalized patients.[7] In explaining this stark statistical disparity,

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[6] Characteristics Associated with Hospitalization Among Patients with COVID-19 – Metropolitan Atlanta, Georgia, March—April 2020, *CDC Weekly*, Vol. 69(25) at 790-94 (June 26, 2020) ("June 26 CDC Report"), available at https://www.cdc.gov/mmwr/volumes/69/wr/mm6925e1.htm (visited July 25, 2020).

[7] June 26 CDC Report; *see also* Characteristics and Clinical Outcomes of Adult Patients Hospitalized with COVID-19 — Georgia, March 2020, *CDC Morbidity and Mortality Weekly*

the CDC noted that "*black workers are more likely than other workers to be frontline industry or essential workers, which increases their likelihood of infection with SARS-CoV-2 while performing their jobs*" and that this "could contribute to the disproportionate diagnoses of COVID-19 among black persons in metropolitan Atlanta."[8] Given the "overrepresentation of black patients" among those hospitalized, the CDC has concluded that "it is important for public health officials to ensure that prevention activities prioritize communities and racial/ethnic groups most affected by COVID-19."[9] Specifically, the CDC recommends that "[m]easures that prevent the spread of infection to others, such as wearing cloth face coverings, should be used whenever possible to protect groups at high risk."[10]

C. Face-Covering Requirements Are Crucial to Reopening Georgia's Economy Because They Increase Worker and Public Safety and Reduce Viral Outbreaks that Would Require Workplace Closures and Overload the State's Already Overburdened Hospitals

Georgia was one of the first states in the country to begin reopening after the onset of the pandemic,[11] but the rapidly rising numbers of new cases and hospitalizations compelled it to pause these efforts.[12] Common sense, coupled with recent experience, now makes clear that for businesses in this State to be able to safely reopen and to remain open, their employees and their customers must have effective protections against the ever-present risk of viral transmission.

Report, Vol. 69, No. 18 at 545-50 (May 8, 2020) ("May 8 CDC Report"), available at https://www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6918e1-H.pdf?deliveryName=USCDC_921-DM26922 (data from eight Georgia hospitals, including seven in metropolitan Atlanta, revealed that 83.2% of hospitalized patients with COVID-19 were Black).

[8] June 26 CDC Report (emphasis added).

[9] May 8 CDC Report at 545.

[10] June 26 CDC Report.

[11] Plaintiff imposed a statewide shelter-in-place order on April 2, 2020, *see* Executive Order 04.02.20.01, but just three weeks later, moved to reopen the economy. *See* Isaac Stanley-Becker & Griff Witte, Why Georgia Gov. Brian Kemp stands alone on masks, The Washington Post (July 20, 2020), available at https://www.washingtonpost.com/national/why-georgia-gov-brian-kemp-stands-alone-on-masks/2020/07/20/2365b294-caba-11ea-bc6a-6841b28d9093_story.html (visited July 25, 2020).

[12] *See, e.g.*, Executive Order 04.30.20.01 (extending certain shelter-in-place rules); Executive Order 06.29.20.01 (extending Public Health State of Emergency).

Relying on individual employers and businesses to voluntarily implement the necessary safety measures has proven inadequate, especially as this novel coronavirus has shown itself to be powerfully effective at exploiting insufficiently protected populations and gaps in coverage.

The overwhelming consensus among scientists and public health officials is that where person-to-person interactions are unavoidable, the safest interactions by far are those in which both individuals are masked or wear face coverings. Indeed, thirty states require their citizens to wear masks outside whenever social distancing is not possible. *See* Ella Torres, Which US states require masks and which 2 don't at all?, ABC News (July 22, 2020), available at https://abcnews.go.com/Health/us-states-require-masks/story?id=71472434 (visited July 25, 2020).

As the CDC recently explained, "cloth face coverings provide source control – that is, they help prevent the person wearing the mask from spreading COVID-19 to others." Press Release: CDC calls on Americans to wear masks to prevent COVID-19 spread (July 14, 2020) ("July 14 CDC Press Release"), available at https://www.cdc.gov/media/releases/2020/p0714-americans-to-wear-masks.html (visited July 25, 2020). That is why the experts tell us that "[***t*]*he main protection individuals gain from masking occurs when others in their communities also wear face coverings.***" *Id.*[13] For this reason, essential workers such as amici's members can have no confidence of being able to perform their jobs without significant risk of infection unless those with whom they interact, both in the workplace and in transit to and from work, take the same basic precautions by wearing appropriate coverings. Bus drivers should be able to drive their buses without worrying about contracting the virus from unmasked passengers. Airport cleaners, rental car agency workers, laundry workers, and warehouse loaders should not be

[13] *See also* CDC: Considerations for Wearing Cloth Face Coverings, Help Slow the Spread of COVID-19 (updated July 16, 2020), available at https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-guidance.html (citing 19 scientific studies) (visited July 25, 2020). Face coverings are particularly important because, as the CDC has explained, "COVID-19 can be spread by people who do not have symptoms and do not know that they are infected." *Id.*

forced to risk their lives by having to interact with customers (or co-workers or the general public) who fail to wear masks and thus substantially increase the risk of being a deadly viral spreader—even if asymptomatic or pre-symptomatic.

D. The Governor's Ban on Local Mask Regulation and His Lawsuit Against Atlanta's Mayor Does Not Further Any Legitimate Policy

Although the Governor purports to recognize the public health importance of wearing masks and face coverings, he has repeatedly stopped short of requiring the use of masks in public spaces when social distancing is not possible. The Governor's most recent Executive Order, issued on July 15, 2020, "strongly encourage[s]" residents and visitors to the State of Georgia "to wear face coverings as practicable while outside their homes or place of residence, except when eating, drinking, or exercising outdoors," but does not require masks. *See* Executive Order 07.15.20.01, p. 2. Just last week, the Governor went so far as to issue an official press release asking all Georgians to "commit to wearing a mask" when out in public or when social distancing inside is not possible. Press Release: Governor Kemp Calls on Georgians to Do "Four Things for Four Weeks" to Stop COVID-19 (July 21, 2020) ("Governor's July 21, 2020 Press Release"), available at https://gov.georgia.gov/press-releases/2020-07-21/governor-kemp-calls-georgians-do-four-things-four-weeks-stop-covid-19 (visited July 26, 2020).

Although prior Executive Orders appropriately recognized the right of local governments to issue such orders as were consistent with the Governor's Executive Orders and may be necessary "for emergency management purposes and to supplement the carrying out" of those orders, Executive Order 07.15.20.01 added a new clause that seeks to strip local government officials of their home rule authority in the context of requiring masks or face coverings, stating:

> [P]ursuant to Code Section 38-3-28, other than orders issued pursuant to the authority of Code Section 38-3-60 et seq., any state, county, or municipal law, order, ordinance, rule, or regulation that requires persons to wear face coverings, masks, face shields, or any other Personal Protective Equipment while in places of public accommodation or on public property are suspended to the extent that they are more restrictive than this Executive Order.

Executive Order 07.15.20.01, p. 32.

Before the issuance of this latest Executive Order, Atlanta's Mayor, the Hon. Keisha Lance Bottoms, had issued a series of local executive orders that required all persons living, working in, or visiting Atlanta to use a mask or cloth face covering "when inside a commercial entity or other building or space open to the public, or when in an outdoor public space, wherever it is not feasible to maintain appropriate social distancing from another person not in the same household," subject to specified exceptions. Compl., Exhs. D, E, and F (Section 4). The Mayor's executive orders rested on the now well-established scientific and medical consensus that "requiring the use of masks or face coverings is a targeted response that can combat the threat to public health using the least restrictive means, and if people follow this requirement, more extreme measures may be avoided." *Id.*, Exh. D at p. 4.

As COVID-19 infections have begun to soar in Georgia, other Georgia cities and local jurisdictions have also issued orders mandating the use of face coverings in public areas.[14] Indeed, at least sixteen other localities, including Savannah, Athens-Clarke County, Clarkston, Decatur, East Point, Macon-Bibb County, and Rome, have all recently adopted such requirements.[15] The Governor's lawsuit singles out Atlanta for no apparent, and certainly no

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[14] *See* Abigail Hauslohner & Haisten Willis, *Georgia bars municipalities from mandating masks as more states now require them*, The Washington Post (July 16, 2020), available at https://www.washingtonpost.com/national/georgia-bars-municipalities-from-mandating-masks-as-more-states-now-require-them/2020/07/16/32149640-c79d-11ea-8ffe-372be8d82298_story.html (visited July 25, 2020).

[15] *See* Exh. A (Savannah emergency order, June 30, 2020), available at http://www.savannahga.gov/DocumentCenter/View/19649/June-30-signed-emergency-order?bidId=; Exh. B (Athens-Clarke County ordinance, July 7, 2020), available at https://www.accgov.com/DocumentCenter/View/69444/Face-Cover-Ordinance---Signed-070820?bidId=; Exh. C (Clarkston ordinance, July 21, 2020), available at https://www.scribd.com/document/470040231/City-of-Clarkston-Mask-Ordinance#from_embed; Exh. D (Decatur ordinance, July 10, 2020), available at https://www.decaturga.com/sites/default/files/fileattachments/city_commission/page/11981/o-20-09.pdf; Exh. E (East Point ordinance, July 6, 2020), available at https://www.eastpointcity.org/wp-content/uploads/2020/07/Face-Coverings-Mask-Ordinance.pdf; Exh. F (Macon-Bibb County ordinance, July 21, 2020), available at https://go.boarddocs.com/ga/maconbibb/Board.nsf/Public (July 21, 2020 agenda, Item 7.W); Exh. G (Rome order effective July 14, 2020), available at

valid, reason. With the largest economy in Georgia, Atlanta's efforts to reduce the spread of COVID-19 and to safely reopen businesses are key to the State's overall ability to recover from this pandemic. There is no legitimate basis to prohibit Atlanta from requiring face coverings, particularly when the State has taken no action to prevent other cities and counties in Georgia from protecting those who work and reside within their boundaries.

Argument and Citation to Authority

I. The Public Interest Weighs Strongly Against the Governor's Requested Injunction Because Enjoining Atlanta's Mask Requirement Will Put Essential Workers, Their Families, and Their Communities Needlessly at Risk and Will Threaten the Economy's Reopening

As the Governor acknowledges in his moving papers, in deciding whether to order an interlocutory injunction to change the status quo this Court must consider the balance of harms to the parties as well as "whether granting the injunction will disserve the public interest." Pl.'s Mot. at 10. The *only* harm identified by the Governor in support of his requested emergency injunction is the speculative assertion that allowing Atlanta to mandate the use of face coverings could create confusion regarding the Governor's statewide "recommendations." *See id.* at 12. The Governor does not cite any evidence to support his assertion that Atlanta's ordinance has created any confusion. Moreover, the fact that many other local governments in Georgia have adopted similar mandates demonstrates first, that if local mandates caused actual confusion there would likely be evidence of such confusion by now, and second, that the supposed risk of

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https://www.romefloyd.com/coronavirus-updates; *see also* Michael King, Local mask mandates in Georgia, 11Alive (updated July 15, 2020), available at https://www.11alive.com/article/news/health/coronavirus/local-mask-mandates-in-georgia-what-you-need-to-know/85-041368a1-5295-4ef4-8913-ec90f7ca9598 (detailing face covering requirements adopted by Atlanta, Athens-Clarke County, Avondale Estates, Brookhaven, College Park, Decatur, DeKalb County, Doraville, Dunwoody, East Point, Fairburn, Savannah, South Fulton, and Union City) (visited July 25, 2020); Jenna Eason, Bibb County commissioners approve mask mandate in attempt to slow spread of COVID-19, Telegraph (updated July 23, 2020), available at https://www.macon.com/news/coronavirus/article244395067.html (visited July 25, 2020).

confusion is a make-weight, after-the-fact justification that cannot justify the Governor's decision to single out Atlanta.

Even if the Governor could provide evidentiary support (or even a logical explanation) for his assertion that Atlanta's Executive Order has somehow undermined his Executive Order recommending the use of masks, that is a minimal harm at best. Certainly it does not come close to measuring up against the immediate and irreparable harm to Atlanta's workers and residents that would result from being exposed to non-mask-wearing carriers of this virulent disease, whether symptomatic or not.

The Governor also completely ignores the public interest factor that this Court must also consider. The crucial question presented by the Governor's motion for emergency injunctive relief is whether this Court should take the extraordinary step of enjoining a local government's efforts to combat a public health crisis by reversing the existing status quo, which mandates the use of face-coverings in Atlanta. Remarkably, the Governor's brief completely ignores the vital issues of public health raised by this lawsuit and makes no attempt to justify the requested injunction as furthering any public interest. The most he can say about the public interest is that it is in "the public interest of the citizens of Atlanta – both natural and corporate – to have clarity and consistency" in rules they must follow, and that the Governor should be the one to set those rules. Pl.'s Mot. at 13. But there is nothing unclear about the Mayor's mask-wearing requirement; it is the Governor's unenforceable encouragement of mask-wearing that lacks clarity or consistency of application. And the question of who sets the rules is the merits question in this case, not a factor bearing on the balance of harms or evaluation of the public interest. Surely it matters, in determining as an equitable matter whether to enjoin the Mayor of the State's largest metropolitan area from exercising her police power authority to protect residents and visitors that the Governor does not even mention the severe and potentially catastrophic public health impacts that would result from the requested injunction, or the staggering indifference to the health and livelihoods of those living and working in Atlanta that this lawsuit reveals.

Certainly, the question of how the Governor's proposed injunction will affect the public health must be considered in evaluating whether the injunction will serve the public interest. Here, the overwhelming consensus of medical professionals, as confirmed by the CDC, is that individuals gain protection "when others in their communities also wear face coverings." July 14 CDC Press Release. Absent a requirement that everyone use masks or face coverings, workers in essential industries and other sectors that are finally beginning to reopen cannot be assured that they will not be exposed to the virus on the job, and thus turned into carriers themselves. *See supra* at pp. 8-11. Absent such a requirement, workers, their families, and their communities are unnecessarily exposed to extraordinary health risks. Enjoining the mask requirement would also threaten the ability of Atlanta businesses to stay open, given the increased risk of workplace outbreaks, which will inevitably lead to closures, quarantining of workers, and possible lay-offs. *See supra* at pp. 11-12. The public interest factor thus weighs overwhelmingly against the Governor's requested injunction. *Cf. Bradfield v. Hospital Authority of Muscogee County*, 226 Ga. 575, 583 (1970) (recognizing "governmental obligation" of "provid[ing] for the health of the people"); *Beazley v. De Kalb County*, 210 Ga. 41, 47 (1953) (provision for "public health" is "universally recognized as [a] function[] of government").

Finally, the Governor's speculation that requiring masks might discourage businesses from reopening is not supported by any evidence, is contradicted by the experience thus far in Atlanta, Athens, Savannah, and other localities where mask-wearing is required, and is contrary to the experience and understanding of amici's members. *See* Cooper Aff. ¶13. After all, "when the public fails to wear masks, there is more risk that workers will be infected, greater risks of outbreaks of the virus in key sectors of the economy, greater risk that employers will lay off and/or reduce the hours of workers, and greater uncertainty and anxiety about the re-opening of the economy." Dawson Aff. ¶14; *see also* Cooper Aff. ¶13. Simply put, "[i]t is not possible to re-open Georgia's economy without ensuring that workers, their families, and their communities are protected," and this "deadly disease will not be stopped unless serious measures are taken to

prevent its transmission in the community." Baumann Aff. ¶12; *see also* Cooper Aff. ¶12; Dawson Aff. ¶13.

II. The Governor Is Unlikely to Succeed on the Merits Because His Attempt to Preempt Atlanta's Mask Requirement Exceeds His Emergency Authority and Is Arbitrary

The Governor's authority to preempt home rule authority is not unlimited. He has emergency powers during this public health crisis, but those powers may only be exercised "*to promote and secure the safety and protection of the civilian population*." O.C.G.A. § 38-3-51(c)(4) (emphasis added). The Governor also may not exercise his powers in a manner that would violate the U.S. Constitution and its guarantees against arbitrary and discriminatory exercise of governmental power.[16]

A. The Governor's Purported Preemption of Atlanta's Face-Covering Requirement Exceeds His Emergency Powers

The Governor's emergency motion makes no attempt to explain how his July 15, 2020 "suspension" of any local ordinance or order that goes beyond merely encouraging face coverings or masks in places of public accommodation or on public property promotes the "safety and protection of [Georgia's] civilian population." O.C.G.A. § 38-3-51(c)(4). The consensus among medical and scientific experts is that face coverings save lives and sharply reduce viral transmission. There is no public health benefit in prohibiting local officials from mandating the use of that inexpensive, readily available infection-blocking tool.

While the Governor has ample authority to recommend the use of face-coverings throughout the State, he does not have authority to prohibit local governments like Atlanta from mandating greater protections in the absence of any evidence, let alone a claim (which the Governor does not even attempt to suggest), that such a prohibition would promote the safety and protection of the public. The purported justification advanced by the Governor—a need for statewide uniformity (which, of course, a "recommendation" does little to provide)—has no

[16] Because the merits of the Governor's claims are addressed in the briefs filed by Mayor Bottom and amici curiae Georgia Municipal Association, Inc. and International Municipal Lawyers Association, Inc., the union amici only briefly discuss the merits here.

bearing on whether the Order's attempt to bar localities from adopting face-covering mandates protects the public.

The Governor has acknowledged that face coverings prevent the transmission of the deadly coronavirus, and has even made mask-wearing the first pillar of his plan to slow the spread of the virus. *See* Governor's July 21, 2020 Press Release. The Governor's own Executive Orders recommend face coverings for precisely that reason. Barring cities and counties in Georgia from requiring masks or face coverings in commercial establishments and other places of public gathering does not further any public good, let alone the safety and protection of the public, and necessarily interferes with the local governments' obligation to exercise their home rule powers to protect the health and welfare of their citizens.

B. Plaintiff's Authority Should Be Construed to Avoid Constitutional Infirmities

Any interpretation of the Governor's emergency powers that would allow him to take action that does not promote the safety of Georgians—namely by suspending more protective local measures that the Governor himself acknowledges will help combat the spread of COVID-19—would present constitutional concerns that this Court should avoid. *See Nordahl v. State*, 306 Ga. 15, 20 (2019) (citing *Clark v. Martinez*, 543 U.S. 371, 381 (2005), for the proposition that the canon of constitutional avoidance allows courts, when considering competing interpretations of statutory text, to rely on a presumption that the legislature "'did not intend the alternative which raises serious constitutional doubts'").

