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IN THE SUPREME COURT OF PENNSYLVANIA

FRIENDS OF DANNY DEVITO	:	
GREGORY, B&J LAUNDRY, LLC	:	No.
BLUEBERRY HILL PUBLIC GOLF	:	
COURSE & LOUNGE, and	:	
CALEDONIA LAND COMPANY,	:	
Petitioners	:	EMERGENCY APPLICATION
	:	FOR EXTRAORDINARY
	:	RELIEF
v.	:	
	:	
TOM WOLF, GOVERNOR	:	
AND RACHEL LEVINE,	:	
SECRETARY OF PA.	:	
DEPARTMENT OF	:	
HEALTH,	:	
	:	
Respondents	:	

EMERGENCY APPLICATION FOR EXTRAORDINARY RELIEF

COME NOW Petitioners, Daniel DeVito, Kathy Gregory, B&J LAUNDRY, LLC, Blueberry Hill Public Golf Course & Lounge, and Caledonia Land

Company, by and through their attorneys, Scaringi Law, pursuant to Rule 3309 of the Pennsylvania Rules of Appellate Procedure, and respectfully represent:

1. Petitioner, Friends of Danny DeVito, is a Pennsylvania candidate committee, with a principal place of business at 27 W. Main Street, Carnegie, Pa 15106.

2. Petitioner, Kathy Gregory, is a licensed real estate agent, with a principal place of business at 1420 Easton Avenue, Bethlehem, PA 18018.

3. Petitioner, B&J LAUNDRY, LLC, is a Pennsylvania limited liability company, with a principal place of business at 1563 West 26th Street, Erie, PA 16508.

4. Petitioner, Blueberry Hill Public Golf Course & Lounge, is a Pennsylvania business entity, with a principal place of business at 6528 Cable Hollow Road, Russell, PA 16345.

5. Caledonia Land Company is a Pennsylvania limited liability company, with a principal place of business at 507 Cherry Grove Road, Clarendon, Pennsylvania 16365.

6. Respondent, the Honorable Thomas W. Wolf, is the Governor of the Commonwealth of Pennsylvania with a principal office address at Office of the Governor, 508 Main Capitol Building, Harrisburg, PA 17120.

7. Respondent, Dr. Rachel Levine, is the Secretary of Health of the Commonwealth of Pennsylvania with a principal office address at Pennsylvania Department of Health, Health and Welfare Building, 8th Floor West, 625 Forster Street, Harrisburg, PA 17120.

8. The Court has jurisdiction under 42 Pa.C.S. § 502.

The Facts

9. On Thursday, March 19, 2020, Pennsylvania Governor Thomas W. Wolf issued an order compelling the closure of the physical operations of all businesses that are not life-sustaining (hereinafter "Order"). The Order is incorporated herein by reference, made a part hereto, marked and attached as Exhibit A.

10. The Governor determined which Pennsylvania businesses are "life-sustaining," and which are "non-life sustaining." The Life-Sustaining and Non-Life Sustaining List is incorporated herein by reference, made a part hereto, marked and attached as Exhibit B.

11. The Petitioners' businesses were on the original list of non-life sustaining businesses and were put on that list without notice and hearing and as such the Order violates their due process rights.

12. The press release announcing the Order threatened the following sanctions for failure to comply:

a. enforcement actions against businesses that do not close physical locations will begin at 12:01AM Saturday, March 21;

b. enforcement action that could include citations, fines, or license suspensions; forfeiture of the ability to receive any application disaster relief;

c. other appropriate administrative action;

d. suspension or revocation of licensure;

e. prosecutions by the Department of Health, including quarantine, isolation, or other disease control measure with violators subject to fines or imprisonment;

f. any other criminal charges that might be applicable .

The press release is incorporated herein by reference, made a part hereto, marked and attached as Exhibit C.

13. Although the Governor has a link to the "wavier" process on his website, to give businesses such as Petitioners' the ability to request permission to resume physical operation of their businesses, Petitioners do not know what rights they have or do not have pertaining to this waiver process, what standard of review is being employed and by whom in reviewing the waivers, and whether there is an appeals process if the waiver is not granted, and if so how to appeal, to whom to appeal and what rights and procedures are employed in the appeal process.

14. Furthermore, upon and information and belief, it appears the denial of waivers includes no information or reason for the denial other than, "it has been determined that the business identified above must remain closed."[1] Further, the waiver denial email communication from the Department of Community and Economic Development, an executive branch agency under the jurisdiction of the Governor (hereinafter "DCED"), also fails to include any information on any right to appeal the decision. And, the denial notice appears to be an entirely boilerplate message. FN 1 reveals the entire text of a denial decision communicated to a Pennsylvania business.

15. The Governor's waiver process violates the Petitioners' due process rights of the notice and a hearing and the right to appeal any adverse decision.

