

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHARLESTON )  
 )  
 JOHN COOKE AND MONICA COOKE; )  
 GREGORY MONTIETH AND MEGAN )  
 MONTIETH; AND GABRIELLE )  
 SLOAN, )  
 )  
 PLAINTIFFS, )  
 )  
 vs. )  
 )  
 CHARLESTON COUNTY SCHOOL )  
 DISTRICT; ERIC MACK; COURTNEY )  
 WATERS; KATE DARBY; CINDY )  
 BOHN COATS; JOYCE GREEN; ERICA )  
 COKLEY; HELEN FRAZIER; KRISTEN )  
 L. FRENCH; EAST COOPER )  
 MONTESSORY CHARTER SCHOOL; )  
 CHARLESTON COUNTY; AND THE )  
 CITY OF CHARLESTON, )  
 )  
 DEFENDANTS. )  
 )

IN THE COURT OF COMMON PLEAS  
 NINTH JUDICIAL CIRCUIT  
 CIVIL ACTION NO. 2021CP1004295

**ORDER DENYING THE PLAINTIFFS’  
 MOTION FOR EMERGENCY  
 TEMPORARY INJUNCTION AND  
 RESTRAINING ORDER**

THIS MATTER CAME BEFORE THE COURT on the Plaintiffs’ Motion for Emergency Temporary Injunction and Restraining Order pursuant to Rule 65(b) of the South Carolina Rules of Civil Procedure (“SCRCP”). The subject motion sought an immediate order – without any notice to the Defendants – that prohibited enforcement of the Charleston County School District’s ADD mask mandate policy until such time as a determination on the merits of this lawsuit has been made. A hearing on this motion was conducted on September 22, 2021. Appearing at the hearing was Joshua Hooser, counsel for the Plaintiffs. Although not provided notice by Plaintiffs, Duke R. Highfield and Victoria L. Anderson, counsel for Defendant Charleston County School District (and the members of the School Board of Trustees) appeared as well.

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After hearing arguments and reviewing affidavits submitted by counsel for the Plaintiffs, the Court finds that the Plaintiffs failed to make the requisite showing under Rule 65(b), SCRCP, to support granting a temporary restraining order without notice to the Defendants. As such, pursuant to Rule 65(b), SCRCP, the Court finds that a temporary injunction shall not be issued.

A party seeking a temporary restraining order or temporary injunction “must establish that (1) it would suffer irreparable harm if the injunction is not granted; (2) it will likely succeed on the merits of the litigation; and (3) there is an inadequate remedy at law.” Scratch Golf Co. v. Dunes W. Residential Golf Properties, Inc., 361 S.C. 117, 121, 603 S.E. 2d 905, 908 (2004). The sole purpose of a temporary injunction is to preserve the status quo during litigation in order to prevent irreparable injury to the requesting party and to preserve the ability of the court to render complete relief. County Council of Charleston v. Felkel, 244 S.C. 480, 484, 137 S.E.2d 577, 578 (1964); Zabinski v. Bright Acres Associates, 346 S.C. 580, 601, 553 S.E.2d 110, 121 (2001).

“A preliminary injunction should issue only if necessary to preserve the status quo ante, and only upon a showing by the moving party that without such relief it will suffer irreparable harm, that it has a likelihood of success on the merits, and that there is no adequate remedy at law.” Hook Point, LLC v. Branch Banking and Trust Co., 397 S.C. 507, 511, 725 S.E.2d 681, 683 (2012) (citing Poynter Investments Inc. v. Century Builders of Piedmont, Inc., 387 S.C. 583, 586-87, 694 S.E.2d 15, 17 (2010)).

A temporary or preliminary injunction is an “extraordinary remedy . . . which is to be applied only in the limited circumstances which clearly demand it.” Dao Travels, LLC v. Charleston Black Cab Co., 2015 WL 631137, \*4 (D.S.C. Feb. 13, 2015) (quoting Centro Tepeyac v. Montgomery Cnty., 722 F.3d 184, 188 (4th Cir. 2013)); Munaf v. Green, 553 U.S. 674, 689-90 (2008) (“A

preliminary injunction is an extraordinary and drastic remedy; it is never awarded as of right.” (Internal citation and quotation marks omitted)).

In this case, the Plaintiffs do not seek to preserve the status quo; rather, they seek to change the current status to better suit their beliefs regarding the policy. The Court finds the evidentiary showing made by the Plaintiffs was insufficient to support any form of injunctive relief, and that it was contrary to the stated purpose of injunctive relief - to preserve the status quo.

This Court is fully aware of the South Carolina Supreme Court’s recent decision concerning masks mandates. See Wilson v. City of Columbia, Opinion No. 28056 (S.C. 2021). The Court would note, however, that this motion did not involve a trial on the merits – it involved a request for injunctive relief. The Plaintiffs failed to make a proper evidentiary showing that they will succeed on the merits. Of note, the Plaintiffs brought very different causes of actions, and the factual bases for their claims differ from those considered by the Supreme Court in Wilson v. City of Columbia. The Defendants’ policy is likewise different from that considered by our Supreme Court. Based on the evidence (or lack thereof) presented, this Court cannot conclude that the Plaintiffs have established any likelihood of prevailing on the claims brought in this case.

As to an adequate remedy at law, the Plaintiffs will have any viable claims heard and decided by a court. This right is not being taken from them. The possibility that adequate corrective relief will be available at a later date weighs heavily against the Plaintiffs. Sampson v. Murray, 415 U.S. 61 (1974). The same holds true to the extent they seek monetary damages. This Court is guided by the basic principle established by our Supreme Court that injunctive relief should rarely be granted and only upon a full and complete showing by the moving party of the necessary elements. The Plaintiffs have not made such a showing in this case.

As such, Plaintiffs' motion for injunctive relief (temporary or otherwise) is denied.

**IT IS SO ORDERED.**

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Bentley D. Price, Judge for the Ninth  
Judicial Circuit

Charleston, South Carolina

September \_\_, 2021



Charleston Common Pleas

**Case Caption:** John Cooke , plaintiff, et al VS School District Charleston County ,  
defendant, et al  
**Case Number:** 2021CP1004295  
**Type:** Order/Other

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766