

CLIENT SUCCESS

Winston Secures Major Trial Victory Blocking Enforcement of Texas Governor's Executive Order Prohibiting Masks in Schools During Pandemic

NOVEMBER 19, 2021

In November 2021, we, working alongside co-counsel Disability Rights Texas, prevailed on behalf of **seven minor students enrolled in the Texas public school system**, who have medical conditions that put them at great risk of serious complications or death if they contract COVID-19.

Following a bench trial in October 2021, Judge Lee Yeakel issued a precedent-setting decision in favor of our clients that stopped enforcement of Governor Abbott's executive order prohibiting school districts from requiring masks. Unlike similar cases around the country that provided only preliminary relief pending a final trial, Judge Yeakel set a trial just two months after the case was filed and issued a final judgment on the matter.

Judge Yeakel stated that the Governor's order excluded "disabled children from participating in and denies them the benefits of public schools' programs, services, and activities to which they are entitled." From the filing of the complaint through trial, the entire case was compressed into a two-month period. The win was recognized by ***Am Law*** with a prestigious "***Litigator of the Week***" **Runner-Up** nod on November 19, 2021. The team's win on this important issue was extensively covered by premier legal and mainstream media outlets nationwide, such as *The New York Times*, *The Washington Post*, *Forbes*, *Politico*, *Reuters*, *CNN*, *CNBC*, *USA Today*, *NBC*, *CBS*, *NPR*, *National Review*, *Newsweek*, and *Law360*, among other Canadian and UK media outlets, such as *BBC*, *The Independent*, and *The Montreal Gazette*. And, perhaps most impressive—and indeed unusual for a court ruling—the win was featured on both *The Jimmy Kimmel Show* and *Saturday Night Live*.

The State of Texas appealed the ruling to the Fifth Circuit. In July 2022, a split three-judge appellate panel overturned the trial court's permanent injunction.

IMPACT

This was the first federal case where a court granted a permanent injunction prohibiting enforcement of a state-wide anti-mask order. The win enabled our clients to attend school while wearing masks to protect themselves from COVID-19 and the potentially serious complications, including death, that could befall them if they were to contract the illness.

((**Pro Bono**) *E.T. v. Morath, et al.* (Case No. 1:21-CV-00717, U.S. District Court for the Western District of Texas; Case No. 21-51083, U.S. Court of Appeals for the Fifth Circuit))

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