The Governor's Purported Legal Basis for His Order

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[1] *Waiver Request DENIED:*

By Executive Order dated March 19, 2020, and pursuant to powers granted to him by law, Governor Tom Wolf has ordered that no person or entity shall operate a place of business that is not a life-sustaining business, regardless of whether the business is open to members of the public. The Secretary of the Pennsylvania Department of Health has issued a similar order pursuant to powers granted to her by law. These orders (the "COVID-19 Orders") are necessary to stop the spread of the novel coronavirus COVID-19.

In response to your request for an exemption from the applicability of the COVID-19 Orders, pursuant to the powers granted by law to the Governor and Secretary of Health to cope with the present disaster emergency and to prevent and control the spread of disease, it has been determined that the business identified above must remain closed.

16. The Governor bases his legal authority for his Order on the existence of a disaster emergency throughout the Commonwealth of Pennsylvania pursuant to 35 Pa.C.S. 7301 (c).

17. The Governor further bases his legal authority for the Order pursuant to his, "responsibility to address dangers, facing the Commonwealth of Pennsylvania that result from disasters. 35 Pa.C.S. 7301 (a)."

18. The Governor has asserted that, "in addition to general powers, during a disaster emergency I am authorized specifically to control ingress and egress to and from a disaster area and the movement of persons within it and the occupancy of premises therein ... 35 Pa. C.S. 7301 (f)."

19. The Governor further asserted that the "Secretary of Health has the authority to determine and employ the most efficient and practical means for the prevention and suppression of disease. 71 P.S. 532 (a), 71 P.S. 1403 (a) and these means include isolation, quarantine, and any other control measure needed. 35 P.S. 521.5."

Governor's Order Violates The Constitutional Rights of the Petitioners

20. The Governor's Order violates the following fundamental, constitutional rights of the Petitioners:

a. right against unreasonable seizures of their property under the Fourth Amendment to the US Constitution and A1iicle I, Section 8 of the Pennsylvania Constitution.

b. right to the protection of their private property under the Fifth Amendment to the U.S. Constitution.

c. right to free speech and free association under the First Amendment to the US Constitution.

d. right to be equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness pursuant to the Pennsylvania Constitution Inherent Rights of Mankind Section 1.

e. the right to due process of law under the 14th Amendment to the United States Constitution and the Law of the Land in Pennsylvania.

21. As a result of the Governor's Order, Petitioners are prohibited from physically accessing their principal places of business and are significantly harmed in their right and ability to conduct business, engage in commerce, earn a living,

run for political office and as such the Order constitutes a deprivation of the Petitioners' constitutional rights set forth above.[2]

22. Assuming for the sake of argument that the Governor has the legal authority to issue the Order under the statutes he cites, which the Petitioners deny, and assuming the Governor's Order effectuates a compelling state interest, the Order is not narrowly tailored and as such violates the Pennsylvania and United States Constitutions.

23. The Governor's Order, the decision making process employed in determining which businesses are life-sustaining and which businesses are not life-sustaining, is arbitrary, capricious and unfair and as such violates the Pennsylvania and United States Constitutions.

24. Further, the Petitioners' businesses are life-sustaining and the placement on the non-life sustaining list violates their rights under the Pennsylvania and United States Constitutions.

25. Further, the Petitioners' businesses can be conducted in such a way that does not conflict with the Governor's stated purpose for his Order because Petitioners can employ COVID-19 prevention and mitigation practices in their physical offices.

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[2] Since his original Order, the Governor has moved two of the Petitioners' businesses from the non-life sustaining list to life-sustaining list; however, these Petitioners' legal claims are not moot as explained herein.

26. The Governor's Order is overbroad, arbitrary, capricious or vague and as such violates the Pennsylvania and United States Constitutions.

35 Pa. C.S. 7301 *(f)* Does not Provide the Governor with the Legal Authority for his Order

27. 35 Pa.C.S. § 7301 is the Emergency Management Services Code (hereinafter the "Code").

28. The Code states, "The Governor is responsible for meeting the dangers to this Commonwealth and people presented by ***disasters."*** 35 Pa.C.S. § 7301 (a) (emphasis added).

29. The Code defines disasters as, "A man-made disaster, natural disaster or war-caused disaster." 35 Pa.C.S. § 7102.

30. The Code further defines a man-made disaster as:

> Any industrial, nuclear or transportation accident, explosion, conflagration, power failure, natural resource shortage or other condition, except enemy action, resulting from man-made causes, such as oil spills and other injurious environmental contamination, which threatens or causes substantial damage to property, human suffering, hardship or loss of life.
>
> Id.

31. COVID-19, a viral illness, does not fit within the definition of man-made disasters.

32. The Code further defines a natural disasters as:

> Any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, landslide, mudslide, snowstorm, drought, fire,

explosion or other catastrophe which results in substantial damage to property, hardship, suffering or possible loss of life.

Id.