To the extent the Governor's Executive Order is allowed to preempt cities and counties in Georgia from adopting more protective public health and safety measures, that Executive Order is subject to constitutional challenge because it impermissibly interferes with the State's residents' rights under the Fourteenth Amendment of the U.S. Constitution.

The U.S. Constitution protects individuals against injury to their life or liberty caused by arbitrary or cruel state action. The Due Process Clause of the Fourteenth Amendment acts as a shield "against arbitrary action," "prevent[ing] government officials from abusing their power, or employing it as an instrument of oppression." *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 845-

46 (1992) (internal quotation marks omitted); *see also Waddell v. Hendry Cnty. Sheriff's Office*, 329 F.3d 1300, 1305 (11th Cir. 2003) (describing how the "substantive component of the Due Process Clause 'protects individual liberty against certain government actions regardless of the fairness of the procedures used to implement them'") (quoting *Collins v. City of Harker Heights, Tex.*, 503 U.S. 115, 125 (1992)). Specifically, the Due Process Clause prohibits state actors from causing serious harm through "deliberate indifference" to the consequences of their actions. *Waddell*, 329 F.3d at 1306. A government official acts with deliberate indifference when he or she "know[s] of and disregard[s] an excessive … risk to the victim's health or safety." *Id.*

The Governor fully understands the life-threatening and economy-destroying consequences of the State's failure to control the recent explosion of COVID-19 infections, just as he understands that suspending Atlanta's mask requirement will inexorably result in sharply increased spikes in COVID-19 infections throughout the city. The Governor himself has publicly recognized the need to control the spread of COVID-19 and the key role played by community mask-wearing. *See* EO 07.15.20.01 p. 2; Governor's July 21, 2020 Press Release.

While exigent circumstances may sometimes justify an inadequate response to a substantial public health risk, here there has been ample time for thoughtful deliberation, and in these circumstances, the Governor's indifferent failure to respond to a known risk cannot be excused. *See Guertin v. State*, 912 F.3d 907, 925 (6th Cir. 2019) (holding when there is "[e]xtensive time to deliberate" an arbitrary or indifferent response to a "known risk cannot be excused on the basis of split-second decision making"); *see also Lewis*, 523 U.S. at 853 (indifference may be "truly shocking" where there are "extended opportunities to do better"). We are now many months into this pandemic. It is abundantly clear, from the Governor's own orders and public statements, and from CDC studies and guidance, that requiring masks during face-to-face and other close interpersonal encounters are one of the few available means of flattening the curve and reducing the spread of this life-threatening virus. The Governor's July 15 Executive Order all but guarantees that more workers in Atlanta (and potentially other cities) will become infected, require urgent medical care and scarce medical resources, spread the virus

to others, and ultimately delay Georgia's recovery from this global pandemic. His attempt to invalidate local measures that are indisputably more protective of the public—whether that attempt is motivated by animus or political calculations—is an arbitrary and indifferent response to a known public health risk that violates the Due Process Clause.

Conclusion

The Governor's request for an emergency interlocutory injunction should be denied. The requested injunction, if granted, would significantly endanger the lives of workers throughout Atlanta, their families, and their communities. An injunction will undermine the delicate economic recovery that is underway in Atlanta and Georgia, and may lead to the closure of businesses and layoff of thousands of workers, deepening the economic harms to the citizens of Atlanta and the entire State. The Governor does not have the authority under Georgia law or the U.S. Constitution to take action that he knows will cause serious harm to Atlanta's workers and residents.

Respectfully submitted, this 27th day of July, 2020.

/s/ Michael B. Schoenfeld

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* *pro hac vice* application to be filed forthwith

CERTIFICATE OF SERVICE

This is to certify that I have this day caused a true and correct copy of the foregoing document to be served on all counsel of record by this Court's Odyssey E-File GA System:

This 27th day of July, 2020.

/s/ Michael B. Schoenfeld

Michael B. Schoenfeld
Counsel for Amici Curiae

EXHIBIT A

EMERGENCY ORDER REQUIRING THAT FACE COVERINGS OR MASKS BE WORN IN PUBLIC IN THE CITY OF SAVANNAH DURING THE COVID-19 PUBLIC HEALTH EMERGENCY

WHEREAS, the state of Georgia remains under a state of emergency as a result of the COVID-19 pandemic; and

WHEREAS, Governor Brian P. Kemp has relaxed and/or removed many restrictions on businesses resulting in citizens and visitors interacting in public and commercial establishments; and

WHEREAS, the guidelines promulgated by the White House on re-opening America specifically call for a 14-day downward trajectory among other gating criteria, which guidelines are specifically incorporated by reference; and

WHEREAS, the incidence of infection and death in the metropolitan Savannah area has consistently risen signifying the continued spread of the highly contagious and deadly disease; and

WHEREAS, the number of cases is growing rapidly and if COVID-19 continues to spread in the City, the number of persons relying on medical, pharmaceutical, and general cleaning supplies will increase, the private and public sector work force will be negatively impacted by absenteeism, and the demand for medical facilities may exceed locally available resources; and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") advises that the use of masks or cloth face coverings will slow the spread of COVID-19, and the CDC recommendations on PPE usage are hereby incorporated by reference; and

WHEREAS, taking measures to control outbreaks minimizes the risk to the public, maintains the health and the safety of the City's residents, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS, it is vitally important that we all ***work together*** to decrease the widespread proliferation of COVID-19 among us all now rather than suffer the unfortunate and devastating medical and economic consequences later; and

WHEREAS, pursuant to the authority of O.C.G.A. § 38-3-28(a), local governments are specifically empowered to enact rules and regulations as may be necessary for emergency management purposes; and

WHEREAS, O.C.G.A. § 38-3-28(a) also grants political subdivisions the power to supplement the Governor's Executive Orders; and

WHEREAS, this order is intended to be entered with due regard to the uniform principle that masks or face coverings will slow the spread of COVID-19 as contemplated by O.C.G.A. § 38-3-28(c); and

WHEREAS, this emergency order is authorized by O.C.G.A. §§ 38-3-4 and 38-3-28 and the local control provisions of Governor Kemp's Executive Order of June 29, 2020, and it is specifically intended to supplement such declaration, as amended, and should not be construed to be inconsistent therewith; and

WHEREAS, in the judgment of the Mayor of the City of Savannah, with advice from the City Manager and other subject matter experts, emergency conditions persist within the City requiring extraordinary and immediate corrective actions for the protection of the health, safety, and welfare of the citizens of the City of Savannah.

NOW, THEREFORE, pursuant to the authority vested in me by local and state law;

IT IS HEREBY ORDERED that masks or facial coverings shall be required in public places within the City to slow the spread of the novel coronavirus disease known as COVID-19 as follows:

1. All persons entering a commercial establishment in the City must wear a face covering or mask while inside the establishment. This paragraph does not apply to religious establishments; however, the use of face coverings is highly recommended during religious activity.

2. All restaurants, retail stores, salons, grocery stores, and pharmacies in the City must require their employees to wear a face covering at all times while having face-to-face interaction with the public.

3. Any person who is unable to safely wear a face covering due to age, an underlying health condition, or is unable to remove the face covering without the assistance of others is exempt from this Order.

4. Face coverings are not required in the following circumstances:

   a. In personal vehicles;
   b. When a person is alone in enclosed spaces or only with other household members;
   c. During outdoor physical activity, provided the active person maintains a minimum of 6 feet from other people with whom they do not cohabitate at all times;
   d. While drinking, eating, or smoking;
   e. When wearing a face covering causes or aggravates a health condition;
   f. When wearing a face covering would prevent the receipt of personal services; and
   g. When a person is 10 years of age or younger.

5. A person who fails to comply with Paragraph 1 of this Order shall be guilty of a civil infraction punishable by a fine of not more than $500.00 pursuant to Section 3-3015 of the City Code.

6. A person who fails to comply with Paragraph 2 of this Order shall be guilty of a civil infraction, punishable by a fine of not more than $500.00. Each day of a continuing violation

of this Order shall be considered a separate and distinct offense. In addition to the fines established by this paragraph, repeated violations of this Order by a person who owns, manages, operates, or otherwise controls a business subject to this Order may, subject to all procedural protections set forth in the City Code, result in being declared to be a public nuisance, which may be abated by the City as provided by law. The foregoing notwithstanding every effort shall be made to bring the business into voluntary compliance with the terms of this Order prior to the issuance of any citation. For purposes of Paragraph 2, "person" shall be defined as any individual associated with the business who has the control or authority and ability to enforce the social distancing requirements of this Order within the business such as an owner, manager, or supervisor. "Person" may also include an employee or other designee that is present at the business but does not have the title of manager, supervisor, etc. but has the authority and ability to ensure that the requirements of this Order are met while the business is open to the public.

7. Should any provision, paragraph, sentence, or word of this Order be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, paragraphs, sentences, or words of this Order as hereby issued shall remain in full force and effect.

8. This Order is effective as of 8:00 am on Wednesday, July 1, 2020 and shall remain in effect until rescinded.

SO DECLARED at _____ 10:32 .m. on June 30, 2020.

CITY OF SAVANNAH GEORGIA

Van R. Johnson II
Mayor, City of Savannah

God help us!

Attested to by:
Mark Massey, Clerk of Council

EXHIBIT B

AN ORDINANCE FOR THE FIFTH DECLARATION OF A LOCAL STATE OF EMERGENCY RELATED TO COVID-19; AND FOR OTHER PURPOSES.

WHEREAS, Athens-Clarke County, Georgia has experienced an event of critical significance as a result of the Coronavirus (COVID-19) disease ("COVID-19"); and

WHEREAS, the Centers for Disease Control and Prevention, (the "CDC") indicates that COVID-19 is a new and contagious respiratory disease caused by a novel (new) coronavirus that was first detected in China and which has now been detected in more than 100 locations around the world, including in the United States; and

WHEREAS, COVID-19 is officially a global pandemic according to the WHO; and

WHEREAS, COVID-19 can spread from person to person, and can result in no symptoms, minor symptoms, or serious illness causing permanent organ damage and death; and

WHEREAS, individuals age 65 or over or living with certain medical conditions identified by the CDC (members of Vulnerable Populations) and members of other populations identified by the CDC ("Other Populations at Risk") are at risk of severe and lasting harm to health or death from COVID-19; and

WHEREAS, COVID-19 also has been reported to cause severe and permanent damage to some children; and

WHEREAS, there is no vaccine or approved treatment for COVID-19; and

WHEREAS, the CDC has noted that COVID-19 spreads very easily and sustainably when an infected person (who may not exhibit symptoms at all, or only minor symptoms) talks, sneezes, or coughs in close proximity with others (within six feet); and

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency for the United States of America in response to COVID-19; and

WHEREAS, on March 14, 2020 Governor Brian Kemp declared a Public Health State of Emergency in Georgia and renewed his declaration on April 8, 2020, April 30, 2020, May 28, 2020, and again on June 29, 2020 so that it will remain in effect at least through August 11, 2020; and

WHEREAS, on March 16, 2020, the Mayor and Commission of the Unified Government of Athens-Clarke County, Georgia adopted an Ordinance for the Declaration of Local State of Emergency related to COVID-19;

WHEREAS, on March 19, 2020, pursuant to their authority under the Athens-Clarke County Emergency Management Ordinance, the Athens-Clarke County Mayor and Commission adopted a Second Declaration of Local Emergency activating certain emergency powers in order to allow Athens-Clarke County to quickly respond to the COVID-19 pandemic and renewed that declaration on April 21, 2020, and again on June 2, 2020; and

WHEREAS, the Governor, through Executive Orders 04.30.20.01, 05.12.20.02, 05.28.20.02, 06.11.20.01, and 06.29.20.02 has recognized the need to take extra precautions to protect certain vulnerable populations who meet the criteria for higher risk of severe illness as defined by the CDC and identified in Section III of the Governor's Executive Order 06.29.20.02 ("Vulnerable Populations"); and

WHEREAS, Executive Orders 04.30.20.01, 05.12.20.02, 05.28.20.02, 06.11.20.01, and 06.29.20.02 required Vulnerable Populations to continue to shelter in place, with exceptions that include participating in essential services and working, through July 15, 2020; and

WHEREAS, the Mayor and Commission desire to protect individuals in said Vulnerable Populations and Other Populations at Risk in a reasonable manner and as recommended by the CDC and by the Georgia Department of Public Health, while such individuals are participating in essential services and working; and

WHEREAS, the CDC[1], Dr. Kathleen Toomey (Georgia's Commissioner of Public Health), and Governor Kemp through Executive Order 05.12.20.02, and subsequent Executive Orders, have recommended that individuals wear facial coverings over the nose and mouth to mitigate the spread of COVID-19 when they are in public places where they cannot practice social distancing (i.e., stay at least six feet away from other individuals who do not share the same household); and

WHEREAS, the CDC states that wearing a facial covering over the nose and mouth is a recommended precaution designed to prevent symptomatic and asymptomatic individuals who have contracted COVID-19 from spreading it to other individuals; and

WHEREAS, Dr. Toomey and Governor Kemp have modeled the behavior of wearing facial coverings as examples for Georgians to follow; and

WHEREAS, according to the Georgia Department of Public Health Daily Status Report for Monday, July 6th, 2020, Georgia now has 95,516 confirmed cases of COVID-19, including 714 confirmed cases in Athens-Clarke County; and

WHEREAS, according to the Georgia Department of Public Health Daily Status Report for Monday, July 6th, 2020, 2,660 individuals in Georgia have died and 11,775 have been hospitalized after contracting COVID-19; and

WHEREAS, as indicated above, the state of Georgia remains under a state of emergency as a result of the COVID-19 pandemic; and

WHEREAS, Governor Brian Kemp has relaxed and/or removed many restrictions on businesses resulting in citizens and visitors interacting in public and commercial establishments; and

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[1] CDC recommends wearing cloth face coverings in public settings where other social distancing measures are difficult to maintain (e.g., grocery stores and pharmacies), especially in areas of significant community-based transmission.

"In light of new data about how COVID-19 spreads, along with evidence of widespread COVID-19 illness in communities across the country, CDC recommends that people wear a cloth face covering to cover their nose and mouth in the community setting. This is to protect people around you if you are infected but do not have symptoms."

A cloth face covering should be worn whenever people are in a community setting, especially in situations where you may be near people. These settings include grocery stores and pharmacies. These face coverings are not a substitute for social distancing. Cloth face coverings are especially important to wear in public in areas of widespread COVID-19 illness.

Yes. Wearing cloth face coverings is an additional public health measure people should take to reduce the spread of COVID-19. CDC still recommends that you stay at least 6 feet away from other people (social distancing), frequent hand cleaning and other everyday preventive actions. A cloth face covering is not intended to protect the wearer, but it may prevent the spread of virus from the wearer to others. This would be especially important if someone is infected but does not have symptoms.

WHEREAS, the guidelines promulgated by the White House on re-opening America specifically call for a 14-day downward trajectory among other gating criteria, which guidelines are specifically incorporated by reference; and

WHEREAS, the incidence of infection and death in the territorial limits of the Unified Government of Athens-Clarke County, hereinafter referred to as "Athens-Clarke County," continues to increase, signifying the continued spread of the highly contagious and deadly disease; and

WHEREAS, this continued increase is a threat to the health, safety, and welfare of the Athens-Clarke County community, especially individuals in Vulnerable Populations and Other Populations at Risk; and

WHEREAS, the number of cases is growing rapidly; and if COVID-19 continues to spread in Athens-Clarke County and the surrounding communities, the number of persons relying on medical, pharmaceutical, and general cleaning supplies will increase, the private and public sector work force will be negatively impacted by absenteeism, and the demand for medical facilities may exceed locally available resources; and

WHEREAS, the CDC indicates that there is evidence of widespread community transmission in Georgia; and

WHEREAS, the CDC and public health officials expect that additional cases of COVID-19 will be identified in the coming days; and

WHEREAS, the CDC advises that the use of masks or cloth facial coverings will slow the spread of COVID-19, and the CDC recommendations on PPE usage are hereby incorporated by reference; and

WHEREAS, taking measures to control outbreaks minimizes the risk to the public, maintains the health and the safety of the residents of Athens-Clarke County, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS, it is vitally important that we all work together to decrease the widespread proliferation of COVID-19 among us all now rather than suffer the unfortunate and devastating medical and economic consequences later; and

WHEREAS, pursuant to the authority of O.C.G.A. § 38-3-28(a), local governments are specifically empowered to enact rules and regulations as may be necessary for emergency management purposes; and

WHEREAS, O.C.G.A. § 38-3-28(a) also grants political subdivisions the power to supplement the Governor's Executive Orders; and

WHEREAS, this order is intended to be entered with due regard to the uniform principle that masks or facial coverings will slow the spread of COVID-19 as contemplated by O.C.G.A. § 38-3-28(c); and

WHEREAS, this emergency order is authorized by O.C.G.A. §§ 38-3-4 and 38-3-28 and the local control provisions of Governor Kemp's Executive Order of June 29, 2020, and it is specifically intended to supplement such declaration, as amended, and should not be construed to be inconsistent therewith; and

WHEREAS, notwithstanding the foregoing, the Supreme Court of Georgia has noted that the Unified Government of Athens-Clarke County, Georgia, is neither a county nor a municipal government, but rather a "new political entity" formed in accordance with "the constitutionally-sanctioned consolidation of municipal and county governmental and

corporate powers and functions";[2] and

WHEREAS, pursuant to O.C.G.A. § 38-3-51, the Governor's declared public health emergency authorizes the Mayor and Commission to use emergencies powers in O.C.G.A. §§ 38-3-1 through 38-3-64; and

WHEREAS, pursuant to O.C.G.A. § 38-3-6, during an emergency, O.C.G.A. §§ 38-3-1 through 38-3-64 are supposed to be liberally construed to effectuate their purposes; and

WHEREAS, pursuant to Section 1-104 (d) of the Charter of the Unified Government of Athens-Clarke County, Georgia, the Mayor and Commission have the right, duty, power, privilege and authority to exercise and enjoy all other powers, duties, functions, rights, privileges, and immunities necessary and proper to promote or protect the safety, health, peace, security and general welfare of said government and its inhabitants and to exercise all implied powers necessary to carry into execution all powers granted in this Charter as fully and completely as if such powers were fully enumerated herein and to do and perform all of the acts pertaining to its property, affairs and local government which are necessary or proper in the legitimate exercise of its corporate powers and governmental duties and functions; and

WHEREAS, pursuant to Sub-Sections (36) and (39) of Section 8-114 of the Charter of the Unified Government of Athens-Clarke County, Georgia, the Mayor and Commission have the following additional powers:

(17) Health: To prescribe and enforce heath and sanitation standards; and

(36) Emergencies: To provide for the determination, proclamation and combatting of emergencies; and

(39) General health, safety, and welfare: To define, regulate and prohibit any act, practice, conduct or use which is detrimental to the health, sanitation, cleanliness, welfare, and safety of the inhabitants of the unified government; and

WHEREAS, the United States Supreme Court has previously held that "[u]pon the principle of self-defense, of paramount necessity, a community has the right to protect itself against an epidemic of disease which threatens the safety of its members"; and

WHEREAS, the Mayor and Commission of Athens-Clarke County, Georgia have determined that it is necessary to continue its Declaration of a Local State of Emergency; and

WHEREAS, the following actions related to requiring facial coverings in public are necessary and appropriate to balance the public's interest in being free from undue restrictions with the compelling public interest of providing for the health, safety and welfare of the residents of Athens-Clarke County and the surrounding communities, particularly those individuals who are members of Vulnerable Populations and Other Populations at Risk; and

WHEREAS, in the judgment of the Mayor and Commission of the Unified Government of Athens-Clarke County, Georgia, with advice from other subject matter experts, there exist emergency conditions as a result of COVID-19 within the geographical boundaries of the Unified Government as described in Section 1-102 of the Charter requiring extraordinary and immediate corrective actions for the protection of the health, safety, and welfare of the citizens of Athens-Clarke County and the surrounding communities;

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[2] *Athens-Clarke County v. Walton Electric Membership Corporation*, 265 Ga. 229, 230 (1995).

