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Campaign Contact

Jon Hollis

Campaign Manager

323-828-1059

Jon@Intellz.com

FOR IMMEDIATE RELEASE

Wernick: Sommerman Sued to Enforce Illegal Mask Mandates for Free, Then Sat Beside the Judge Who Closed Churches and Businesses

He waived the fee to keep masks on Dallas County. The Texas Supreme Court later ruled the effort improper. He was sworn in by the same Judge who had already banned in-person worship and shut down shops.

Dallas, Texas: Dallas County District 2 candidate Barry Wernick today released the full record of how Democratic incumbent Andy Sommerman used his law practice to try to force mask mandates and other COVID restrictions on Dallas County residents, businesses, and places of worship, and did so for free.

The Lawsuit and the Fee

On July 29, 2021, Governor Abbott issued Executive Order GA-38, which stated: "No governmental entity, including a county, city, school district, and public health authority, and no governmental official may require any person to wear a face covering or to mandate that another person wear a face covering."

Sommerman, an attorney, filed a lawsuit challenging that order on behalf of his personal friend, Dallas County Judge Clay Jenkins, who had issued a county-wide mask mandate. The case (Koch v. Jenkins / Abbott v. Jenkins, Dallas County 116th, DC-21-10101) later reached the Texas Supreme Court. Sommerman's firm represented Jenkins against Abbott's order barring local mask mandates. Jenkins used the fight to keep masks in place on Commissioners Court, in schools, and on employees in businesses.

Sommerman did the work for free. In September 2022 he told the Dallas Morning News the firm had "never taken a fee for our work with Judge Jenkins." On April 4, 2022, he wrote publicly: "We have waived our fees. It's our honor to represent Judge Jenkins." That statement was reported by The Texan. As the case moved through lower courts, Sommerman bragged on social media that the lawsuit was "the right thing" and campaigned on it in 2022.

The Judge He Chose

The same Judge, in 2020, banned in-person worship and shut small businesses under county emergency orders. That year Jenkins also wrote a letter demanding Abbott issue an order for "Universal masking/physical distancing that is enforced with fines statewide," the closure of thousands of restaurants and other businesses, and a limit of indoor gatherings to ten people. Sommerman chose that Judge as his client. On January 1, 2023, with Democrats holding all five seats, Jenkins swore Sommerman in as his friend and "my lawyer against Greg Abbott," the Dallas Morning News reported, and said he "really wanted to swear that one in." Jenkins called it the first Court of "true progressives."

The Courts and the Legislature Rejected It

In June 2023 the Texas Supreme Court, in a unanimous ruling that combined Sommerman's case with two others, rejected the expansive reading of the Disaster Act that Sommerman and Jenkins advanced. The Court held: "We need not read the Disaster Act so expansively in order to conclude that it grants the Governor the authority to prohibit local governments from requiring the wearing of masks in response to a contagious disease." It further explained that if, in the Governor's judgment, "necessary action in coping with a disaster" includes alleviating disaster-related restrictions on liberty imposed by local governments in order to facilitate recovery and the restoration of normal life, nothing in the Disaster Act prohibits him from acting on that judgment.

The Texas Legislature later codified the point. SB 29, which took effect September 1, 2023, provides that "a governmental entity may not implement, order, or otherwise impose a mandate requiring a person to wear a face mask or other face covering to prevent the spread of COVID-19." Governor Abbott allowed Executive Order GA-38 to lapse.

Wernick's Response

"From Anthony Fauci recently taking the Fifth Amendment 111 times before the U.S. Senate, to Andy Sommerman trying to unlawfully coerce people to wear masks, we now know they were motivated less by science and more by the lust for personal power and an ideology to control and regulate their fellow citizens," Wernick said. "Fauci's own record has now confirmed what families in District 2 lived through: one of the largest frauds ever run on the American people. Sommerman perpetuated that regime here. He sued to keep the mask on us. He tied himself to the official who closed the sanctuary and the shop. He did it for free. Then he sat down on the Court. That is not a client list. That is a cause."

"District 2 residents should never have had to live under the heavy yoke of these local restrictions of limited effectiveness," Wernick added. "Then as now, Sommerman is a threat to the freedoms of District 2 voters and citizens. Whether it's mask mandates, moving polling locations to mosques for political gain, or annually raising taxes and spending, there's less liberty under Sommerman. When I am District 2 Commissioner, residents will know they have a commissioner who will always defend their liberty and stand against government overreach."

What Wernick Is Demanding

Wernick is demanding that Sommerman state on the record whether he still stands behind the mask order he defended for free, and that he recuse himself from matters that run through the courts where his firm appears.

"Liberty over tyranny. Limit government, not the people. We fought in 1776 to be citizens, not subjects," Wernick said. "I will not litigate away your church, your shop, or your child's face. He already did."

Record of failures (Ethical Concerns & Conflicts): https://sadandblueindistrict2.com/ethics-and-conflicts

Barry Wernick's Positive Vision: https://wernickfortexas.com/land-of-milk-and-honey

About Barry Wernick

Barry Wernick is the Republican nominee for Dallas County Commissioner, District 2. A lifelong Dallas resident, attorney, and TMCA Credentialed Distinguished Mediator, he is a former precinct chair and election judge and has testified on ballot secrecy in court and before the Texas Senate Committee on State Affairs. WernickForTexas.com