33. COVID-19, a viral illness, does not fit within the definition of natural disasters.

34. The word "disease" does not appear in the definition of disaster in the Code. And, disease is not like any of the man-made or natural disasters listed in the Code. Under the contextual canon of *ejusdem generis* (Latin for "of the same kind") the general words following an enumeration of particular are to be limited by reference to the preceding particular enumeration. Thus the general words in the statutory definition above, "other conditions and other catastrophe," are limited to the particular words that appear prior thereto. Thus, by way of further example, the Code defines natural causes as, "Any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, landslide, mudslide, snowstorm, drought, fire, explosion…" The addition of the words, "or other catastrophe," may not expand the list of catastrophes to any diseases, let alone COVID-19, because disease is not like any of the listed catastrophes that precede the words "or other catastrophe."

35. Thus, the Code does not apply to COVID-19.

36. Furthermore, even if the Code applies to COVID-19, the Code empowers the Governor to act only within a disaster area.

37. The Governor specifically references in his Order his power under the Code to, "Control ingress and egress to and from a ***disaster area,*** the movement of persons within the area and the occupancy of premises therein." 35 Pa.C.S. § 7301 (±)(7).

38. However, the Petitioners' principal places of business are not located within a disaster area in that no disasters have afflicted the Petitioners' place of business. And, assuming for the sake of argument that a disease can constitute a disaster as defined in the Code, which the Petitioners deny, there is no outbreak of COVID-19 in the place of the Petitioners' businesses.

Neither 71 **P.S.** 532 (a) nor 71 **P.S.** 1403 (a)
Provide the Governor with the Legal Authority for his Order

39. The Governor also cites 71 **P.S.** 532 (a) and 71 **P.S.** 1403 (a) for the power of the Secretary of Health, "to determine and employ the most efficient and practical means for the prevention and suppression of disease."

40. However, neither the Secretary nor the Governor have shown how the closure of all non-life-sustaining business in Pennsylvania is the "most efficient and practical means for the prevention and suppression of disease."

41. The most efficient and practical means for the prevention and suppression of the COVID-19 disease is not to close down all businesses identified by statewide category in the fact of the fact there are many counties within Pennsylvania that have no identified cases of COVID-19 and in the fact of the fact

that many of the identified businesses are operated or can be modified to operate such that employees have no physical contact with other employees or the public..

42. Furthermore, 71 **P.S.** 532 (a) set forth a broad and general power, but does not specifically empower the Secretary to close physical businesses or prohibit private property owners from accessing their physical premises.

43. The more particular and relevant power is set forth in 71 **P.S.** § 532 (d):

> If the owner or occupant of any premises, ***whereon any nuisance detrimental to the public health exists, fails to comply with any order of the department for the abatement or removal thereof.*** to enter upon the premises, to which such order relates, and abate or remove such nuisance, as may now or hereafter be provided by law.

Id. (emphasis added).

44. This statutory section only gives the Secretary the power to enter upon the Petitioners' premises, and thus control the Petitioners' property, if a nuisance detrimental to the public health exists on the premises.

45. Neither the Governor nor the Secretary have presented evidence that a public health nuisance exists on the premises of the Petitioners.

46. This statutory section only gives the Secretary the power to enter upon the Petitioners' premises, and thus control the Petitioners' property, if a public health nuisance exists on the premises and the Petitioners have failed to abate it. Neither condition exists in the case at bar.

47. Thus, the Secretary has no statutory power to control the Petitioners' property.

48. Furthermore, under the *generalia specialibus non derogant* canon (Latin for "the general does not detract from the specific"), if there is a conflict between a general and a specific statutory provision, the specific provision prevails. The specific provision is 71 **P.S.** § 532 (d) and thus it prevails over 71 **P.S.** 532 (a) and because the elements of 71 **P.S.** § 532 (d) do not exist in this case, it does not apply and does not give the Secretary the power she or the Governor claims.

49. The Governor's Order also cites 71 **P.S.** §1403 (a) for his and the Secretary's power to order the closure of all non-life sustaining businesses. 71 **P.S.** §1403 (a) is a near verbatim copy of 71 **P.S.** § 532 (a).

50. The Governor fails to cite 71 PS § 1403 (b). This is the more specific power:

> The Secretary of Health shall cause ***examination to be made of nuisances or questions affecting the security of life and health*** in any locality, and for that purpose the secretary, and any person authorized by him so to do, may, without fee or hindrance, ***enter, examine and survey all grounds, vehicles, apartments, buildings, and places within the State,*** and all persons so authorized by him shall have the powers and authority conferred by law upon constables.
>
> Id. (emphasis added).

51. This provision confers upon the Secretary the power to enter and survey property within the Commonwealth, but only for the examination to be made of nuisances or questions affecting the security of life or health at that place; and does not give her power to order the closure of the physical operations of a business.

52. None of those elements necessary to establish the Secretary's power under 71 PS § 1403 (b) exist in this matter.

53. In any event, under the *generalia specialibus non derogant* canon (Latin for "the general does not detract from the specific"), the same result occurs with regard to these two statutory provisions. 71 PS § 1403 (b) is more specific than 71 **P.S.** §1403 (a). The elements for 71 **P.S.** §1403 (b) do not exist in this case. Thus, 71 **P.S.** §1403 (a) does not apply and does not give the Secretary the power she or the Governor claims.