NOW, THEREFORE, the Commission of Athens-Clarke County, Georgia hereby ordains and declares that a local state of emergency continues to exist within the territorial limits of the Unified Government of Athens-Clarke, County, Georgia, and shall continue until the conditions requiring this declaration are abated.

NOW, THEREFORE, because of the local state emergency ordained and declared above, the Commission of Athens-Clarke County, Georgia hereby ordains and orders the following:

SECTION 1.

The Athens-Clarke County Office of Emergency Management shall continue with its activation of the Emergency Operations Plan and that the following sections of the Code of Athens-Clarke County, Georgia, shall continue to be implemented:

(a) Section 3-4-5 Additional Emergency Powers

(b) Section 3-4-9. Authority to Waive Procedures and Fee Structures

SECTION 2.

Any provisions of the Alcoholic Beverages Ordinance, Chapter 6-3 of the Code of Athens-Clarke County, Georgia, prohibiting an establishment licensed to sell beer or wine on premises from selling unopened bottles, cans, or growlers of beer and wine for take-out consumption off premises shall be temporarily suspended for the duration of this local declaration. It is the intent of this order that any establishment licensed to sell beer and/or wine shall be authorized to sell unopened bottles or cans and sealed growlers of such beverages for take-out consumption off premises through the duration of the declared Local Emergency, including any extension thereof. All other provisions of the Alcoholic Beverages Ordinance not in conflict with this order shall remain in full force and effect.

SECTION 3.

That the April 1, 2020 deadline for payment of Occupation Tax and regulatory fees continue to be extended to and including August 11, 2020. Any provisions of Athens-Clarke County's Occupation Tax in conflict in with the extension granted herein are hereby temporarily suspended. All other provisions of the Occupation Tax Ordinance, Chapter 6-1 of the Code of Athens-Clarke County, Georgia, remain in full force and effect.

SECTION 4.

For the protection of members of the public, including members of Vulnerable Populations and members of other Populations at Risk, facial coverings or masks shall be required in public places within Athens-Clarke County to slow the spread of the novel coronavirus disease known as COVID-19 as follows:

(a) Definitions:

Facial covering or *mask:* A device to cover the nose and mouth of a person to impede the spread of saliva or other fluids during speaking, coughing, sneezing or other intentional or involuntary action. Medical grade masks are not required; coverings may be fashioned from scarves, bandanas, or other suitable fabrics. The mask must cover the mouth and nose of the wearer.

Public place: Any place other than an individual's home, including the curtilage thereof, or a personal vehicle.

(b) All persons entering a commercial establishment in Athens-Clarke County must wear a facial covering or mask while inside such establishment. This requirement to wear a facial covering does not apply to religious establishments; however, the use of facial coverings is highly recommended during religious activity.

(c) All restaurants, retail stores, salons, grocery stores, and pharmacies in Athens-Clarke County must require their employees to wear a facial covering or mask at all times while having face-to-face interaction with the public.

(d) Any person who is unable to safely wear a facial covering or mask due to age, an underlying health condition, or is unable to remove the facial covering or mask without the assistance of others is exempt from this Ordinance.

(e) Facial coverings or masks are not required in the following circumstances:

1. In personal vehicles;
2. When a person is alone in enclosed spaces or only with other household members;
3. During outdoor physical activity, provided the active person maintains a minimum of six (6) feet from other people with whom they do not cohabitate at all times;
4. While drinking, eating, or smoking;
5. When wearing a facial covering or mask causes or aggravates a health condition;
6. When wearing a facial covering or mask would prevent the receipt of personal services; and
7. When a person is ten (10) years of age or younger.

(f) Violations of Sub-Sections (b) and (c) of this Section 4 may be enforced by a notice of ordinance violation issued by any police officer, code enforcement officer, or other authorized law enforcement official as provided below:

1. A person who fails to comply with Sub-Section (b) of Section 4 of this Ordinance shall not be punishable by imprisonment but shall be punishable by a civil fine of not more than $25.00 on the first offense, not more than $50 on the second offense, and not more than $100 on the third offense and any subsequent offenses.

2. A person who fails to comply with Sub-Section (c) of Section 4 of this Ordinance shall not be punishable by imprisonment but shall be punishable by a civil fine of not more than $25.00 on the first offense, not more than $50 on the second offense, and not more than $100 on the third offense and any subsequent offenses. For the purposes of Sub-Section (c) of Section 4 of this Ordinance, "person" shall be defined as an individual associated with the business who has the control or authority and ability to enforce the social distancing requirements of this Ordinance within the business such as an owner manager or supervisor. "Person" may also include an employee or other designee that is present at the business but does not have the title of manager, supervisor, etc. but has the authority and ability to ensure that the requirements of this Order are met while the business is open to the public.

3. A notice of violation may be served by delivery into the hands of the suspected violator.

4. Violators may respond to a notice of ordinance violation either by signing the notice and returning the notice along with payment of the fine indicated thereon to the Municipal Court of Athens-Clarke County by the date indicated on the notice or by appearing in the Municipal Court to plead no liability to the charged violation at the date and time provided on the notice. As a violation of this Ordinance shall be deemed civil in nature, the government shall bear the burden to prove, by a preponderance of the evidence, that a defendant violated this ordinance. No proceedings for contempt or arrest shall be initiated for failure to appear on the return date on the notice.

5. Violators who fail to respond—by payment of the civil fine, entry of a "no liability" plea, or other mechanism as may be deemed appropriate by the Judge of the Municipal Court of Athens-Clarke County—to a notice of ordinance violation as provided for in paragraph 4 above may thereafter be served personally with an ordinance violation citation or accusation, and criminally prosecuted pursuant to section 1-1-5 (a) of the Code of Athens-Clarke County, Georgia.

6. The foregoing notwithstanding every effort shall be made to bring an individual into voluntary compliance with the terms of this Ordinance prior to issuance of any Notice of Violation.

(g) The provisions of Section 4 of this Ordinance shall not apply within the territorial limits of any municipality located within Athens-Clarke County or to any property, office, or facility of the Clarke County School District, the State of Georgia or its instrumentalities (including, without limitation, the Board of Regents of the University System of Georgia and any association or foundation affiliated therewith), or the United States of America or its instrumentalities.

SECTION 5.

This Ordinance shall become effective at 8:00 a.m. on the next day following the Mayor's approval, and will continue to be in effect until 11:59 p.m. on Tuesday, August 4, 2020, or until it is extended, rescinded, superseded, or amended by an ordinance of the Commission.

Should any provision, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, paragraphs, sentences, or words of this Ordinance as hereby issued shall remain in full force and effect.

All Ordinances or parts of Ordinances in conflict with this Ordinance are, to the extent of such conflict, hereby repealed or set aside.

SECTION 6.

Copies of this Ordinance shall be: (1) promptly posted at Athens-Clarke County City Hall, 301 College Avenue, Athens, Georgia; (2) promptly posted on the www.accgov.com website; and (3) provided to any member of the public requesting a copy of this Order.

SO ORDERED AND ORDAINED this 7 day of July, 2020.

THE UNIFIED GOVERNMENT OF ATHENS-CLARKE COUNTY, GEORGIA

Kelly Girtz 7/8/2020

Kelly Girtz, Mayor

Attest: _____

Gloria J. Spratlin, Clerk of Commission

[SEAL]

EXHIBIT C

CITY OF CLARKSTON

CLARKSTON CITY COUNCIL MEETING

BUSINESS AGENDA / MINUTES

MEETING DATE: July 21, 2020

ITEM NO: D1

HEARING TYPE:
Special Call

ACTION TYPE:
Resolution

SUBJECT: Emergency Resolution by The Clarkston City Council Requiring The Use Of Masks Or Face Coverings In Public During The Covid-19 Outbreak

DEPARTMENT: City Administration

PUBLIC HEARING: ☐YES ☒ NO

ATTACHMENT: ☒ YES ☐NO
Pages:

INFORMATION CONTACT: Jamie Carroll & YT BELL

PHONE NUMBER: 404-296-6489

PURPOSE:

This agenda item is to consider adopting an Emergency Resolution by the City Council to Require the Use of Masks or Face Coverings in Public during the Covid-19 Outbreak

RESOLUTION _____

AN EMERGENCY RESOLUTION BY THE CLARKSTON CITY COUNCIL REQUIRING THE USE OF MASKS OR FACE COVERINGS IN PUBLIC DURING THE COVID-19 OUTBREAK

WHEREAS, there are 97,064 confirmed cases of COVID-19 in Georgia as of July 6, 2020, and 7,050 confirmed cases of COVID-19 in DeKalb County as of July 6, 2020; and,

WHEREAS, the presence of community spread in Georgia and DeKalb County has been confirmed and it is expected that substantially more cases will be diagnosed in Georgia and DeKalb County during the COVID-19 outbreak; and,

WHEREAS, the World Health Organization declared COVID-19 a worldwide pandemic as of March 11, 2020; and,

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency in response to the outbreak of COVID-19; and,

WHEREAS, on March 14, 2020, Governor Brian Kemp declared that a public health emergency exists in the State of Georgia due to the spread of COVID-19 within Georgia and has "strongly encouraged" all Georgia residents and visitors to wear maks; and,

WHEREAS, a significant number of Georgia residents are at risk of serious health complications, including death, from COVID-19; and,

WHEREAS, a large number of persons with serious infections can compromise the ability of the healthcare system in DeKalb County to deliver necessary care to the public; and,

WHEREAS, COVID-19 is a respiratory illness, transmitted through person-to-person contact or by contact with surfaces contaminated with the virus and persons infected with COVID-19 may become symptomatic two to fourteen days after exposure; and,

WHEREAS, asymptomatic (including presymptomatic) infected persons are infectious and, without mitigation, the current estimate is that 40%-80% of infections occur from individuals without symptoms; and,

WHEREAS, respiratory droplets from infected persons are a major mode of COVID-19 transmission. This understanding is the basis of the recommendations for physical distancing, and of the personal protective equipment guidance for healthcare workers. Droplets do not only come from coughing or sneezing; droplets are generated via talking and breathing; and,

WHEREAS, evidence indicates that the use of face coverings reduces the transmissibility per contact by reducing transmission of infected droplets in both laboratory and clinical contexts. Public face covering wearing is most effective at stopping the spread of the virus when compliance is high. This evidence supports the conclusion that the adoption of more widespread face

covering requirements can help to control the COVID-19 epidemic by reducing the shedding of droplets into the environment from asymptomatic individuals; and,

WHEREAS, guidelines published by the U.S. Centers for Disease Control (CDC) recommend that all people wear cloth face coverings in public settings where other physical distancing measures may be difficult to maintain. CDC also advises the use of simple cloth face coverings to slow the spread of the virus and help people who may have the virus and do not know it from transmitting it to others; and,

WHEREAS, decreased transmissibility due to face covering use could substantially reduce the death toll and economic impact while the cost of the intervention is low; and,

WHEREAS, as of July 7, 2020 orders requiring face coverings in total or in part are already in place state-wide in at least twenty-one (21) states and in many local communities in the United States; and

WHEREAS, the Charter of the City of Clarkston (Section 1.03, subsections (l), (n) and (w)) grants to the City Council the power to protect the safety, health, and welfare of the public by prohibiting conduct detrimental to public health.

NOW THEREFORE, in a public and specially called emergency meeting, authorized pursuant to O.C.G.A. § 51-14-1(g), the Clarkston City Council hereby resolves and declares as follows:

1.) Face Covering Required in Public Places. While indoors, all customers, employees and other users of restaurants, retail stores, grocery stores and all other public places shall wear a mask or face covering.

2.) Use of Face Coverings Outdoors. All persons shall wear a mask or face covering while outdoors in an environment in which people who do not reside in the same household cannot maintain at least six feet of physical distance from one another (as recommended by the CDC).

3.) Reasonable exceptions to the use of face coverings are permitted for:

- Children under the age of ten (10)
- People who cannot wear face coverings due to documented medical or behavioral conditions
- People whose religious beliefs prevent them from wearing a face covering
- While eating or drinking
- When complying with the directions of a law enforcement officer or for the purposes of verifying a person's identity

4.) Enforcement. The City Manager and his designee(s) shall enforce this ordinance as follows:

a. any person found to be in violation of this resolution shall first be given a warning and an opportunity to put on a mask or leave the public area;
b. the City Manager or designee shall offer the person a mask in connection with providing the warning required by (a);
c. if the person violating this resolution refuses to comply with this resolution after being given a warning and offered a mask, then he or she shall be issued a citation.
d. a person convicted of violating this resolution shall be assessed a fine of One Hundred Dollars ($100.00) by the Municipal Court.

5.) This resolution shall be effective immediately and shall remain in effect until revised or repealed by further action of the City Council.

SO RESOLVED, this ___ day of July, 2020.

CITY COUNCIL
CITY OF CLARKSTON, GEORGIA

_____
AWET EYASU, Vice Mayor

ATTEST:

_____
Tracy Ashby, City Clerk

Approved as to Form:

_*Stephen G. Quinn*_____
Stephen G. Quinn, City Attorney

EXHIBIT D

O-20-09

AN ORDINANCE REQUIRING FACE COVERINGS TO BE WORN IN PUBLIC DURING THE COVID-19 PUBLIC HEALTH EMERGENCY

WHEREAS, the World Health Organization declared COVID-19 a worldwide pandemic as of March 11, 2020;

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency in response to the outbreak of COVID-19;

WHEREAS, on March 14, 2020, Governor Brian Kemp declared that a public health emergency exists in the State of Georgia due to the spread of COVID-19 within Georgia;

WHEREAS, on March 14, 2020, there were just 66 confirmed cases of COVID-19 in Georgia and only one confirmed death in Georgia attributed to COVID-19;

WHEREAS, less than four months later, there have been 106,727 confirmed cases of COVID-19 in Georgia and 2,930 confirmed deaths, as of July 9, 2020;

WHEREAS, Georgia residents continue to be at risk of serious health complications, including death, from COVID-19;

WHEREAS, individuals age 65 or over or living with certain medical conditions identified by the Centers for Disease Control and Prevention ("CDC") (members of "Vulnerable Populations") and members of other populations identified by the CDC ("Other Populations at Risk") are at risk of severe and lasting harm to health or death from COVID-19;

WHEREAS, COVID-19 also has been reported to cause severe and permanent damage to some children;

WHEREAS, there is no vaccine or approved treatment for COVID-19;

WHEREAS, Governor Kemp renewed his declaration of a public health state of emergency in Georgia April 8, 2020, and has done so again on multiple occasions, including most recently on June 29, 2020;

WHEREAS, since May, Governor Kemp has relaxed and/or removed many restrictions on businesses and establishments he had previously implemented, resulting in an increase in individuals interacting in public and in commercial establishments within the City of Decatur over the past weeks;

WHEREAS**,** the Governor, through multiple executive orders, nonetheless recognizes the need to take extra precautions to continue protecting certain vulnerable populations;

WHEREAS, the Governor also has repeatedly and strenuously urged Georgians to adopt a practice that is simple but highly effective at preventing the spread of COVID-19: wearing a face covering or mask when in public;

WHEREAS, specifically, Governor Kemp, through Executive Order 05.12.20.02 and subsequent Executive Orders, has recommended that individuals wear facial coverings over the nose and mouth to mitigate the spread of COVID-19 when they are in public places where they cannot practice social distancing (i.e., stay at least six feet away from other individuals who do not share the same household);

WHEREAS, most recently in his Executive Order 06.29.20.02 "Empowering a Healthy Georgia," Governor Kemp ordered "that all residents and visitors to the State of Georgia are strongly encouraged to wear face coverings as practicable while outside their homes or place of residence, except when eating, drinking, or exercising outdoors;"

WHEREAS, the Governor's orders and directives with respect to wearing face coverings follow the CDC's recommendations;

WHEREAS, the CDC states that wearing a facial covering over the nose and mouth is a recommended precaution designed to prevent symptomatic and asymptomatic individuals who have contracted COVID-19 from spreading it to other individuals;

WHEREAS, the CDC recommends wearing cloth face coverings in public settings where other social distancing measures are difficult to maintain (e.g., grocery stores and pharmacies), especially in areas of significant community-based transmission;