35 **P.S.** 521.1 et seq.
The "Disease Prevention and Control Law of 1955" (or the "Disease Act". Does Not Provide the Governor with the Legal Authority for his Order

54. The Governor states in his Order that the means include "isolation, quarantine, and any other control measure needed, 35 P.S. 521.5."

> Upon the receipt by a local board or department of health or by the department, as the case may be, ***of a report of a disease*** which is subject to isolation, quarantine, or any other control measure, the local board or department of health or the department shall carry out the appropriate control measures in such manner and in such place as is provided by rule or regulation.

Id. (emphasis added)

55. Neither the Governor nor the Secretary have presented any evidence that there has been a report of a disease at Petitioners' physical operation.

56. The Disease Act, and its quarantine, isolation and "control measures," apply to infected persons or animals.

> (e) Isolation. The separation for the period of communicability of ***infected persons or animals*** from other persons or animals in such places and under such conditions as will prevent the direct or indirect transmission of the infectious agent from infected persons or animals to other persons or animals who are susceptible or who may spread the disease to others.
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> 35 P.S. 521.2 (emphasis added).

57. Petitioners, with the exception of Gregory, are all legal entities and not persons, let alone infected persons. Legal entities cannot become infected with COVID-19. Further, this provision empowers the Secretary to separate the infected persons, not un-infected persons. Neither the Secretary nor the Governor has any evidence that the Petitioners, even if they are considered to be persons, are infected with COVID-19 and as such should be separated from their principal place of business.

58. The Disease Act, and its quarantine, isolation and "control measures," apply to persons or animals who have been exposed to a communicable disease.

> (i) Quarantine. The limitation of freedom of movement ***of persons or animals who have been exposed to a communicable disease*** for a

> period of time equal to the longest usual incubation period of the disease in such manner as to prevent effective contact with those not so exposed. Quarantine may be complete, or, as defined below, it may be modified, or it may consist merely of surveillance or segregation.
>
> Id. (emphasis added).

59. Neither the Governor nor the Secretary has presented evidence that any of the Petitioners have been exposed to a communicable disease. Furthermore, in the cases involving Petitioners Calendonia and Blueberry Hill, they are located in Warren County, Pennsylvania; there have not been any reported COVID-19 cases in the entire county of Warren.

60. The Disease Act applies to persons or animals and empowers the Governor and/or health officials in certain circumstance to quarantine or isolate infected or exposed persons or animals. It does not empower the Governor to shut down the Petitioners' businesses.

Claims of Friends of Danny DeVito

61. Friends of Danny DeVito is a Pennsylvania registered candidate committee formed to operate and administer the candidacy of Danny DeVito a candidate for the 45th District of the Pennsylvania House of Representatives.

62. Petitioner is on the non-life sustaining list and as a result was required to close their physical operations. By way of comparison, Candidate DeVito is running in the primary election and if he wins he would face the incumbent State Representative, Anita Kulik, in the General Election. The incumbent State

Representative operates district offices that are not subject to the Governor's closure order. Kulik's district office is not closed and is still operational, except that Representative Kulik does not permit "walk-ins." So apparently if one makes an appointment one can meet with Rep. Kulik or her staff. Kulik still has access to her office, staff and office equipment; but Candidate DeVito does not.[3] This is dissimilar and unequal treatment between the incumbent State Representative and Candidate DeVito, to Candidate DeVito's detriment, and which infringes on Candidate DeVito's right to equal protection under the law.

63. As a result of the Order, Petitioner has been harmed in the following ways:

a. Cannot meet with campaign volunteers, supporters, potential media, vendors or any other persons or parties instrumental in conducting a political campaign at the campaign office.

b. Cannot conduct organized campaign activities such as direct mail activities, press conferences, or any other event featuring or promoting the campaign.

c. Does not have access to the office equipment necessary to promote the campaign.

[3] https://www.pahouse.com/Kulik/NewsCenter/

d. No longer has a central storage place for the dissemination of campaign materials such as flyers, brochures and yard signs.

64. If permitted to reopen their campaign office, Friends of Danny DeVito will incorporate COVID-19 prevention protocol similar to those employed by Executive Branch agencies under the jurisdiction of the Governor.

Claims of Kathy Gregory

65. Petitioner Gregory is a licensed Realtor.

66. Gregory is licensed through a Better Homes & Gardens R.E. real estate brokerage franchise.

67. Petitioner is on the non-life sustaining list and as a result was required to close the physical operations located at her principal place of business. More particularly, the Governor placed on the closure list both "Office of Real Estate Agents and Activities Related to Real Estate Agents." So it seems Gregory cannot even work from home in a virtual office the way lawyers and other professionals are permitted by the Governor to work from home in their virtual offices by speaking with buyers and sellers on the phone and arranging virtual tours of homes. And, yet, insurance agents and brokers are on the life-sustaining list and are permitted to continue their physical business operations, but are only prohibited from in-home activities, presumably at their clients' homes.

68. Gregory has not applied for a waiver from the Governor's Order because the franchisor will not permit the office to be opened and will not apply for a waiver; thus, Gregory cannot apply for a waiver.

69. Pursuant to Pennsylvania state law, Gregory can only buy and sell real estate through her broker/franchisor.

70. Housing is critically important at any time and certainly considering the COVID-19 pandemic and considering the Governor's repeated advice for Pennsylvanians to stay home and considering the Governor's recent stay at home Order for several Pennsylvania counties.

71. Gregory represents clients who have sold their home, continue to reside there but must depart by June 30th, 2020.

72. Gregory needs to be able to find these clients a home in the meantime and prior to the date that they must depart.

73. Gregory needs to be able to physically show clients potential homes because she has many clients who need a place to live and clients who are under contract to buy or sell their homes and who need to move into new homes.

74. Gregory can and will use the recommended protocol for preventing or mitigating COVID-19 if permitted to conduct her real estate sales practice, including but not limited to driving in separate cars to home showings, requiring home owners to clean and sanitize their homes prior to showings, requiring home

owners to not be physically present during the showing, wearing gloves and requiring her buyers to wear gloves during home showing and holding virtual instead of in-office settlements. The National Association of Realtors has put out guidance for real estate agents on how to incorporate COVID-19 prevention protocol in place while continuing to conduct business. Furthermore, real estate workers have been deemed to be "essential" in several states, including Ohio, Florida, and thus remain open while maintaining COVID-19 prevention protocol.

Claims of B&J Laundry, LLC[4]

75. Petitioner operates a self-serve coin laundromat and wash-n-fold laundry service for the public.

76. As a result of the Order, Petitioner was harmed in that he was ordered initially to cease operating his business.

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[4] In his original list, the Governor determined laundromats to be non-life sustaining. In his revised list, the Governor has determined that laundromats are life-sustaining. However, Petitioner B&J Laundry, LLC's claim is not moot because the constitutionality of the entire process by which the Governor has determined that some businesses are life-sustaining and others are not, and that apparently the Governor can change his mind and return Petitioner to the non-life sustaining category is an issue of great public importance and/or is one that is capable of repetition yet evading review. This Court has held, "Generally, courts will not address a moot case. However, 'we have reviewed moot matters, in our discretion, when the issue presented is one of great public importance or is one that is capable of repetition, yet evading review." See *Association of Pennsylvania State College and University Faculties v. PLRB,* 607 Pa. 461, 8 A.3d 300,305 (Pa. 2010); *Pap's A.M v. City of Erie,* 571 Pa. 375, 812 A.2d 591, 600-01 (Pa. 2002) as cited *In re Stevenson,* 615 Pa. 50, 62, 40 A.3d 1212, 1219 (2012).

77. A laundromat cannot be operated "virtually" or from home.

78. Petitioner offers "drop off services."

79. Petitioner's drop-off services can be operated with the doors to the business location locked to the public with the public dropping off and retrieving their laundry from the business parking lot. This is much like how restaurants offer their drive thru service.

80. Petitioner provides a much needed service in regards to the prevention of COVID-19 in terms of cleaning clothing and other articles upon which COVID-19 can spread.

81. Many Pennsylvanians live without in home or apartment laundry facilities and must use public laundry facilities like Petitioner's. These Pennsylvanians, who now do not have access to public laundry facilities, are at greater risk than Pennsylvanians who have such facilities.

82. Petitioner may be harmed if the Governor changes his mind again and orders Petitioner to close his business again.

Claims of Blueberry Hill Public Golf Course & Lounge

83. Petitioner owns and operates a public golf course.

84. Petitioner is on the non-life-sustaining list is was ordered to close its physical operation.

85. As a result of the Order, Petitioner has been harmed in the following

ways:

a. Petitioner must still expend significant sums to maintain fairways and greens so that the grass thereon does not grow out of control such that the greens and fairways are ruined for future golf activities. However, Petitioner has been denied the opportunity to make use of such greens and fairways to derive the income necessary to pay for the maintenance operations.

b. Spring is the time of year when certain other golf course work such as fertilization and pest control should be performed. However, without the ability to host customers at the golf course the Petitioner is without funds to purchase the necessary maintenance supplies. Such work is dependent upon the season and when the season passes the opportunity is lost. Blueberry also had to lay off wait staff, cooks, and professional staff.

c. Petitioner made contracts to purchase new or replacement equipment for the 2020 golf season and requires the equipment in order to perform the maintenance cited above. However, without revenue from customers the Petitioner does not have sufficient funds to honor the purchase agreements and Petitioner is left without the equipment required to perform necessary operations.

86. Petitioner has a 30-week golf season.

87. The golf course business is competitive.

88. For over a decade Blueberry has operated on a slim budget that barely

balances.