WHEREAS, the CDC recommendations on usage of face coverings are hereby incorporated by reference;

WHEREAS, Governor Kemp, along with Dr. Kathleen Toomey, Georgia's Commissioner of Public Health, have modeled the behavior of wearing face coverings as examples for Georgians to follow;

WHEREAS, consistent with and in furtherance of Governor Kemp's emphasis on the need to wear face coverings, leaders of the judicial, legislative, and executive branches of State government have mandated the wearing of face coverings or masks in public facilities, to wit:

- In his Third Order Extending Declaration of Statewide Judicial Emergency filed June 12, 2020, the Chief Justice of the Georgia Supreme Court has ordered that any Georgia court that decides to conduct in-person judicial proceedings must develop and implement operating guidelines and has authorized use of the "Georgia Court Reopening Guide" as a template, which Guide lists as its first infection control measure that all court employees

and members of the public be required to wear a mask or face covering when entering the court facility;

- When the Georgia General Assembly reconvened on June 15, 2020, the House of Representatives required that all House members and staff wear masks while on the Capitol grounds and required all visitors to House committee rooms to wear masks;

- On July 6, 2020, the State Board of Regents announced that beginning July 15, 2020, University System of Georgia institutions will require all faculty, staff, students, and visitors to wear an appropriate face covering while inside campus facilities/buildings where sufficient social distancing is not always possible;

WHEREAS, on July 1 and 2, 2020, Governor Kemp conducted a statewide "Wear a Mask Tour," flying to seven Georgia cities to publicly emphasize the need for Georgians to "mask up to fight the spread of COVID-19;"

WHEREAS, Governor Kemp has stated publicly that he agrees with the policy that underlies a Savannah ordinance adopted on June 30, 2020 that requires the wearing of masks, i.e., "that everyone should be wearing a mask in public places;"

WHEREAS, as a densely populated, thriving intown community that serves as a center of commercial, civic, government, social, entertainment, academic, and religious activities, the City of Decatur has heightened risk of "community spread" as that term is defined by the CDC;

WHEREAS, the incidence of infection and death in DeKalb County continues to increase, signifying the continued spread of the highly contagious and deadly disease in the community in which the City of Decatur is located;

WHEREAS, as of July 9, 2020, DeKalb County to date has had 7,742 confirmed cases of COVID-19 and at least 175 deaths in DeKalb County have been attributed to COVID-19;

WHEREAS, while many individuals in and visitors to the City of Decatur have heeded Governor Kemp's repeated urging to wear face coverings in public places, many have not;

WHEREAS, the continued increase of COVID-19 cases is a threat to the health, safety, and welfare of the City of Decatur community, especially individuals in Vulnerable Populations and Other Populations at Risk;

WHEREAS, a large number of persons with serious infections can compromise the ability of the healthcare system in DeKalb County to deliver necessary care to the public;

WHEREAS, if the number of cases of COVID-19 continues to spread in the City of Decatur and the surrounding communities, the number of persons relying on medical, pharmaceutical, and general cleaning supplies will increase, the private and public sector work force will be negatively

impacted by absenteeism, and the demand for medical facilities may exceed locally available resources;

WHEREAS, as Governor Kemp has repeatedly stressed, it is vitally important that all Georgians work together to decrease the widespread proliferation of COVID-19 among us all now rather than suffer the unfortunate and devastating medical and economic consequences later;

WHEREAS, pursuant to the authority of O.C.G.A. § 38-3-28(a), local governments are specifically empowered to enact rules and regulations as may be necessary for emergency management purposes;

WHEREAS, O.C.G.A. § 38-3-28(a) also grants political subdivisions the power to supplement the Governor's Executive Orders;

WHEREAS, this Ordinance is intended to be entered with due regard to the widely accepted, scientifically proven uniform principle that masks or facial coverings will slow the spread of COVID-19, as contemplated by O.C.G.A. § 38-3-28(c);

WHEREAS, this Ordinance is authorized by O.C.G.A. §§ 38-3-4 and 38-3-28 and the local control provisions of Governor Kemp's Executive Order of June 29, 2020, and it is specifically intended to supplement such declaration, as amended, and should not be construed to be inconsistent therewith;

WHEREAS, pursuant to O.C.G.A. § 38-3-51, the Governor's declared public health emergency authorizes the City Commission to use emergency powers in O.C.G.A. §§ 38-3-1 through 38-3-64;

WHEREAS, pursuant to O.C.G.A. § 38-3-6, during an emergency, O.C.G.A. §§ 38-3-1 through 38-3-64 are supposed to be liberally construed to effectuate their purposes;

WHEREAS, the United States Supreme Court has previously held that "[u]pon the principle of self-defense, of paramount necessity, a community has the right to protect itself against an epidemic of disease which threatens the safety of its members;"

WHEREAS, the following actions related to requiring facial coverings in public are necessary and appropriate to balance the public's interest in not being unduly burdened with the compelling public interest of providing for the health, safety and welfare of the residents of the City of Decatur and the surrounding communities, particularly those individuals who are members of Vulnerable Populations and Other Populations at Risk.

NOW, THEREFORE, BE IT ORDAINED by the City Commissioners of the City of Decatur, Georgia, and it is hereby ordained by the authority of the same, that for the protection of members of the public, including members of Vulnerable Populations and members of other

Populations at Risk, facial coverings or masks shall be required within the City of Decatur to slow the spread of COVID-19 as follows:

SECTION 1

(a) For purposes of this Ordinance, the following terms are hereby defined as follows:

Establishment means any business, store, or other place where goods or services are sold or provided as part of a commercial or non-profit venture, to which the public is invited or in which the public is permitted. The term establishment includes but is not limited to the following: (1) automobile dealerships, furniture or other showrooms for the display of merchandise offered for sale; (2) grocery, pharmacy, specialty, department and other stores which sell goods or merchandise; (3) service stations, stores or shops for the repair or maintenance of appliances, shoes, motor vehicles or other items or products; (4) barbershops, beauty shops, cleaners, laundromats and other establishments offering services to the general public; (5) video arcades, pool halls and other amusement centers; (6) the common areas of commercial, retail and office buildings; (7) the common areas of public buildings and structures; (8) banks, savings and loan offices, and other financial establishments; (9) hotels and motels and other places that provide accommodations to the public; and (10) restaurants, including indoor and outdoor dining areas.

Employee means any person who is employed by any employer in consideration for direct or indirect monetary wages of profit.

Facial covering or mask means a device to cover the nose and mouth of a person to impede the spread of saliva, respiratory droplets, or other fluids during speaking, coughing, sneezing or other intentional or involuntary action. Medical grade masks are not required; coverings may be fashioned from scarves, bandanas, or other suitable fabrics. The mask must cover the mouth and nose of the wearer.

Public place means any place other than an individual's home, including the curtilage thereof, or a personal vehicle.

(b) All persons entering an establishment in the City of Decatur shall wear a facial covering or mask while inside such establishment. This requirement to wear a facial covering does not apply to religious establishments; however, the use of facial coverings is highly recommended during religious activity.

(c) All establishments in the City of Decatur shall require their employees to wear a facial covering or mask at all times while having face-to-face interaction with the public.

(d) Any person who is unable to safely wear a facial covering or mask due to age or an underlying health condition or is unable to remove the facial covering or mask without the assistance of others is exempt from this Ordinance.

(e) Facial coverings or masks are not required in the following circumstances:

1. In personal vehicles;

2. When a person is alone in enclosed spaces or only with other household members;

3. During outdoor physical activity, provided the active person maintains a minimum of six (6) feet from other people with whom they do not cohabitate at all times;

4. While drinking or eating;

5. When a licensed healthcare provider has determined that wearing a facial covering or mask causes or aggravates a health condition for the individual;

6. When wearing a facial covering or mask would prevent the receipt of personal services;

7. When complying with the directions of a law enforcement officer or for the purposes of verifying a person's identity, such as when purchasing alcohol, tobacco, or prescription drugs or when engaging in a financial transaction; and

8. Children under the age of ten (10) years.

(f) All establishments subject to this Ordinance shall post a sign in a clearly visible location near the front entrance stating the following: "Per City Ordinance, all persons must wear a mask or face covering while on the premise. Violators are subject to a civil penalty of up to $100.00."

(g) Violations of Sub-Sections (b) and (c) of this Section 1 may be enforced by a notice of ordinance violation issued by any police officer, code enforcement officer, or other authorized law enforcement official, as provided below:

1. A person who fails to comply with Sub-Section (b) of Section 1 of this Ordinance shall be subject to a civil penalty of not more than $25.00 on the first offense, not more than $50 on the second offense, and not more than $100 on the third offense and any subsequent offenses.

2. A person who fails to comply with Sub-Section (c) of Section 1 of this Ordinance shall be subject to a civil penalty of not more than $25.00 on the first offense, not more than $50 on the second offense, and not more than $100 on the third offense and any subsequent offenses. For the

purposes of Sub-Section (c) of Section 1 of this Ordinance, "person" shall be defined as an individual associated with the business who has the control or authority and ability to enforce the social distancing requirements of this Ordinance within the business such as an owner, manager or supervisor. "Person" may also include an employee or other designee that is present at the business but does not have the title of manager, supervisor, etc., but has the authority and ability to ensure that the requirements of this Ordinance are met while the business is open to the public.

3. A notice of violation may be served by delivery into the hands of the suspected violator.

4. Notwithstanding the foregoing, every effort shall be made to bring an individual into voluntary compliance with the terms of this Ordinance prior to issuance of any notice of violation, including providing complimentary masks, explaining the importance of wearing facial coverings during this pandemic, and issuing verbal and written warnings.

(h) All persons are strongly encouraged to wear a facial covering or mask whenever in a public place in the City of Decatur, especially when in an indoor or outdoor environment in which people cannot maintain adequate social distancing (i.e., at least six feet away from other individuals who do not share the same household).

SECTION 2

This ordinance shall become effective at 8:00 a.m. on July 11, 2020 and remain in effect until 11:59 p.m. on August 17, 2020, or until it is extended, rescinded, or amended by ordinance of the City Commission.

SECTION 3

Should any provision, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court of competent jurisdiction, the remaining provisions, paragraphs, sentences, or words of this Ordinance shall remain in full force and effect.

SECTION 4

Should any ordinance or part thereof be found to conflict with this ordinance or the provisions thereof, then those sections contained herein shall be deemed controlling.

SO ORDAINED this 10th day of July, 2020.

Patricia M Garrett

Mayor

Attest: _____
City Clerk

EXHIBIT E

Ordinance No: 139-020

STATE OF GEORGIA
COUNTY OF FULTON

AN ORDINANCE BY THE CITY OF EAST POINT, GEORGIA, TO PROVIDE FOR THE HEALTH, SAFETY, AND WELFARE OF THE GENERAL PUBLIC BY REQUIRING FACE COVERINGS OR MASKS TO BE WORN IN PUBLIC DURING THE COVID-19 PUBLIC HEALTH EMERGENCY

WHEREAS, the duly elected governing authority of the City of East Point, Georgia is the Mayor and Council thereof; and

WHEREAS, the governing authority is empowered to provide for the health, safety, and welfare of the residents, employees, businesses, and visitors within the city; and

WHEREAS, the spread of the COVID-19 virus has been declared a global pandemic by the World Health Organization ("WHO"); and

WHEREAS, the President of the United States has declared the spread of COVID-19 a national emergency; and

WHEREAS, the Governor of Georgia has declared the spread of COVID-19 a public health emergency in the state; and

WHEREAS, the health, safety, and welfare of residents, businesses, employees, and visitors are the top priority of the governing authority; and

WHEREAS, the governing authority and staff have been closely monitoring the spread of COVID-19 and the associated guidance from medical professionals as well as state and federal government agencies to help stop the spread of the disease; and

WHEREAS, there has been a sharp increase in the number of COVID-19 cases in the City of East Point in recent weeks; and

WHEREAS, the World Health Organization has indicated that COVID-19 is spread primarily by respiratory droplets produced when an infected person coughs or sneezes and droplets can also be generated by talking, laughing, or exhaling; and

WHEREAS, the Director for the Centers for Disease Control, Dr. Robert Redfield, stated as many as one in four people who are infected with COVID-19 show no symptoms, and that people who do not experience symptoms can spread COVID-19 to other individuals;

WHEREAS, the CDC has stated that people infected with COVID-19 are contagious before they start showing symptoms, and that individuals who are infected can spread the virus to others before the onset of symptoms;

WHEREAS, the CDC has recently announced that it is in the process of reviewing mask recommendations based on growing evidence that people experiencing no symptoms can spread the disease more widely than previously thought; and

WHEREAS, the United States Surgeon General, Dr. Jerome Adams, acknowledges that there is a significant amount of asymptomatic spread and recommends that individuals use face coverings to reduce the spread of COVID-19;

WHEREAS, Dr. Anthony Fauci, Director of the National Institute of Allergy and Infectious Diseases, has further recommended that individuals wear facial coverings to prevent individuals from infecting others; and

WHEREAS, more than 1,400 Georgia health care workers have sent a letter to Governor Kemp, petitioning that he institute a statewide mask requirement, among other recommendations;

WHEREAS, O.C.G.A. § 38-3-28(a) further grants political subdivisions the power to supplement the Governor's Executive Order; and

WHEREAS, this Ordinance is intended to be enacted as a supplement to the Governor's Executive Order 06.29.20.02, which describes health and safety procedures related to the COIVD-19 public health emergency.

THEREFORE, BE IT HEREBY ORDAINED that masks or facial coverings shall be required in public places within the City to slow the spread of COVID-19 as follows:

1. All persons entering a commercial establishment in the City must wear a face covering or mask while inside the establishment. This paragraph does not apply to religious establishments; however, the use of face coverings is also strongly recommended in religious establishments.
2. All restaurants, retail stores, salons, barber shops, grocery stores, and pharmacies in the City shall require all employees to wear a face covering or mask at all times while engaged in face to face interaction with the public.
3. Any person who is unable to safely wear a face covering due to age, underlying health condition(s), or is unable to remove the face covering without the assistance of others is exempt from this Ordinance.
4. Face coverings are not required in the following circumstances:
    a. In personal vehicles;
    b. When a person is alone in an enclosed space or only with other household members;
    c. During outdoor physical activity, provided the active person maintains proper social distancing at a minimum of six (6) feet from others who are not household members;
    d. While eating, drinking, or smoking;
    e. When a licensed health provider has determined wearing a face covering causes or aggravates a health condition in the specific individual;
    f. When wearing a face covering would prevent the receipt of personal services; and
    g. When a person is younger than two (2) years old.

5. All establishments subject to this ordinance shall post a sign in a clearly visible location near the front entrance stating that Per City Ordinance, all persons must wear a mask or face covering and violators are subject to a fine of up to $75.00.
6. A person who fails to comply with the requirements of Part 1 of this Ordinance shall be guilty of a civil infraction punishable by a fine of not more than $75.00.
7. A person who fails to comply with Part 2 of this Ordinance shall be guilty of a civil infraction, punishable by a fine of not more than $75.00. Each day of a continuing violation of this Ordinance shall be considered a separate and distinct offense. In addition to the fines established herein, persons who own, manage, operate, or otherwise control a business subject to this Ordinance found in repeated violation hereof, shall, along with their business, be subject to treatment as a public nuisance, which may be abated as provided for by law. All reasonable efforts should, however, be made to bring businesses into compliance with this Ordinance prior to enforcement actions.

Effective Dates

Unless otherwise stated herein, this Ordinance shall be effective July 9, 2020 at 12:00 am. and remain in effect while a declared state of emergency related to COVID-19 persists in the State of Georgia. Fines shall not be implemented until Monday, July 13, 2020.

Severability

Should any provision, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason

of any preemptive legislation, the remaining provisions, paragraphs, sentences, or words of this Ordinance shall remain in full force and effect.

Scrivener's Errors

The City Clerk, in consultation with the City Attorney, is authorized to correct any scrivener's errors contained in this ordinance.

BE IT ORDAINED by the City Council of East Point, this 6th day of July, 2020.

First Reading: waived

Adoption: July 6, 2020

CITY OF EAST POINT, GEORGIA

Deana Holiday Ingraham, Mayor

ATTEST:

Keshia McCullough, City Clerk

APPROVED AS TO FORM:

Brad Bowman, City Attorney

EXHIBIT F

SPONSORS: COMMISSIONER JOE ALLEN

COMMITTEE OF THE WHOLE AMENDMENT 1

AN EMERGENCY ORDINANCE OF THE MACON-BIBB COUNTY COMMISSION REQUIRING THE USE OF FACE COVERINGS IN PUBLIC IN RESPONSE TO THE COVID-19 PANDEMIC; AND FOR OTHER LAWFUL PURPOSES.