89. The loss of any week of operation will have a devastating impact on business. For example, Blueberry is obligated on a significant promissory note to a local bank. If Blueberry cannot continue business next week Blueberry will be unable to make its April 2020 payment to the bank.

90. Spring is the critical time of year for any golf course because golf courses survive the winter on their savings. The spring cash flow must cover not only the spring's operating expenses but the revenue must also be saved for the upcoming winter.

91. The Governor and the Secretary of Health have repeated admonished and advised Pennsylvanians to take walks, get exercise and breathe in the fresh air; the Petitioner can provide the outdoor public space for members of its community to do just that.

92. Petitioner is ready, willing and able to put into place COVID-19 prevention protocol if permitted to reopen, including but not limited to requiring golfers to walk, or if golfers wish to ride in carts, requiring golfers to use individual carts for each golfer. The restaurant would provide takeout only. Apparently, golf clubs in the State of Ohio are permitted to remain open even under Ohio's Stay at Home Order provided they take COVID-19 prevention precautions.

93. Petitioner believes and therefor avers that it appeared on the Governor's original list as a non-life sustaining businesses; it is not entirely clear, though. The original list does not include a category for golf course. It does include a category entitled, "Other Amusement and Recreation Activities."

94. Petitioner still appears on the now revised list as a non-life sustaining business, assuming it falls within the category, "Other Amusement and Recreation Activities."

Claims of Caledonia Land Company

95. Petitioner Caledonia Land Company owns 4000 acres of primarily timber land in northwestern PA.

96. Petitioner was on the original list of non-life-sustaining businesses and was ordered to close its physical operation. The Governor has since revised his order and has moved Petitioner to the life-sustaining list. However, Petitioner is still harmed because the Governor can change his mind and place Petitioner back on the non-life-sustaining list.

97 As a result of the Order and the original list placing Petitioner on the non-life sustaining list, Petitioner has been harmed in the following ways:

a. Petitioner had to summarily terminate timber harvesting

projects that were planned for the immediate future. The termination of the projects interfered with the Petitioner's ability to enjoy its property and interrupts the flow of revenue to Petitioner.

b. Certain of the trees slated to be harvested were selected particularly because they are the white ash species which species has been attacked by the emerald ash borer. Mortality in the ash species is 100% and if the trees are not immediately harvested their value will be forever lost in that the trees are dying, the trees are subject to windthrow, and the further infestation by the borer renders the wood without value.

c. The Petitioner has established relationships with the contractors who harvest and haul the timber. These relationships are based in part upon the Petitioner's ability to provide reliable work. The cessation of work harms the relationships and threatens the ability of Petitioner to secure services necessary to Petitioner's operations.

d. On the date the Governor's order was issued Petitioner was in possession of harvested logs awaiting sale. As a result of the Governor's order Petitioner was unable to sell the harvested logs because the Governor's order also closed the paper mills and sawmills that are the normal purchasers of the Petitioner's logs. A delay in the sale of the logs will render irreparable harm in numerous ways including the general decay in quality of logs, the infestation by

pests, and the internal staining of maple logs (which staining occurs if the logs are not sawn within a matter of weeks after their harvest).

98. Petitioner employs independent contractors to manage and cut its timber.

99. The management is conducted by Generations Forestry of Kane, PA. whose operations were also listed as non-life sustaining under the Governor's Order, but whose operations were then moved to the life-sustaining list.

100. The timber harvesting is performed by various independent contractors.

101. Petitioner manages its timber via selective cutting and via various timber stand improvement projects.

102. Petitioner had several such projects currently underway until the issuance of the Order.

103. The timber work occurs in the woods and is usually performed by a one man crew and a single truck driver. It is not necessary for these contractors to come into contact with other persons in order for them to perform their work. Similarly, the management work performed by Generations Forestry is and can be performed by a single individual who does not need to come into contact with other persons in order to perform the work.

104. The timber work produces timber to mills that tum it into paper products such as toilet paper and tissues that are critical in mitigating the spread of COVID-19.

105. The Governor's Order caused a cessation of income to Caledonia, the stoppage of payments to the independent contractors, and the interruption of the supply of wood to mills and the stoppage of the production of paper products such as toilet paper and tissues.

Governor's Order Violates Separation of Powers

106. Executive orders can be classified into three permissible types: (1) proclamations for ceremonial purposes; (2) directives to subordinate officials for the execution of executive branch duties; and (3) interpretation of statutory or other law. *Markham v. Wolf,* 647 Pa. 642,651, 190 A.3d 1175 (2018). Type 3 is implicated in this matter.

107. "[A]ny executive order that, in essence, creates law, is unconstitutional." *Id.,* 647 Pa. at 656.

108. The governor's comprehensive, detailed determination of which types of businesses "may continue physical operations" constitutes an attempt at legislation, which is the exclusive province of the legislative branch of government. Id., 647 Pa. at 656 ("Foundationally, the legislature creates the laws. Pa. Const. art. II, § 1").

109. The governor, in attempting to legislate which businesses may operate from their physical locations and which cannot, has violated the principles of separation of powers articulated and applied by the Pennsylvania Supreme Court in *Markham.*

Governor's Order is Arbitrary, Capricious and Vague and Thus Violates the Pennsylvania and U.S. Constitutions

110. Before the Governor ordered the closure of all non-life-sustaining businesses, the Governor strongly urged certain businesses he determined to be non-essential to close. Those the Governor decided were essential, the Governor did not strongly urge to close.

111. Shortly thereafter and in the Governor's Order in question the Governor ordered the closure of all non-life-sustaining businesses and permitted all life-sustaining businesses to "continue physical operations."

112. The Governor then, within a few hours, revised his list of life-sustaining and non-life sustaining businesses. A copy of the revised List of Life-Sustaining and Non-Life Sustaining Businesses is incorporated herein by reference, made a part hereto, marked and attached as Exhibit D.

113. These categories - life-sustaining and non-life-sustaining - have no basis in the law. No statute cited by the Governor in support of his Order uses these terms or categories. The Governor quite simply made up these categories and their terminology out of whole cloth. Furthermore, it appears the Governor changed

terminology, and dropped the terms essential and non-essential, because all businesses are essential to commerce, employment, income to the businesses and employees and a fully functioning economy, all of which are essential to living. The terms life-sustaining and non-life-sustaining are tenns designed for public relations and to bolster support for the Governor's Order even though they do not have a logical connection to his Order. For example, the Governor decided that beer distributorships are life-sustaining. How are they?

114. Assuming for the sake of argument that the Governor has the power to issue the Order and to categorize businesses, the Governor's act of determining the categories may not be arbitrary and capricious.

115. "Arbitrary" has been defined as, "Not supported by fair, solid, and substantial cause, and without reason given." *Treloar v. Bigge,* L. R. 9 Exch. 155 as cited in Black's Law Dictionary.[5]

116. The Governor's categories are not supported by fair, solid and substantial cause and there was no reason given for them. For example, why are, "beer, wine, and liquor stores," determined to be non-life-sustaining, but "beer distributors" are determined to be "life-sustaining?" Why are "department stores" non-life-sustaining, but "other general merchandise stores" life-sustaining?

[5] https://thelawdictionary.org/arbitrary/

117. Again, the Governor implemented a waiver process. But the waiver denials do not provide any reason for the denial.

118. "Capricious" has been defined as, "Given to sudden and unaccountable changes of mood or behavior."[6] The Governor issued his first list on Friday, March 20, 2020 and then revised it later in the day. What caused the Governor to change his mind apparently within a span of hours and move Forestry and Logging and Laundromats and Dry cleaning from non-life-sustaining to life-sustaining? The Governor changed the list again, later that weekend by, among other things, moving sawmill operations to the life-sustaining category. Will the Governor change his mind again and put Petitioners' timber and laundromat businesses back on the non-life-sustaining list and order, again, their immediate closure? Petitioners do not know and apparently have no way of knowing. Petitioners cannot read the Governor's mind.

119. "Vagueness" has been defined as, "A law that can be voided as it is unclear or is lacking a thing that makes it precise."[7] Does "Other Amusement and Recreation Industries" include public golf courses? Petitioner Blueberry Hill cannot be sure. Blueberry Hill operates a restaurant on premises. Does Blueberry Hill's restaurant qualify as a "Full-service Restaurant" or a "Limited-Service

[6] https://thelawdictionary.org/capricious/
[7] https://thelawdictionary.org/void-for-vagueness/

Eating Place." In either case take-out is permitted. But the restaurant is located on the golf course premises, which must be closed, because it is apparently a non-life-sustaining business. So can Blueberry Hill operate the restaurant or not?

120. Lastly, the Governor's first list determined Forestry and Logging to be non-life-sustaining. On the Governor's revised list, he changed his mind and determined Forestry and Logging to be life-sustaining. However, under "Manufacturing" the Governor's revised list allows paper manufacturing but disallowed "Other Wood Products Manufacturing. Pulp trees used for paper manufacturing grow side by side with the higher quality wood used for wood product manufacturing. In virtually every Pennsylvania timber harvesting project the pulp trees (used for paper) and the sawtimber (used in products manufacturing) are harvested and sold together. There are probably hundreds if not thousands of sales now under contract in Pennsylvania that are combined pulp/sawtimber sales. So what happens to those contracts?

121. Government actions that are deemed to be arbitrary, capricious and/or vague have been determined to violate the Pennsylvania and U.S. Constitutions. The Governor's actions in devising the list, devising the categories, deciding which business is in which category, and then changing his mind with regard to some businesses and moving them from one category to the other not only has caused mass confusion and disturbance throughout Pennsylvania, but it is also arbitrary,

capricious and vague and as such the list of life-sustaining and non-life-sustaining businesses should be struck as unconstitutional.

WHEREFORE, Petitioners' request that the Court order that the Governor's Order be vacated.