Purpose: *To set face covering requirements for the public in the conduct of individuals and organizations during the COVID-19 pandemic.*

WHEREAS, on March 11, 2020, the World Health Organization declared that the COVID-19 disease is a global pandemic, in response to over 118,000 cases present in over 110 countries globally; and

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency, and pledged the "full power of the federal government" to fight this pandemic; and

WHEREAS, on March 14, 2020, Governor Brian Kemp declared a public health emergency for the purpose of easing restrictions that might otherwise hinder the ability of public health systems to respond appropriately to the COVID-19 pandemic; and

WHEREAS, as of July 16, 2020, the World Health Organization ("WHO") reports that there have been over 13.5 Million confirmed cases of COVID-19 globally, including over 580,000 deaths; and

WHEREAS, as of July 16, 2020, the United States Centers for Disease Control and Prevention ("CDC") reports that there have been over 3.5 Million confirmed cases of COVID-19 in the United States, with over 137,000 deaths, or approximately one-quarter of all cases and deaths globally, and is nearly double the number of cases present in any other country; and

WHEREAS, as of July 16, 2020, the Georgia Department of Public Health reports that, in the State of Georgia, there have been over 131,000 confirmed cases of COVID-19, including over 3,100 deaths; and

WHEREAS, under Article 9, § 2, para. II for the Georgia Constitution, and O.C.G.A. § 36-35-3, as well as under Section 2(c) of the Macon-Bibb County Charter, the Macon-Bibb County government has a general police power to take those actions which are "necessary and proper to promote or protect the safety, health, peace, security, and general welfare of said government and its inhabitants"; and

WHEREAS, the CDC has issued guidance, available at www.cdc.gov/coronavirus, which advises that there currently is no vaccine for this virus, and that the best way to stay safe and limit the spread of the virus is for all individuals to take proactive measures to avoid getting or spreading the virus; and

WHEREAS, on July 15, 2020, Governor Kemp issued Executive Order 07.15.20.01, which "strongly encouraged" "all residents and visitors to the State of Georgia . . . to wear face coverings as practicable while outside their homes or place of residence, except when eating, drinking, or exercising outdoors"; and

WHEREAS, Executive Order 07.15.20.01 further provided that, "pursuant to Code Section 38-3-28, other than orders issued pursuant to the authority of Code Section 38-3-60 et seq., any state, county, or municipal law, order, ordinance, rule, or regulation that requires persons to wear face coverings, masks, face shields, or any other Personal Protective Equipment while in places of public accommodation or on public property are suspended to the extent that they are more restrictive than this Executive Order."; and

WHEREAS, Executive Order 07.15.20.01 further provided for the regulation of various businesses, expressed in both mandatory and permissive terms, with vague terminology and broad exceptions to many such permissive terms, to wit:

1. Requiring individuals with certain medical conditions to shelter in place, except when "conducting or participating in Essential Services"; "Performing Necessary Travel"; "engaging in gainful employment"; or "working in Critical Infrastructure." (p. 6);
2. Imposing requirements on restaurants that apply "where possible," "wherever practicable," "where practical," or at "minimum levels"; (pp. 8-10);
3. Requiring that Critical Infrastructure operations and Food Establishments "***shall*** implement measures," but failing to identify discrete requirements, and instead listing nineteen itemized measures that "may" be adopted; (pp. 11-14);
4. Requiring that business operations other than Critical Infrastructure, Fitness Centers, personal care service providers, theaters and cinemas, bowling alleys, bars, amusement ride operators, schools, childcare centers, summer camps, live performance venues, and conventions "***shall*** implement measures," which, "***shall*** include" all items in a list of preventative measures, several of which are qualified by phrases such as "as appropriate," "regularly," "at appropriate places," "as practicable," "encouraging," "discouraging," "limiting," "unnecessary," "frequently," "should," "reducing," or "enhancing"; (pp. 12-29, 33-36, 38-39);
5. Providing that, "That any person, service, or entity delivering healthcare during the effective dates of this Order shall adhere to the guidelines listed in Section V for Critical Infrastructure," which guidelines contain no mandatory requirements; (p. 23);
6. Imposing an ambitional requirement that, "That *to the extent possible*, hospitals, health care institutions, medical facilities, nursing homes, and other long-term care facilities *should* offer in-room dining." (emphasis added) (p. 23); and
7. Requiring that professional, collegiate, and high school teams and organization "***shall***" operate according to the rules or guidelines that have been promulgated by the league, conference, or association governing the sport, but failing to identify or require the promulgation of any discrete requirements; (p. 37); and

WHEREAS, Executive Order 07.15.20.01 further provided that, "pursuant to Code Section 38-3-7, any person who violates this Order shall be guilty of a misdemeanor. Officials enforcing this Order should take reasonable steps to provide notice prior to issuing a citation or making an arrest. No provision of this Order shall limit the ability of law enforcement officers to enforce the laws of this State. Particularly, the provisions of Code Section 38-3-4 remain in effect,

and all law enforcement is authorized to enforce the Orders issued pursuant to Title 38, Chapter 3."; and

WHEREAS, Executive Order 07.15.20.01 further provided that, "any law enforcement officer, after providing reasonable notice and issuing at least two citations for violations of Code Section 38-3-7, is authorized to mandate the closure of any business, establishment, corporation, non-profit corporation, or organization not in compliance with this Order for a period not to extend beyond the term of this Order."; and

WHEREAS, by the plain terms of Executive Order 07.15.20.01, its provisions purport to be entirely legally enforceable, notwithstanding the fact that large sections of this order are written using permissive or imploratory language, including the requirement "strongly encouraging" all residents and visitors in the State of Georgia to wear face coverings; and

WHEREAS, O.C.G.A. § 38-3-28(a) provides that, "The political subdivisions of the state and other agencies designated or appointed by the Governor are authorized and empowered to make, amend, and rescind such orders, rules, and regulations as may be necessary for emergency management purposes and to supplement the carrying out of Articles 1 through 3 of this chapter, but *not inconsistent* with any orders, rules, or regulations promulgated by the Governor or by any state agency exercising a power delegated to it by him." (emphasis added); and

WHEREAS, Section 19(e)(1) of the Macon-Bibb County Charter provides,

> To meet a public emergency affecting life, health, property, or public peace, the commission may convene on call of the mayor, the mayor pro tempore, or a majority of all commissioners and promptly adopt an emergency ordinance, but this ordinance may not levy taxes; grant, renew, or extend a franchise; regulate the rate charged by any public utility for its services; or authorize the borrowing of money except for loans to be repaid within 30 days. An emergency ordinance shall be introduced in the form prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced. It shall become effective upon adoption and approval or at any later time as it may specify. *Every emergency ordinance shall automatically stand repealed 30 days following the date upon which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists.* An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.
>
> (emphasis added); and

WHEREAS, on July 2 and 3, 2020, Governor Kemp undertook a tour of six cities across Georgia to encourage and promote the use of facemasks by members of the public; and

WHEREAS, the recent increase in COVID-19 cases coupled with other health cases that have to be dealt with have put a strain on our healthcare system; and

WHEREAS, our frontline public safety and healthcare employees are unable to adequately social distance from the public as they respond to calls and protect our community; and

WHEREAS, due to the recent spike in confirmed cases and the uncertainty of the next few weeks, public schools have delayed the start of the new school year by several weeks, and are waiting to determine how children will attend; and

WHEREAS, to protect the health of County employees by providing for social distancing from each other and the public, Macon-Bibb County is implementing alternate work schedules and other protective measures in public buildings, where practical; and

WHEREAS, We, as a community, must do what we can to protect our health and the health of those around us by working together and taking multiple preventative measures to slow the spread of COVID-19; and

WHEREAS, the action of each person in Macon-Bibb County is needed to reduce the strain on our healthcare system, allow the schools to make decisions about educating our children, and allow our public services to return to full strength; and

WHEREAS, every person in Macon-Bibb County shares the responsibility of protecting our fellow citizens, including our law enforcement officers, firefighters, emergency medical technicians, healthcare workers, 911 operators, and more, so that the community can remain healthy and able to take care of any residents who fall ill; and

WHEREAS, the Macon-Bibb County Commission finds that this ordinance is necessary and proper to promote or protect the safety, health, peace, security, and general welfare of Macon-Bibb County and its inhabitants;

NOW, THEREFORE, BE IT ORDAINED by the Macon-Bibb County Commission and it is hereby so ordained by the authority of the same that:

Section 1.

Pursuant to Section 19(e)(1) of the Macon-Bibb County Charter, the Macon-Bibb County Commission hereby declares that an emergency exists in Macon-Bibb County with respect to the COVID-19 pandemic.

Section 2.

For purposes of this Ordinance, the term "face covering" shall mean a device that is designed to be worn and is actually being worn over the nose and mouth of a person to impede the spread of saliva or other fluids during speaking, coughing, sneezing, or other act of expiration, expectoration, or expulsion from the mouth or nose, whether intentional, or involuntary. Such device shall not be required to be of a grade suitable for the practice of medicine or for respiration in high-dust or hazardous vapor environments, but shall be deemed sufficient if made from paper, fabric, cloth, scarves, bandanas, plastic, or other materials in such as way as to be capable of effectively impeding the spread of saliva and other fluids as described herein.

Section 3.

All residents and visitors to Macon-Bibb County are hereby ORDERED to wear a face covering over both the nose and mouth at all times while as practicable while outside their homes or places of residence.

Section 4.

For purposes of this Ordinance, it shall be considered to be "practicable" for all persons to wear a face covering:

1. When visiting any commercial establishment, government office, or other enclosed location in which persons not residing in the same household or place of residence are present at the same time; and
2. When working at any commercial establishment, government office, or other enclosed location in which persons not residing in the same household or place of residence are within six feet or are moving in such a way that they may readily pass within six feet;
3. At any other place within the territorial limits of Macon-Bibb County outside of such person's household or other place of residence, the curtilage thereof, or personal vehicle.

Section 5.

Notwithstanding the requirements imposed elsewhere in this Ordinance, it shall be considered to be "impracticable" for any person to wear a face covering:

1. If that person is under the age of 10 years;
2. In a personal vehicle or other enclosed space occupied only by persons who live in the same household or place of residence as such person;
3. When exercising outdoors;
4. When eating, drinking, or smoking;
5. When wearing a face covering materially causes or aggravates a health condition; or
6. When wearing a face covering would prevent the receipt of personal services, such as medical, dental, or care services.

Section 6.

Violations of this Ordinance may be enforced by a notice of ordinance violation issued by any authorized law enforcement official as provided below:

1. A person who fails to comply with this Ordinance shall not be punishable by imprisonment but shall be punishable by a civil fine of not more than $25.00 on the first offense, not more than $50 on the second offense, and not more than $100 on the third offense and any subsequent offenses.

2. A person who has control, authority, or the ability to direct or control the personnel working at any place of business or to enforce face covering requirements imposed on members of the public while within such place of business, and who suffers or permits any such personnel or member of the public to remain on the premises while in violation of this Ordinance shall not be punishable by imprisonment but shall be punishable by a civil fine of not more than $25.00 on the first offense, not more than $50 on the second offense, and not more than $100 on the third offense and any subsequent offenses. This provision shall be applicable to any person who has the authority to refuse admittance or service to any member of the public, or to direct the conduct of any employee, regardless of job title.

3. A notice of violation may be served by delivery into the hands of the suspected violator.

4. Violators may respond to a notice of ordinance violation either by signing the notice and returning the notice along with payment of the fine indicated thereon to the Municipal Court of Macon-Bibb County by the date indicated on the notice or by appearing in the Municipal Court to plead no liability to the charged violation at the date and time provided on the notice. As a violation of this Ordinance shall be deemed civil in nature, the government shall bear the burden to prove, by a preponderance of the evidence, that a defendant violated this ordinance. No proceedings for contempt or arrest shall be initiated for failure to appear on the return date on the notice.

5. Violators who fail to respond—by payment of the civil fine, entry of a "no liability" plea, or other mechanism as may be deemed appropriate by the Judge of the Municipal Court—to a notice of ordinance violation as provided for in paragraph 4 above may thereafter be served personally with an ordinance violation citation or accusation, and criminally prosecuted pursuant to section 1-6 of the Macon-Bibb County Code of Ordinances.

6. The foregoing notwithstanding every effort shall be made to bring an individual into voluntary compliance with the terms of this Ordinance prior to issuance of any Notice of Violation.

7. Nothing in this Ordinance shall be interpreted as limiting or discouraging the enforcement of Executive Order 07.15.20.01, or any subsequent executive order, according to its terms.

8. Notwithstanding the provisions in this Ordinance, the requirement to wear a face covering shall not apply to persons who are within religious establishments, provided, however, that all such persons are strongly encouraged to wear face coverings.

Section 7.

The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 8.

(a) It is hereby declared to be the intention of the Macon-Bibb County Commission that all sections, paragraphs, sentences, clauses, and phrases of this Ordinance are and were, upon their enactment, believed by the Macon-Bibb County Commission to be fully valid, enforceable, and constitutional.

(b) It is hereby declared to be the intention of the Macon-Bibb County Commission that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Macon-Bibb County Commission that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Macon-Bibb County Commission that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs, and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 9.

All Ordinances or parts of Ordinances in conflict with this Ordinance are, to the extent of such conflict, hereby repealed or set aside. This Ordinance shall be considered to be entirely separate from that Ordinance being proposed as Committee of the Whole Amendment 2 to the Ordinance styled, "AN ORDINANCE OF THE MACON-BIBB COUNTY COMMISSION SETTING EXPECTATIONS FOR THE PUBLIC RESPONSE TO COVID-19, AND APPROPRIATING UP TO $700,000.00 FROM FUND BALANCE FOR A PUBLIC AWARENESS CAMPAIGN, AS SPECIFIED HEREIN; AND FOR OTHER LAWFUL PURPOSES." being considered at the same time as this Ordinance, and the adoption of or failure to adopt either Ordinance shall neither cause the repealer of nor otherwise affect the implementation of the other Ordinance.

Section 10.

In the event scrivener's errors shall be discovered in this Ordinance or in any Exhibits hereto after the adoption hereof, the Commission hereby authorizes and directs that each such scrivener's error shall be corrected in all multiple counterparts of this Ordinance.

Section 11.

The Macon-Bibb County Commission grants the Mayor the authority to take any and all further actions necessary to carry out the intents and purposes of this Ordinance.

Section 12.

This Ordinance shall become effective upon its approval by the Mayor or its adoption into law without such approval. This Ordinance shall automatically stand repealed 30 days following the date upon which it was adopted, but may be reenacted and extended for an additional 30 days prior to the date of repealer if the emergency set forth herein still exists.

SO ORDERED AND ORDAINED this _____ day of _____, 2020.

_____

ROBERT A.B. REICHERT, MAYOR

ATTEST: _____

JANICE ROSS, CLERK OF COMMISSION

K:\ORD MACON-BIBB\2020 Allen Setting Expectations for Public Response to COVID-19 and Appropriating Sums 7-9-20 (Committee of the Whole Amendment 1).docx

EXHIBIT G

EMERGENCY ORDER REQUIRING THAT FACE COVERINGS BE WORN WHILE IN A PUBLIC PLACE IN THE CITY OF ROME DURING THE COVID-19 PUBLIC HEALTH EMERGENCY TO PROMOTE HEALTH, SAFETY, AND WELFARE.

WHEREAS, Rome, Georgia has experienced an event of crucial significance resulting from the spread of Coronavirus ("COVID-19") Disease from Wuhan, China; and

WHEREAS, the Centers for Disease Control and Prevention, ("CDC") indicates that COVID-19 is a contagious respiratory disease caused by a novel coronavirus; and

WHEREAS, COVID-19 is considered a global pandemic by the World Health Organization; and

WHEREAS, COVID-19 can be transmitted from person to person through aerosolization and droplets stemming from both symptomatic and asymptomatic host persons; and

WHEREAS, COVID-19 has been shown to cause symptoms including minor illness, serious illness, organ damage, and death; and

WHEREAS, the CDC has classified individuals age 65 and older or persons living with certain medical conditions to be at an increased risk from illness or death resulting from COVID-19; and

WHEREAS, there is not a vaccine for COVID-19 available to the general public; and

WHEREAS, the CDC noted that COVID-19 spreads through droplets and aerosolization when a person infected with COVID-19 talks, coughs, or sneezes within six feet of other persons; and

WHEREAS, on March 14, 2020 President Donald J. Trump declared a state of national emergency in response to the increasing rate of COVID-19; and

WHEREAS, on March 14, 2020 Governor Brian Kemp declared a Public Health State of Emergency in Georgia, which was renewed on April 8, 2020, April 30, 2020, May 28, 2020 and June 29, 2020, which will remain in effect through August 11, 2020; and

WHEREAS, on March 19, 2020 Floyd County, the City of Rome, and the City of Cave Spring declared a state of emergency and a public health emergency; and

WHEREAS, on March 24, 2020 the City of Rome adopted a Second Ordinance Declaring Local Emergency Related to COVID-19 and declared a shelter-in-place order; and

WHEREAS, Governor Brian Kemp, through Executive Orders 04.30.20.01, 05.12.20.02, 05.28.20.02, 06.11.20.01, and 06.29.20.02 has supported the need for extra precautions to care for vulnerable populations who meet the criteria for increased risk of severe illness as defined by the CDC and identified in Section III of the Governor's Executive Order 06.29.20.02; and

WHEREAS, Executive Orders 04.30.20.01, 05.12.20.02, 05.28.20.02, 06.11.20.01, and 06.29.20.02 require vulnerable persons to shelter in place except for participating in essential services and working effective through July, 15 2020; and

WHEREAS, the CDC, Dr. Kathleen Toomey (Georgia Commissioner of Public Health), and Governor Brian Kemp through Executive Order 05.12.20.02 have recommended that individuals wear face coverings that encompass the nose and mouth in an effort to combat the further spread of COVID-19 from symptomatic and asymptomatic persons while in public places and when social distancing is not an option; and

WHEREAS the CDC recognizes that wearing a face covering over the nose and mouth is a precaution that is designed to limit the spread of COVID-19 among persons; and

WHEREAS, Dr. Kathleen Toomey and Governor Brian Kemp have modeled this behavior of mask wearing for Georgians to follow in an effort to reduce the spread of COVID-19; and

WHEREAS, according to the Georgia Department of Public Health Daily Status Report for Wednesday, July 8, 2020 Georgia now has 103,890 confirmed cases including 654 confirmed cases in Floyd County; and

WHEREAS, according to the Georgia Department of Public Health Daily Status Report for Wednesday, July 8, 2020 Georgia now has 2,922 confirmed deaths and 12,500 hospitalizations, and 2,502 admissions to the intensive care unit ("ICU"); and

WHEREAS, according to the Georgia Department of Public Health Daily Status Report for Wednesday, July 8, 2020 Floyd County has 15 deaths and 59 hospitalizations; and

WHEREAS, on July 8, 2020, appearing before a joint meeting of the Commissions of the City of Rome and Floyd County, and the Mayor and Council of the City of Cave Spring, Dr. Gary Voccio, the Director for Georgia Department of Public Health Northwest District, advocated for face coverings to be worn when it is not possible to socially distance; and

WHEREAS, on July 8, 2020, at the same joint meeting, the CEO of Redmond Regional Medical Center, John Quinlivan, the CEO of the Harbin Clinic, Kenna Stock, and the CEO of Floyd Medical Center, Kurt Stuenkel advocated for masks to be worn in public when social distancing is not possible; and

WHEREAS, on July 8, 2020 Dr. John Hostetler, an infectious disease specialist of the Harbin Clinic, recommended that a mask be worn while in public to reduce the spread of COVID-19; and

WHEREAS, due to COVID-19, Georgia remains under a state of emergency; and

WHEREAS, Governor Brian Kemp has relaxed or eliminated restrictions on social distancing within businesses leading to the result of Georgians and visitors intermingling within public spaces and commercial establishments; and

WHEREAS, the guidelines set out by the White House to re-open America specifically requires a 14-day downward trajectory of COVID-19 cases; and

WHEREAS, the City of Rome is in an upward trajectory of COVID-19 infections; and

WHEREAS, this upward trajectory of COVID-19 infections in Georgia is a threat of safety to the occupants and visitors of the City of Rome; and

WHEREAS, if the instances of COVID-19 continues to increase in the City of Rome, the health infrastructure will be heavily burdened by an abundance of illness and an insufficient amount of resources to combat COVID-19 including but not limited to: hospital beds, negative pressure procedural rooms, ventilators, and health care professionals; and

WHEREAS, instituting policies to mitigate risk to citizens of the City of Rome by limiting the spread of COVID-19 infection is crucial to the health, safety, and welfare of the citizens of Rome; and

WHEREAS, the United States Supreme Court held in *Jacobson v. Commonwealth of Massachusetts,* 197 U.S. 11, 27(1905), that, "[u]pon the principle of self-defense, of paramount necessity, a community has the right to protect itself against an epidemic of disease which threatens the safety of its members"; and

WHEREAS, the United States Supreme Court held in *Barbier v. Connolly,* 113 U.S. 27, 31(1884), that the legislature has broad and inherent powers to pass laws that promote the public's health, safety, and welfare; and

WHEREAS, requiring persons wear face coverings in public when it is impossible to socially distance is an appropriate action to take to promote the health, safety, and welfare of citizens of the City of Rome; and

WHEREAS, requiring a face covering be worn in public when it is impossible to socially distance is a necessary balance between being free from undue governmental restrictions and yet promoting public health, safety, and welfare; and

WHEREAS, pursuant to Section 2-10 of the Charter of the City of Rome, Georgia, and Sections 7-5, 7-11, and 7-37 of the Rome Code of Ordinances, the Commission has the right, duty, power, privilege and authority to exercise and enjoy all other powers, duties, functions, rights, privileges, and immunities necessary and proper to promote or protect the safety, health, peace, security and general welfare of said government and its inhabitants and to exercise all implied powers necessary to carry into execution all powers granted in this Charter and Code as fully and completely as if such powers were fully enumerated herein and to do and perform all of the acts pertaining to its property, affairs and local government which are necessary or proper in the legitimate exercise of its corporate powers and governmental duties and functions; and

WHEREAS, cities and counties in Georgia including but not but limited to, Athens-Clarke County, the City of East Point, and the City of Savannah have established ordinances requiring the wearing of face coverings in some capacity; and

WHEREAS, pursuant to O.C.G.A. Sec. 38-3-28 and Rome Ordinances 7-5 and 7-11, the Commission is authorized to make, amend, and rescind orders, rules, and regulations as necessary for emergency purposes and to supplement carrying out the emergency management laws; and

WHEREAS, pursuant to O.C.G.A. Sec. 38-3-51, the Governor's declared public health emergency authorizes the Commission to use emergencies powers in O.C.G.A. Sections 38-3-1 through 38-3-64; and

WHEREAS, pursuant to O.C.G.A. Sec. 38-3-6, during an emergency, O.C.G.A. Sections 38-3-1 through 38-3-64 are to be liberally construed to effectuate their purposes;

WHEREAS, the Commission of the City of Rome, with advice and input from community members and health care professionals, recognizes the emergency conditions that have resulted from the virulent spread COVID-19 throughout the geographical boundaries of the City of Rome; and

WHEREAS, the Commission of the City of Rome recognizes the need for precautions to be made in an effort to protect the citizens of the City of Rome;

NOW, **THEREFORE**, the Commission of the City of Rome, Georgia hereby ordains that it is hereby declared that a local state of emergency continues to exist within the geographical limits of the City of Rome, Georgia, and that it shall continue through and including August 24, 2020.

NOW, **THEREFORE**, because of the local state of emergency ordained and declared the Commission of the City of Rome, Georgia hereby ordains and orders the following:

SECTION 1.

In an effort to promote health, safety, and public welfare for members of the City of Rome by reducing the transmission of COVID-19, face covering shall be required within the City of Rome in public places when social distancing is not feasible.

1. Definitions:

   Face covering: a device used to cover the nose and mouth of a person to impede the spread of COVID-19 through droplets or aerosolization.

   Public place: any place other than an individual's home, including the curtilage thereof, or personal vehicle.

2. All persons entering a commercial establishment must wear a face covering while inside the establishment. This does not apply to religious establishments; however it is strongly recommended to wear face coverings while inside religious establishments during this state of emergency.
3. All restaurants, retail stores, salons, barber shops, grocery stores, offices, and pharmacies shall require all employees to wear a face covering or mask at all times while engaged in face to face interaction within a public place.
4. Any person who is unable to safely wear a face covering due to age, underlying health condition(s), or is unable to remove the face covering without assistance of other is exempt from this Emergency Order.
5. Face coverings are not required in the following circumstances:
    a. In a personal vehicle;
    b. When a person is alone in an enclosed space or only with other household members;
    c. During outdoor physical activity, provided that the active person maintains a proper social distancing at a minimum of six feet from others who are not household members;
    d. During organized athletic events for the participating athletes;
    e. While eating, drinking, or smoking;
    f. When a licensed health provider has determined wearing a face covering causes or aggravates a health condition in the specific individual; and
    g. When wearing a face covering would prevent the receipt of personal services.

6. Violations of Sub-Sections 2 and 3 of this Section may be enforced by a notice of ordinance violation issued by any police officer, code enforcement officer, or other authorized law enforcement official as provided below:
    a. All establishments subject to this Emergency Order shall post a sign in a clearly visible location near the front entrance stating that Per Emergency Order, all persons must wear a face covering and violators are subject to a fine up to $25.00 for the first offense, $50.00 for the second offense, and $100.00 for any subsequent offense.
7. A person who fails to comply with Section 1 of this Emergency Order shall be guilty of a civil infraction, punishable by a fine of not more than $25.00 for the first offense, $50.00 for the second offense, and $100.00 for any subsequent offense. Each day of a continuing violation of this Emergency Order shall be considered a separate and distinct offense. In addition to the fines established herein, persons who own, manage, operate, or otherwise control a business subject to this Emergency Order found in repeated violation hereof, shall, along with their business, be subject to treatment as a public nuisance which may be abated as provided for by law. All reasonable efforts should however be made to bring a business into compliance with this Emergency Order prior to enforcement actions.

SECTION 2

Effective Dates

Unless otherwise stated herein, this Emergency Order shall be effective July 14, 2020 at 12:00 a.m. and remain in effect while a declared state of emergency related to COVID-19 persists

in the State of Georgia. Fines shall not be implemented until Friday, July 31, 2020. As stated above this shall be effective through and including August 24, 2020.

Severability

Should any provision, paragraph, sentence, or word of this Emergency Order be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, paragraphs, sentences, or words of this Emergency Order shall remain in full force and effect.

IT IS HEREBY ORDERED, this ____ day of July, 2020.

CITY OF ROME, GEORGIA

_____
BILL COLLINS, Mayor

Attest:

_____
JOSEPH SMITH, Clerk

AFFIDAVITS

IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

GOV. BRIAN P. KEMP, Plaintiff, v. HON. KEISHA LANCE BOTTOMS, FELICIA A. MOORE, CARLA SMITH, AMIR R. FAROKHI, ANTONIO BROWN, CLETA WINSLOW, NATALYN MOSBY ARCHIBONG, JENNIFER N. IDE, HOWARD SHOOK, J.P. MATZIGKEIT, DUSTIN R. HILLIS, ANDREA L. BOONE, MARCIA COLLIER OVERSTREET, JOYCE SHEPERD, MICHAEL JULIAN BOND, MATT WESTMORELAND, and ANDRE DICKENS, Defendants.	*	CIVIL ACTION FILE NO. 2020CV338387

AFFIDAVIT OF ANDRE BUCHANAN

I, Andre Buchanan, declare as follows:

1. I work as a loader at the Sysco Atlanta LLC warehouse in Atlanta, Georgia. I am African-American. This affidavit is based on my personal knowledge and, if called to testify, I could and would testify as stated herein.

2. I have worked at Sysco Atlanta for approximately 15 year. Sysco Atlanta's primary business is warehousing and delivering food and food related-products to customers. Sysco's customers include restaurants, hotels, hospitals, and nursing homes in Atlanta and the Atlanta Metro area. Since the onset of the coronavirus pandemic, there has been a work shortage at Sysco. Before the pandemic, a 50-60 hour work week was normal. At the height of the pandemic, I was lucky if I could get 30 hours of work a week. Warehouse employees who have less seniority were laid-off

altogether. Our warehouse operations were reduced because of the mass closure of restaurants and hotels due to the pandemic. Currently, hours are starting to pick back up and I am now back to working about 50 hours a week. Only a handful of Sysco warehouse employees are still in lay-off status.

3. I am very concerned about contracting COVID-19 on the job. I have continued to come to work despite the very serious risks of working during the pandemic because I know that my work is important. My work is essential because Sysco supplies hospices, hospitals, and nursing homes with food and other supplies.

4. In the course of my job, I have contact with co-workers, but we try to keep socially distant. When the pandemic first started, my employer did not require masks, but now Sysco is requiring us to wear some kind of face cover upon entering or exiting the warehouse.

5. I have a wife and two kids at home. I have concerns about bringing COVID-19 home to them, and so I try to take extra precautions when I return home from work such as removing my clothes and taking a shower. A few workers at Sysco have contracted COVID-19 and I also have family members who have had the virus.

6. My job at Sysco is my only source of income. I rely on it to pay my rent, car payment, and all other costs of living. I had to deplete my savings to pay my bills when my work hours were reduced due to COVID-19.

7. Even though I wear a mask at work, I understand that masks are most effective at preventing transmission of the virus if everyone is wearing a mask. Without a requirement that everyone wear a mask, including co-workers, I am extremely worried about going to work. Requiring everyone to wear a mask makes me more confident that my co-workers and I can continue to do our jobs.

8. Because many of my colleagues live in Atlanta, I also worry that, without requirements that people wear masks in public places where social distancing is not possible, I or my colleagues may contract COVID-19 outside the workplace and then infect co-workers.

9. An outbreak of COVID-19 in my workplace would likely mean that the warehouse

would need to close down, at least temporarily. Even if the entire warehouse does not close down, many workers would be required to self-quarantine. More COVID-19 outbreaks in Atlanta would be devastating, because restaurants and hotels in Atlanta would likely close down. The closure of Sysco's clients would lead to lay-offs and reductions of work hours for me and other warehouse employees.

10. I am eager for the economy to re-open, but as an essential worker who has had to face the risks of working during the pandemic, I know that any re-opening of the economy needs to be done safely. Atlanta's mask requirement not only keeps workers safe, but it also ensures that we will be able to keep our jobs and provide for ourselves and our families.

Personally appeared before me, an officer authorized to administer oaths, the undersigned affiant, who upon being sworn, swears that he/she is legally competent to make this affidavit, that the affidavit is based upon personal knowledge, and that the contents of the affidavit are true.

Affiant

Sworn to and subscribed before me, this 24th day of July, 2020.

Notary Public

My commission expires:

ROSEMARY STACY
NOTARY PUBLIC
FULTON COUNTY, GEORGIA
MY COMM. EXPIRES 05/06/2022

IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

GOV. BRIAN P. KEMP, Plaintiff, v. HON. KEISHA LANCE BOTTOMS, FELICIA A. MOORE, CARLA SMITH, AMIR R. FAROKHI, ANTONIO BROWN, CLETA WINSLOW, NATALYN MOSBY ARCHIBONG, JENNIFER N. IDE, HOWARD SHOOK, J.P. MATZIGKEIT, DUSTIN R. HILLIS, ANDREA L. BOONE, MARCIA COLLIER OVERSTREET, JOYCE SHEPERD, MICHAEL JULIAN BOND, MATT WESTMORELAND, and ANDRE DICKENS, Defendants.	*	CIVIL ACTION FILE NO. 2020CV338387

AFFIDAVIT OF ANGELA RUCKER

I, Angela Rucker, declare as follows:

1. I work as a cleaner for Aramark at Spellman College in Atlanta, Georgia. I am African-American and a resident of Atlanta. This affidavit is based on my personal knowledge and, if called to testify, I could and would testify as stated herein.

2. I have worked for Aramark for 24 years and I currently make $13.75 an hour.

3. I am very concerned about contracting COVID-19 on the job. I have continued to come to work despite the very serious risks of working during the pandemic because I know that my work is important. My work is important because the campus needs extra sanitation to be able to remain partially open and safe for everyone who works at the College during the pandemic.

4. In the course of my job, my co-workers and I interact with each other and with the

College staff. I am doing all I can to stay distanced from everyone.

5. My employer requires us to wear masks. Everyone has to have a mask on before they arrive on campus, including Aramark employees and employees of the College.

6. We were recently told that an Aramark employee tested positive for COVID-19 and I am very concerned about contracting the virus. Employees who worked directly with the employee have been told to quarantine.

7. Even though I wear a mask at work, I understand that masks are most effective at preventing transmission of the virus if everyone is wearing a mask. Without a requirement that applies to everyone, including my co-workers, College staff, and students when they return to campus, I would be extremely worried about going to work. Requiring everyone to wear a mask makes me more confident that my co-workers and I can continue to do our jobs.

8. Because many of my colleagues live in Atlanta, I also worry that, without requirements that people wear masks in public places where social distancing is not possible, I or my colleagues may contract COVID-19 outside the workplace and then infect co-workers.

9. I take the MARTA train and bus to work. Not everyone wears masks on the bus and train, which makes me very nervous that I might contract COVID-19 because I need to ride public transportation.

10. An outbreak of COVID-19 in my workplace would likely mean that the Campus would need to close down, at least temporarily. Even if the entire Campus does not close down, many workers would be required to self-quarantine.

11. My job at Aramark is my only source of income. I need my job to pay my rent, transportation costs, and all other living expenses.

12. I am eager for the economy to re-open, but as an essential worker who has had to face the risks of working during the pandemic, I know that any re-opening of the economy needs to be done safely. Atlanta's mask requirement not only keeps workers safe, but it also ensures that we will be able to keep our jobs and provide for ourselves and our families.

Personally appeared before me, an officer authorized to administer oaths, the undersigned

affiant, who upon being sworn, swears that he/she is legally competent to make this affidavit, that the affidavit is based upon personal knowledge, and that the contents of the affidavit are true.

Affiant

Sworn to and subscribed before me, this 24th day of July, 2020.

Notary Public

My commission expires:_____

ROSEMARY STACY
NOTARY PUBLIC
FULTON COUNTY, GEORGIA
MY COMM. EXPIRES 05/06/2022

IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

GOV. BRIAN P. KEMP, Plaintiff, v. HON. KEISHA LANCE BOTTOMS, FELICIA A. MOORE, CARLA SMITH, AMIR R. FAROKHI, ANTONIO BROWN, CLETA WINSLOW, NATALYN MOSBY ARCHIBONG, JENNIFER N. IDE, HOWARD SHOOK, J.P. MATZIGKEIT, DUSTIN R. HILLIS, ANDREA L. BOONE, MARCIA COLLIER OVERSTREET, JOYCE SHEPERD, MICHAEL JULIAN BOND, MATT WESTMORELAND, and ANDRE DICKENS, Defendants.	*	CIVIL ACTION FILE NO. 2020CV338387

DECLARATION OF BRITT DUNAMS IN OPPOSITION TO PLAINTIFF'S MOTION FOR EMERGENCY INTERLOCUTORY INJUNCTION AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I, Britt Dunams, declare as follows:

1. I am the President/Business Agent of Amalgamated Transit Union Local 732 ("Local 732"). I make this affidavit based on my personal knowledge and, if called to testify, could and would testify as stated herein.

2. I have served as President/Business Agent since January 1, 2020. Prior to that, I was Vice President of Maintenance and Non-MARTA Properties for approximately six years.

3. Local 732 has approximately 3,000 members in the Atlanta metropolitan region.

4. Local 732's members are the bus operators, mechanics, paratransit drivers, and other workers at transportation services across the region, and most working members are employed by the

Metropolitan Atlanta Rapid Transit Authority ("MARTA") or its contractors.

5. As part of my job duties, I communicate frequently with Local 732 members and employers regarding working conditions.

6. All Local 732 members working in Atlanta are required to wear masks while at work.

7. While some members experienced periods of furlough, the majority of Local 732 members have continued to work during the pandemic.

8. Approximately 60 individuals represented by Local 732 have tested positive for COVID-19 so far, and four have died from the disease. There are many factors driving this high infection rate.

9. Most vehicles driven by Local 732 members do not have a physical barrier protecting operators from passengers: only a small number of fixed route buses have physical barriers installed, while no paratransit vehicles have physical barriers. The lack of a physical barrier means that masks are among the only things protecting operators from the respiratory droplets of nearby passengers.

10. Fares are no longer charged on all of our fixed-route bus service, and some of our paratransit. While this reduces operator-rider contact, anecdotally it appears that a greater percentage of riders are in communities especially vulnerable to COVID-19, including homeless individuals.

11. Few Local 732 employers have required passengers to wear masks, and too many passengers are not wearing masks while riding Local 732-operated vehicles or coming into contact with Local 732 members at work. The lack of masks exacerbates Local 732 members' risk of occupational exposure, because it is common knowledge that wearing a mask significantly reduces the risk that a sick person will infect others.

12. Local 732 believes the Mayor's order needs to be enforced. Because operators have no way of knowing which passengers have COVID-19, not enforcing a mask requirement risks exposing both operators and riders.

13. The majority of Local 732's members are African-American, and to my knowledge, all of our members who contracted the disease have been African American. The pandemic has disproportionately impacted African Americans, and Local 732 is extremely concerned about the disproportionate toll this disease is taking on our African American members.

14. Our members' experience during this pandemic demonstrates the critical importance of the Mayor's face covering requirement in ensuring the health and safety of our members, their families, and the general public, and in any effort to safely re-open the economy. Our members wear masks at work, but too many passengers continue to ride without a face covering, which has resulted in too many Local 732 members contracting COVID-19 and too many Local 732 members dying from COVID-19. On a human level, this disease threatens our lives, our health, and our families. On an economic level, contracting the disease takes our members out of work for extended periods, at times creating difficulty covering missed shifts. And on a social level, mandatory face coverings are a key strategy in ensuring that one sick rider does not infect other riders and the operator, particularly as the economy improves and buses become more crowded.

Personally appeared before me, an officer authorized to administer oaths, the undersigned affiant, who upon being sworn, swears that he/she is legally competent to make this affidavit, that the affidavit is based upon personal knowledge, and that the contents of the affidavit are true.

Brett Duncan

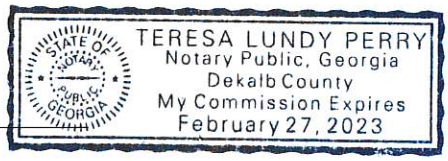
Affiant

Sworn to and subscribed before me, this 27th day of July, 2020.

Teresa Lundy-Perry

Notary Public

My commission expires:



IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

GOV. BRIAN P. KEMP, Plaintiff, v. HON. KEISHA LANCE BOTTOMS, FELICIA A. MOORE, CARLA SMITH, AMIR R. FAROKHI, ANTONIO BROWN, CLETA WINSLOW, NATALYN MOSBY ARCHIBONG, JENNIFER N. IDE, HOWARD SHOOK, J.P. MATZIGKEIT, DUSTIN R. HILLIS, ANDREA L. BOONE, MARCIA COLLIER OVERSTREET, JOYCE SHEPERD, MICHAEL JULIAN BOND, MATT WESTMORELAND, and ANDRE DICKENS, Defendants.	*	CIVIL ACTION FILE NO. 2020CV338387

AFFIDAVIT OF CHRIS BAUMANN IN OPPOSITION TO PLAINTIFF'S MOTION FOR EMERGENCY INTERLOCUTORY INJUNCTION AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I, Chris Baumann, declare as follows:

1. I am Regional Director of Southern Region Workers United, an affiliate of the Service Employees International Union ("WUSR"). I make this affidavit based on my personal knowledge and, if called to testify, could and would testify as stated herein.

2. I have served as Regional Director since June, 2019. I served as Assistant Regional Director prior to that dating back to 2006.

3. WUSR represents approximately 7,000 members in the State of Georgia, with more than 5,000 of those members working in the City of Atlanta and the surrounding Metro Atlanta area.

4. WUSR's membership includes workers in the commercial laundry, manufacturing and

distribution, food service, and janitorial industries. WUSR's members work for large employers in Atlanta such as Aramark Laundry, Sodexho Food Service, Mauser Packaging, and ABM Commercial Janitorial Services. WUSR's membership is largely made up of people of color and female.

5. During the current COVID-19 pandemic, many of WUSR's members were laid-off due to lack of work as a result of the pandemic. At the highest point, approximately 70% of WUSR's members in Georgia were on layoff status. Currently 30% of WUSR's members in Georgia are on layoff status. Many of WUSR's members have only recently returned to work.

6. As part of my job duties, I communicate with WUSR members frequently regarding their work conditions. During the pandemic, I have been in regular contact with members and represented employers about measures necessary to ensure that our members are safe at work.

7. WUSR members in Atlanta are very concerned about the potential for transmission of COVID-19 in their workplaces and the possibility that they will bring this deadly virus home to their families. Many of our members have children or elderly parents living at home and are worried about exposing them to the virus.

8. Almost all of WUSR's represented employers in Atlanta have had employees among their workforces who tested positive for COVID-19. The majority of WUSR's members working in the City of Atlanta are African-American. The CDC has stated that African-American patients with COVID-19 have a far greater chance of being hospitalized than white patients with the disease. WUSR is extremely concerned with the disproportionate impact that COVID-19 is having on many of our members who have been deemed essential workers.

9. All of WUSR's members currently working in Atlanta are required to wear masks while at work. It is common knowledge that, to effectively prevent transmission of COVID-19, it is important for all people in close proximity to each other to be masked, and that it is nowhere near as effective for only one person to be in a mask.

10. The Mayor of Atlanta's Executive Order that requires masks or cloth face coverings to be worn when inside a commercial entity or other building or space that is open to the public, as well as when people are in public outdoor spaces and appropriate social distancing is not feasible, is

critical to protecting WUSR's members, their families, and their communities. Without the Mayor's Executive Order, there is great risk that the number of COVID-19 infections in Atlanta will rise and employers whose workforces we represent will be adversely impacted. Business will suffer as a result, leading to lay-offs of WUSR members. Many members of WUSR work for businesses that have recently increased operations, and a single outbreak of COVID-19 could risk having to shut down the entire sector again or, at a minimum, lead to additional worker lay-offs.

11. The failure of the public to wears face masks creates fear in the workplace, increases risk of exposure, and creates economic damage to employers due to a lack of productivity. Without a face mask mandate, employees are increasingly worried about getting sick. Every positive COVID-19 case in each plant creates more fear in the workforce. Mandatory mask wearing would decrease fear among employees and increase production and the economic viability of employers in Atlanta.

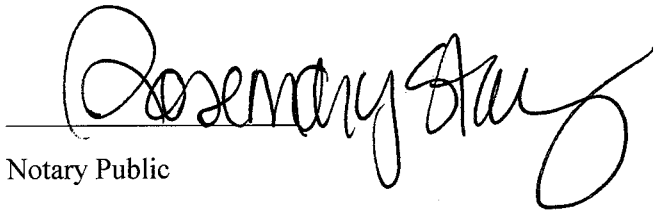
12. It is not possible to re-open Georgia's economy without ensuring that workers, their families and their communities are protected. This deadly disease will not be stopped unless serious measures are taken to prevent its transmission in the community.

13. The Governor's claim that requiring masks might somehow discourage businesses from re-opening is contrary to the experience of our Union's members. Rather, when the public fails to wear masks, there is more risk that workers will be infected, greater risks of outbreaks of the virus in key sectors of the economy, greater risk that employers will lay off and/or reduce the hours of workers, and greater uncertainty and anxiety about the re-opening of the economy.

Personally appeared before me, an officer authorized to administer oaths, the undersigned affiant, who upon being sworn, swears that he/she is legally competent to make this affidavit, that the affidavit is based upon personal knowledge, and that the contents of the affidavit are true.

Affiant

Sworn to and subscribed before me, this 24th day of July, 2020.



Notary Public

My commission expires:_____

ROSEMARY STACY
NOTARY PUBLIC
FULTON COUNTY, GEORGIA
MY COMM. EXPIRES 05/06/2022

ROSEMARY STACY
NOTARY PUBLIC
FULTON COUNTY, GEORGIA
MY COMM. EXPIRES 05/06/2022

IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

GOV. BRIAN P. KEMP, Plaintiff, v. HON. KEISHA LANCE BOTTOMS, FELICIA A. MOORE, CARLA SMITH, AMIR R. FAROKHI, ANTONIO BROWN, CLETA WINSLOW, NATALYN MOSBY ARCHIBONG, JENNIFER N. IDE, HOWARD SHOOK, J.P. MATZIGKEIT, DUSTIN R. HILLIS, ANDREA L. BOONE, MARCIA COLLIER OVERSTREET, JOYCE SHEPERD, MICHAEL JULIAN BOND, MATT WESTMORELAND, and ANDRE DICKENS, Defendants.	*	CIVIL ACTION FILE NO. 2020CV338387

AFFIDAVIT OF CYNTHIA HARTFIELD

I, Cynthia Hartfield, declare as follows:

1. I work as a janitor with ABM Janitorial Services at Hartsfield-Jackson Airport in Atlanta, Georgia. ABM is the janitorial service contractor for the Airport. I am African-American and a resident of the City of Atlanta. This affidavit is based on my personal knowledge and, if called to testify, I could and would testify as stated herein.

2. I have worked for ABM at the Airport for more than 37 years. I currently make $12.10 per hour. Since the COVID-19 pandemic, I have been very concerned about contracting COVID-19 through my work because so many different people come in and out of the Airport each day. A lot of TSA Representatives have contracted COVID-19 and so I am concerned about contracting the virus from them as well.

3. Even though I am very concerned about contracting COVID-19 on the job, I have continued to come to work despite the very serious risks of working during the pandemic because I know that my work is important. My work is essential because the Airport needs extra sanitizing during the pandemic.

4. At my job, I have a lot of interaction with the public because I work in areas of the Airport that are used by the public 24 hours per day.

5. My employer ABM began requiring us to wear masks at work about a month ago. ABM provided us with one cloth mask per worker. Recently, most people I see at the Airport are wearing masks.

6. My daughter used to live with me, but since COVID-19, she moved out because I don't want to risk getting her sick from my job.

7. I have been at my job for 37 years and I depend on my job as my sole source of income to pay my bills, including to cover my housing, food and transportation. Even though I wear a mask at work, I understand that masks are most effective at preventing transmission of the virus if everyone is wearing a mask. Without a requirement that everyone wear a mask, including Airport passengers and everyone working at the Airport, I am extremely worried about going to work. Requiring everyone to wear a mask makes me more confident that my co-workers and I can continue to do our jobs.

8. Because many of my colleagues live in Atlanta, I also worry that without requirements that people wear masks in public places in the City where social distancing is not possible, I or my colleagues may contract COVID-19 outside the workplace and then infect co-workers.

9. I take the MARTA train to work. Some riders on MARTA do not wear masks. I am very concerned that without a mask rule in Atlanta some MARTA passengers will continue to not wear masks and I might get COVID-19 on the train on my way to work.

10. An outbreak of COVID-19 at the Airport would likely mean that the Airport or parts of it would need to close down, at least temporarily. Even if the entire Airport does not close down, many workers would be required to self-quarantine and would miss work

11. ABM furloughed some employees in the beginning of the outbreak, and I am worried

that if there is a COVID-19 outbreak at the Airport, the Airport will shut down or reduce operations and my co-workers and I will be laid-off.

12. I am eager for the economy to re-open, but as an essential worker who has had to face the risks of working during the pandemic, I know that any re-opening of the economy needs to be done safely. Atlanta's mask requirement not only keeps workers safe, but it also ensures that we will be able to keep our jobs and provide for ourselves and our families.

Personally appeared before me, an officer authorized to administer oaths, the undersigned affiant, who upon being sworn, swears that he/she is legally competent to make this affidavit, that the affidavit is based upon personal knowledge, and that the contents of the affidavit are true.

Cynthia N Calvin
Affiant

Sworn to and subscribed before me, this 24 day of July, 2020.

Rosemary Stacy
Notary Public

My commission expires:_____

ROSEMARY STACY
NOTARY Public
FULTON COUNTY, GEORGIA
My Comm. Expires 05/06/2022

IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

GOV. BRIAN P. KEMP, Plaintiff, v. HON. KEISHA LANCE BOTTOMS, FELICIA A. MOORE, CARLA SMITH, AMIR R. FAROKHI, ANTONIO BROWN, CLETA WINSLOW, NATALYN MOSBY ARCHIBONG, JENNIFER N. IDE, HOWARD SHOOK, J.P. MATZIGKEIT, DUSTIN R. HILLIS, ANDREA L. BOONE, MARCIA COLLIER OVERSTREET, JOYCE SHEPERD, MICHAEL JULIAN BOND, MATT WESTMORELAND, and ANDRE DICKENS, Defendants.	*	CIVIL ACTION FILE NO. 2020CV338387

AFFIDAVIT OF DAVID COOPER IN OPPOSITION TO PLAINTIFF'S MOTION FOR EMERGENCY INTERLOCUTORY INJUNCTION AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I, David Cooper, declare as follows:

1. I am Business Manager for Local 42 of the Bakery, Confectionery, Tobacco Workers and Grain Millers' International Union ("Local 42"). I make this affidavit based on my personal knowledge and, if called to testify, could and would testify as stated herein.

2. I have served as Business Manager for approximately four years. Before serving as Business Manager, I was worked at TreeHouse foods and was a member of Local 42.

3. Local 42 represents approximately 1400 members in the State of Georgia, with approximately 900 of those members working in the City of Atlanta and the surrounding Metro Atlanta area.

4. Local 42 represents workers employed by bakeries, poultry processing, and other food processing facilities. Local 42's members work for large employers such as Mondelez, Hostess, Bimbo, Country Homes, and Nestle-Purina. Local 42's membership is largely made up of people of color.

5. During the current COVID-19 pandemic, some of Local 42's members were laid-off due to lack of work as a result of the pandemic. For example, Golden State Foods had lay-offs at its plant height of the pandemic. The employees have recently have been recalled back to work. Also, Vie De France reduced operations and laid-off our employees, and our members are still laid-off and not working.

6. As part of my job duties, I communicate with Local 42 members frequently regarding their work conditions. During the pandemic, I have been in regular contact with members and represented employers about measures necessary to ensure that our members are safe at work.

7. Local 42 members in Atlanta are very concerned about the potential for transmission of COVID-19 in their workplaces and the possibility that they will bring this deadly virus home to their families. Many of our members have children or elderly parents living at home and are worried about exposing them to the virus.

8. Almost all of Local 42's represented employers in Atlanta have had employees among their workforces who tested positive for COVID-19. The majority of Local 42's members working in the City of Atlanta are African-American. The CDC has stated that African-American patients with COVID-19 have a far greater chance of being hospitalized than white patients with the disease. Local 42 is extremely concerned with the disproportionate impact that COVID-19 is having on many of our members who have been deemed essential workers.

9. Most of Local 42's members currently working in Atlanta are required to wear masks while at work. It is common knowledge that, to effectively prevent transmission of COVID-19, it is important for all people in close proximity to each other to be masked, and that it is nowhere near as effective for only one person to be in a mask.

10. The Mayor of Atlanta's Executive Order that requires masks or cloth face coverings to

be worn when inside a commercial entity or other building or space that is open to the public, as well as when people are in public outdoor spaces and appropriate social distancing is not feasible, is critical to protecting Local 42's members, their families, and their communities. Without the Mayor's Executive Order, there is great risk that the number of COVID-19 infections in Atlanta will rise and employers whose workforces we represent will be adversely impacted. Business will suffer as a result, leading to lay-offs of Local 42's members. Some members of Local 42 work for businesses that have recently increased operations, and a single outbreak of COVID-19 could risk having to shut down the entire sector again or, at a minimum, lead to additional worker lay-offs.

11. The failure of the public to wears face masks creates fear in the workplace, increases risk of exposure, and creates economic damage to employers due to a lack of productivity. Without a face mask mandate, employees are increasingly worried about getting sick. Every positive COVID-19 case in each plant creates more fear in the workforce. Mandatory mask wearing would decrease fear among employees and increase production and the economic viability of employers in Atlanta.

12. It is not possible to re-open Georgia's economy without ensuring that workers, their families and their communities are protected. This deadly disease will not be stopped unless serious measures are taken to prevent its transmission in the community.

13. The Governor's claim that requiring masks might somehow discourage businesses from re-opening is contrary to the experience of our Union's members. Rather, when the public fails to wear masks, there is more risk that workers will be infected, greater risks of outbreaks of the virus in key sectors of the economy, greater risk that employers will lay off and/or reduce the hours of workers, and greater uncertainty and anxiety about the re-opening of the economy.

Personally appeared before me, an officer authorized to administer oaths, the undersigned affiant, who upon being sworn, swears that he/she is legally competent to make this affidavit, that the affidavit is based upon personal knowledge, and that the contents of the affidavit are true.

Affiant

Sworn to and subscribed before me, this 27 day of July, 2020.

Notary Public

ROSEMARY STACY
NOTARY PUBLIC
FULTON COUNTY, GEORGIA
MY COMM. EXPIRES 05/06/2022

My commission expires: ~~Fulton~~

IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

GOV. BRIAN P. KEMP, Plaintiff, v. HON. KEISHA LANCE BOTTOMS, FELICIA A. MOORE, CARLA SMITH, AMIR R. FAROKHI, ANTONIO BROWN, CLETA WINSLOW, NATALYN MOSBY ARCHIBONG, JENNIFER N. IDE, HOWARD SHOOK, J.P. MATZIGKEIT, DUSTIN R. HILLIS, ANDREA L. BOONE, MARCIA COLLIER OVERSTREET, JOYCE SHEPERD, MICHAEL JULIAN BOND, MATT WESTMORELAND, and ANDRE DICKENS, Defendants.	*	CIVIL ACTION FILE NO. 2020CV338387

AFFIDAVIT OF DARRELL LANE

I, Darrell Lane, declare as follows:

1. I currently serve as President of Local 42 of the Bakery, Confectionery, Tobacco Workers and Grain Millers' International Union. I also work full-time as a Processor Technician at the Mondelez bakery in Atlanta, Georgia. I am African-American. This affidavit is based on my personal knowledge and, if called to testify, I could and would testify as stated herein.

2. I have worked at the bakery for 37 years. The bakery was previously owned by Kraft and before that it was owned by Nabisco. Since the onset of the coronavirus pandemic, my work experience has changed. I have to wear a mask on the floor in addition to the safety glasses, hair net, and beard net that I normally wear, and it is very hot in the bakery. The bakery has also brought in temporary workers to do extra sanitation in the plant.

3. I am very concerned about contracting COVID-19 on the job. I have continued to come to work despite the very serious risks of working during the pandemic because I know that my work is important. We produce cookies and snacks that are in high demand and the fact that the bakery continues to operate ensures that there are jobs for people and helps the economy.

4. My employer has had a mandatory mask policy since March, 2020. Most employees in the plant wear their mask at work.

5. About every three weeks, one of my co-workers contracts COVID-19. My employer calls a meeting whenever an employee is diagnosed. The name of the infected employee is kept confidential but workers who have been in contact with the infected worker are told to get tested. At the plant, we try to social distance, but it is not possible in some situations. For example, it is very loud on the plant floor, so when we need to communicate with our supervisors, it is hard to stay distanced while having those conversations.

6. I live with my girlfriend and our two children. I am concerned about bringing COVID-19 home to my family from work.

7. My job at the plant is my sole source of income. I need my job to pay my mortgage, car payment and all of my other living expenses. Even though I wear a mask at work, I understand that masks are most effective at preventing transmission of the virus if everyone is wearing a mask. Without a requirement that everyone, including all my co-workers, wear a mask, I would be extremely worried about going to work. Requiring everyone to wear a mask makes me more confident that my co-workers and I can continue to do our jobs.

8. Because many of my colleagues live in Atlanta, I also worry that, without requirements that people wear masks in public places where social distancing is not possible, I or my colleagues may contract COVID-19 outside the workplace and then infect co-workers. Some of my co-workers take the MARTA bus and train to work. I am concerned that they could catch COVID-19 on their commute if everyone is not required to wear masks.

9. An outbreak of COVID-19 in my workplace would likely mean that the bakery would need to close down, at least temporarily. Even if the entire bakery does not close down, many

workers would be required to self-quarantine.

10. I am eager for the economy to re-open, but as an essential worker who has had to face the risks of working during the pandemic, I know that any re-opening of the economy needs to be done safely. Atlanta's mask requirement not only keeps workers safe, but it also ensures that we will be able to keep our jobs and provide for ourselves and our families.

Personally appeared before me, an officer authorized to administer oaths, the undersigned affiant, who upon being sworn, swears that he/she is legally competent to make this affidavit, that the affidavit is based upon personal knowledge, and that the contents of the affidavit are true.

Affiant

Sworn to and subscribed before me, this 23rd day of July, 2020.

Notary Public

My commission expires:_____

ROSEMARY STACY
NOTARY PUBLIC
FULTON COUNTY, GEORGIA
MY COMM. EXPIRES 05/06/2022

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

GOV. BRIAN P. KEMP,	*	
	*	
Plaintiff,	*	
	*	**CIVIL ACTION FILE NO.**
v.	*	**2020CV338387**
	*	
HON. KEISHA LANCE BOTTOMS, FELICIA A. MOORE, CARLA SMITH, AMIR R. FAROKHI, ANTONIO BROWN, CLETA WINSLOW, NATALYN MOSBY ARCHIBONG, JENNIFER N. IDE, HOWARD SHOOK, J.P. MATZIGKEIT, DUSTIN R. HILLIS, ANDREA L. BOONE, MARCIA COLLIER OVERSTREET, JOYCE SHEPERD, MICHAEL JULIAN BOND, MATT WESTMORELAND, and ANDRE DICKENS,	*	
	*	
Defendants.		

DECLARATION OF ED BARLOW IN OPPOSITION TO PLAINTIFF'S MOTION FOR EMERGENCY INTERLOCUTORY INJUNCTION AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I, Ed Barlow, declare as follows:

1. I am President of Communications Workers of America Local 3204 in Atlanta, Georgia. I make this declaration based on my personal knowledge and, if called to testify, could and would testify as stated herein.

2. I have served as President of Local 3204 since November, 2014. I have been an active member of CWA since 1999, and I held other positions in the Local prior to being elected Local President.

3. CWA has approximately 5,000 members in the State of Georgia, with more than 2,500 of those members working in and around the City of Atlanta.

4. Local 3204's membership includes workers in the telecommunications industry, including employees of AT&T and AT&T Mobility. Local 3204's membership is predominantly women and people of color.

5. During the current COVID-19 pandemic, many Local 3204 members have been required to continue working in telecommunications jobs that are deemed "essential". Examples include technicians who are being dispatched to business and residential customers to install and/or repair telecommunication services; AT&T Mobility retail employees; and call center sales and service employees.

6. As part of my duties as President of Local 3204, I communicate with our members frequently regarding their work conditions. During the pandemic, I have been in regular contact with members and with AT&T management about measures necessary to ensure that employees are safe while on the job and while interacting with customers.

7. Local 3204 members, particularly those who are working in call centers, customer premises, and retail stores, are very concerned about the potential for transmission of COVID-19 in the workplace and the possibility that they will bring the virus home to their families. Many of our members have children or elderly parents living at home and are worried about exposing them to the virus.

8. We have members working for AT&T and AT&T Mobility in our call centers, in retail stores, and technicians working in the field in the Atlanta area testing positive every day. Through contact tracing, other AT&T employees have had to stay home to self-quarantine.

9. Many Local 3204's members are African-American. The CDC has stated that African-American patients with COVID-19 have a far greater chance of being hospitalized than white patients with the disease. Local 3204 is extremely concerned with the disproportionate impact that COVID-19 is having on many of our members who have been deemed essential workers.

10. Workers in other essential functions such as grocery stores, public transportation, and health care have been required or advised by their employers to wear masks since the severity of the pandemic became clear. The same is true for most Local 3204 members working in Atlanta. Our

members, however, are still exposed to COVID-19 if customers or other third parties they come in contact with are not wearing masks. Limiting transmission requires all persons in close proximity to each other to wear a mask.

11. The Mayor's Executive Order requiring masks inside a commercial facility or other facility open to the public is necessary to protect Local 3204's members on the job, and to protect their families and other persons they come into contact with. The Mayor's Executive Order helps alleviate our members' fears of workplace interactions and fears of spreading the virus to family members, which it turn supports greater productivity on the job.

12. Based on the experience of Local 3204 officials representing our members and based on regular reports to us from our members in the field, requiring masks does not discourage businesses from re-opening. On the contrary, requiring masks reduces the risk of these workers being infected, reduces the risk of further spread of the virus in the economy at large, and reduces uncertainty and anxiety that would otherwise hurt the re-opening of the economy.

I declare under penalty of perjury under the laws of Georgia and the United States that the foregoing is true and correct to the best of my knowledge.

Executed this 24th day of July, 2020 in Atlanta, Georgia.

Ed Barlow

Sworn to and subscribed before me this the 24th day of July, 2020

Notary Public

ROSEMARY STACY
NOTARY PUBLIC
FULTON COUNTY, GEORGIA
MY COMM. EXPIRES 05/04

IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

GOV. BRIAN P. KEMP, Plaintiff, v. HON. KEISHA LANCE BOTTOMS, FELICIA A. MOORE, CARLA SMITH, AMIR R. FAROKHI, ANTONIO BROWN, CLETA WINSLOW, NATALYN MOSBY ARCHIBONG, JENNIFER N. IDE, HOWARD SHOOK, J.P. MATZIGKEIT, DUSTIN R. HILLIS, ANDREA L. BOONE, MARCIA COLLIER OVERSTREET, JOYCE SHEPERD, MICHAEL JULIAN BOND, MATT WESTMORELAND, and ANDRE DICKENS, Defendants.	*	CIVIL ACTION FILE NO. 2020CV338387

AFFIDAVIT OF JAMES HILL

I, James Hill, declare as follows:

1. I work as a Rental Sales Agent at Avis Car Rental at the Hartsfield-Jackson Airport in Atlanta, Georgia. I am African-American. This affidavit is based on my personal knowledge and, if called to testify, I could and would testify as stated herein.

2. I have worked in my current position for approximately 14 years. I currently make $15.40 an hour, and I also receive commissions based on the sale of rental car accessories, insurance coverage, and vehicle upgrades. Since the onset of the coronavirus pandemic, work has been tough. At the height of the pandemic, my hours were reduced and I was just recently brought back to work full-time.

3. I am very concerned about contracting COVID-19 on the job. I have continued to come

to work despite the very serious risks of working during the pandemic because I know that my work is important. At work I am at great risk of exposure to COVID-19.

4. In the course of my job, I deal directly with customers when they come to the rental car counter. Some customers do not wear masks when they approach the rental counter and talk with me and my co-workers. We have plastic partitions erected, but they are not always respected by the customers. Also, I sometimes work in the small enclosed booth in the parking lot and that work places me in very close proximity to customers. I also have to handle customers' credit cards and drivers licenses.

5. My employer has provided masks, but we have asked for additional protection, such as hand sanitizer. Just this week, my employer has pledged to provide full personal protective gear, such as hand sanitizer, gloves, and additional masks. My employer has also recently instituted a temperature test for employees at the beginning of each shift.

6. I live with my wife. I am very concerned about bringing COVID-19 home from work. I need my job because it is the sole source of income for me. I need my job to cover the costs of my housing, food, and transportation.

7. Even though I wear a mask at work, I understand that masks are most effective at preventing transmission of the virus if everyone is wearing a mask. I come in close contact with customers every day. Without a requirement that everyone wear a mask, including customers, I am extremely worried about going to work. Requiring everyone to wear a mask makes me more confident that my co-workers and I can continue to do our jobs.

8. Because many of my colleagues live in Atlanta, I also worry that, without requirements that people wear masks in public places where social distancing is not possible, that I or my colleagues may contract COVID-19 outside the workplace and then infect co-workers.

9. An outbreak of COVID-19 in my workplace would likely mean that the Airport volume would decrease significantly, at least temporarily, which would inevitably lead to lay-offs and reductions of employees' work hours. Even if the entire Airport does not close down, many workers would be required to self-quarantine.

10. I am eager for the economy to re-open, but as an essential worker who has had to face the risks of working during the pandemic, I know that any re-opening of the economy needs to be done safely. Atlanta's mask requirement not only keeps workers safe, but it also ensures that we will be able to keep our jobs and provide for ourselves and our families.

Personally appeared before me, an officer authorized to administer oaths, the undersigned affiant, who upon being sworn, swears that he/she is legally competent to make this affidavit, that the affidavit is based upon personal knowledge, and that the contents of the affidavit are true.

Affiant

Sworn to and subscribed before me, this 24 day of July, 2020.

Notary Public

ROSEMARY STACY
NOTARY PUBLIC
FULTON COUNTY, GEORGIA
MY COMM. EXPIRES 05/06/2022

My commission expires: _____

IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

GOV. BRIAN P. KEMP, Plaintiff, v. HON. KEISHA LANCE BOTTOMS, FELICIA A. MOORE, CARLA SMITH, AMIR R. FAROKHI, ANTONIO BROWN, CLETA WINSLOW, NATALYN MOSBY ARCHIBONG, JENNIFER N. IDE, HOWARD SHOOK, J.P. MATZIGKEIT, DUSTIN R. HILLIS, ANDREA L. BOONE, MARCIA COLLIER OVERSTREET, JOYCE SHEPERD, MICHAEL JULIAN BOND, MATT WESTMORELAND, and ANDRE DICKENS, Defendants.	*	CIVIL ACTION FILE NO. 2020CV338387

AFFIDAVIT OF MARSHA COLLINS

I, Marsha Collins, declare as follows:

1. I work as a BBP (Blood Born Pathogen) Operator at Aramark Laundry in Atlanta, Georgia. I sort the dirty linens that come from hospitals before they are washed. I am African-American and resident of Atlanta. This affidavit is based on my personal knowledge and, if called to testify, I could and would testify as stated herein.

2. I have worked at Aramark for approximately 20 years. I currently make $13.63 an hour. Since the onset of the coronavirus pandemic, my job duties have not changed, but my employer has added additional safety protections for the workers.

3. I am very concerned about contracting COVID-19 on the job. I have worked throughout the COVID-19 pandemic. I have continued to come to work despite the very serious risks of working

during the pandemic because I know that my work is important.

4. When I am at work, I work with my co-workers in a warehouse. During my shifts, there are approximately 50-75 of us working in the warehouse. I do my best to keep a safe distance from everyone.

5. My employer mandates that we wear masks at all times at work and socially distance from co-workers. Even though it is supposed to be mandatory, some of my co-workers in the warehouse, and some of the other Aramark employees who walk through the warehouse, do not always wear masks.

6. I live with my 73-year-old mother. I am very concerned that I might bring the virus home to her.

7. One of the drivers at my work tested positive for COVID-19. Also, one of my relatives in Florida has contracted the virus. One of my friends is currently hospitalized in Atlanta due to COVID-19. I have seen the real toll that the virus has on my community and do not know how I would manage if my mother or I were to get infected.

8. My job is my sole source of income and I rely upon it to pay all of my bills, including for my housing, food, and transportation. Even though I wear a mask at work, I understand that masks are most effective at preventing transmission of the virus if everyone is wearing a mask. I am very concerned about possibly contracting COVID-19 at work either through a co-worker or from the hospital linens that I sort. Without a requirement that everyone wear a mask, including co-workers and other Aramark employees, I am extremely worried about going to work. Having the Mayor require everyone to wear a mask makes me more confident that my co-workers and I can continue to do our jobs.

9. Because many of my colleagues live in Atlanta, I also worry that, without requirements that people wear masks in public places where social distancing is not possible, I or my colleagues may contract COVID-19 outside the workplace and then infect co-workers.

10. An outbreak of COVID-19 in my workplace would likely mean that the warehouse would need to close down, at least temporarily. Even if the entire warehouse does not close down,

many workers would be required to self-quarantine.

11. I am eager for the economy to re-open, but as an essential worker who has had to face the risks of working during the pandemic, I know that any re-opening of the economy needs to be done safely. Atlanta's mask requirement not only keeps workers safe, but it also ensures that we will be able to keep our jobs and provide for ourselves and our families.

Personally appeared before me, an officer authorized to administer oaths, the undersigned affiant, who upon being sworn, swears that he/she is legally competent to make this affidavit, that the affidavit is based upon personal knowledge, and that the contents of the affidavit are true.

Marsha Collins
Affiant

Sworn to and subscribed before me, this 24th day of July, 2020.

Rosemary Stacy
Notary Public

My commission expires:_____

ROSEMARY STACY
NOTARY PUBLIC
FULTON COUNTY, GEORGIA
MY COMM. EXPIRES 05/06/2022

IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

GOV. BRIAN P. KEMP, Plaintiff, v. HON. KEISHA LANCE BOTTOMS, FELICIA A. MOORE, CARLA SMITH, AMIR R. FAROKHI, ANTONIO BROWN, CLETA WINSLOW, NATALYN MOSBY ARCHIBONG, JENNIFER N. IDE, HOWARD SHOOK, J.P. MATZIGKEIT, DUSTIN R. HILLIS, ANDREA L. BOONE, MARCIA COLLIER OVERSTREET, JOYCE SHEPERD, MICHAEL JULIAN BOND, MATT WESTMORELAND, and ANDRE DICKENS, Defendants.	*	CIVIL ACTION FILE NO. 2020CV338387

AFFIDAVIT OF OLIVER DAWSON IN OPPOSITION TO PLAINTIFF'S MOTION FOR EMERGENCY INTERLOCUTORY INJUNCTION AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I, Oliver Dawson, declare as follows:

1. I am Secretary-Treasurer of Teamsters Local 528 ("Local 528"). I make this affidavit based on my personal knowledge and, if called to testify, could and would testify as stated herein.

2. I have served as Secretary-Treasurer of Local 528 since January 1, 2014.

3. Local 528 represents approximately 3700 members in the State of Georgia, with approximately 3000 of those members working in the City of Atlanta and the surrounding Metro Atlanta area.

4. Local 528's membership includes workers in the transportation, logistics and warehousing industries. Local 528 members work for large employers in Atlanta such as Gate

Gourmet, Sysco Atlanta LLC, Atlas Logistics, Americold Logistics, and Avis Car Rental. Local 528 membership is largely made up of people of color.

5. During the current COVID-19 pandemic, many of Local 528's members were laid-off due to lack of work because of the pandemic. Currently approximately 50% of Local 528's members in Georgia are on layoff status.

6. Some Union members have been called on to continue working in jobs that have been deemed essential. For example, employees of Atlas Logistics and Americold Logistics have continued to work throughout the pandemic.

7. As part of my job duties, I communicate with Local 528 members frequently regarding their work conditions. During the pandemic, I have been in regular contact with members and represented employers about measures necessary to ensure that our members are safe at work.

8. Local 528 members in Atlanta are very concerned about the potential for transmission of COVID-19 in their workplaces and the possibility that they will bring this deadly virus home to their families. Many of our members have children or elderly parents living at home and are worried about exposing them to the virus.

9. Many of Local 528's represented employers in Atlanta have had employees among their workforces who tested positive for COVID-19. The majority of Local 528's members working in the City of Atlanta are African-American. The CDC has stated that African-American patients with COVID-19 have a far greater chance of being hospitalized than white patients with the disease. Local 528 is extremely concerned with the disproportionate impact that COVID-19 is having on many of our members who have been deemed essential workers.

10. All of Local 528's members currently working in Atlanta are required to wear masks while at work. It is common knowledge that, to effectively prevent transmission of COVID-19, it is important for all people in close proximity to each other to be masked, and that it is nowhere near as effective for only one person to be in a mask.

11. The Mayor of Atlanta's Executive Order that requires masks or cloth face coverings to be worn when inside a commercial entity or other building or space that is open to the public, as well

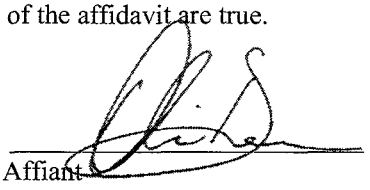
as when people are in public outdoor spaces and appropriate social distancing is not feasible, is critical to protecting Local 528's members, their families, and their communities. Without the Mayor's Executive Order, there is great risk that the number of COVID-19 infections in Atlanta will rise and employers whose workforces we represent will be adversely impacted. Business will suffer as a result, leading to lay-offs of Local 528 members. Many members of Local 528 work for businesses that have recently increased operations, and a single outbreak of COVID-19 could risk having to shut down the entire sector again or, at a minimum, lead to additional worker lay-offs.

12. The failure of the public to wears face masks creates fear in the workplace, increases risk of exposure, and creates economic damage to employers due to a lack of productivity. Without a face mask mandate, employees are increasingly worried about getting sick. Every positive COVID-19 case in each plant creates more fear in the workforce. Mandatory mask wearing would decrease fear among employees and increase production and the economic viability of employers in Atlanta.

13. It is not possible to re-open Georgia's economy without ensuring that workers, their families, and their communities are protected. This deadly disease will not be stopped unless serious measures are taken to prevent its transmission in the community.

14. The Governor's claim that requiring masks might somehow discourage businesses from re-opening is contrary to the experience of our Union's members. Rather, when the public fails to wear masks, there is more risk that workers will be infected, greater risks of outbreaks of the virus in key sectors of the economy, greater risk that employers will lay off and/or reduce the hours of workers, and greater uncertainty and anxiety about the re-opening of the economy.

Personally appeared before me, an officer authorized to administer oaths, the undersigned affiant, who upon being sworn, swears that he/she is legally competent to make this affidavit, that the affidavit is based upon personal knowledge, and that the contents of the affidavit are true.



Affiant

Sworn to and subscribed before me, this 24th day of July, 2020.

Notary Public

My commission expires:

ROSEMARY STACY
NOTARY PUBLIC
FULTON COUNTY, GEORGIA
MY COMM. EXPIRES 05/06/2022