Respectfully submitted,

March 24, 2020

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EXHIBIT A

COMMONWEALTH OF PENNSYLVANIA

OFFICE OF THE GOVERNOR

ORDER OF

THE GOVERNOR OF THE COMMONWEALTH OF PENNSYLVANIA REGARDING THE CLOSURE OF ALL BUSINESSES THAT ARE NOT LIFE SUSTAINING

WHEREAS, the World Health Organization and the Centers for Disease Control and Prevention ("CDC' have declared a novel coronavirus ("COVID-19' a "public !tea/tit emergency of international concern," and the U.S. Department of Health and Human Services ("HHS") Secretary has declared that COVID-19 creates a public health emergency; and

WHEREAS, as of fl.larch **6,** *2010, I proclaimed the existence of a disaster emergency throughout the Commonwealth pursuant to 35 Pa. C.S. § 730/(c); and*

WHEREAS, I am charged with the responsibility to address dangers facing the Commonwealth of Pennsylvania that result from disasters. 35 Pa. C.S. § 730l(a); and

WHEREAS, in addition to general powers, during a disaster emergenc:v I am authorized specifically to control ingress and egress to and from a disaster area and the movement of persons within ***it*** *and the occupancy of premises therein; and suspend or limit the sale, dispeltsi11g, or tram,1,ortatiou of,1/coholic beverages, firearms, and combustibles. 35 Pa. C.S. § 730l(j); alld*

WHEREAS, in executing tlte extraordinary powers outlined above, I am further authorized during a disaster emergency to issue, amend ,md rescind executive orders, proclamations and regulations am/ those directives shall have the force and effect of law. 35 Pa. C.S. § ***7301*** *(b); and*

WHEREAS, in addition to my ,mthority, my Secreta,y of Health has tlte authority to determine and employ the most efficient and practical meatts for tlte prevention and suppression of disease. 7l P.S. § 532(a), 7l P.S. 1403(a); and

WHEREAS, these means include isolation, quarantine, and any other control measure needed. 35 P.S. § 521.5.

NOW THEREFORE, pursuant to tlte authority vested in me and my Administration by the laws of the Commomvealth of Pennsylvania, I do hereby ORDER and PROCLA/iJ.1 us follows:

Section 1: Prohibition on Operation of Businesses that are not Life Sustaining

All prior orders and guidllnce regarding business closures are hereby superseded.

Enforcement actions will be taken against non-life susttlining businesses that are out of compliance effective March 21, 2020, at 12:01 a.m.

Section 2: Prohibition on Dine-bi Facilities including Restaurtmts and Bars

All restaurants and bars previous(v have been ordered to close their dine-in facilities to help stop the spread of COVID-19.

Businesses that offer carry-out, delivery, and drive-through food and beverage service may continue, so long as social dista11cing and other mitigatio11 measures are employed to protect workers and patrons. Enforcement actions will be taken against businesses that are out of compliance effective March 19, 2020, at 8p.m.

Section 3: Ejfective Date and Duration

This order is effective immediately alld will remain in effect untilfurther notice.

GIVEN under my hand and tlte Seal of tlte Governor, al the city of Harrisburg, on this nineteenth day of March two thousand twellfy, the year of the commonwealth the two hundred and forty-fourth.

Tom Wolf

TOM WOLF
Governor

EXHIBIT B

Industry	Sector	Subsector	Industry Group	May Continue Physical Operations	Notes
In exteocatlna dICUmstances, soecial exem>tions will be OfBnted to businesse• that are suoolvina or servicino health care omviden,.					
Natural Resources	Agriculture, Forestry, Fishing and Hunting	Crop Production	Oilseed and Grain Fanning	Yu	
			Vegetable and Melon Fanning	Yes	
			Fruit and Tree Nut Fanning	Y1111	
			Greenhousa, Nursery, and Floriculture Production	Yell	
			Other Crop Farming	Yes	
		Animal Production	Gattle Ranching and Farming	Y811	
				Yes	
			Production	Yell	
			♦ngp arming	Yes	
			Animal Aquacultu,e	Yes	
			Other Animal Production	Yes	
		Forestry and Logging	Timber Traci Operations	No	
			Forest Nurseries and Local Gathering of Forest Products	No	
			Logging	No	
		Fishing, Hunting, and Trapping	Fishing	Yes	
			Hunting and Trapping	Y0f0	
		Support Activites for Agriculture & Forestry	Support Activities for Crop Production	Y0f0	
			Support Aclivities for Animal Production	Yes	
			Support Activities for Forestry	No	
	Mining	Oil and Gas Extraction		Yes	
		Mining	Coal Mining	No	
			Metal Ore Mining	No	
			NonmetaHic Mineral Mining and Quarrying	No	
		Sunsart AcUvites for Minina		No	
Construction	Construction	Construction of Buildings	Residential BuUding Construction	No	
			Nonresidential Building Construction	No	
		Heavy and Civil Engineering Construction	Utility Subsystem Construction	No	
			Land Subdivision	No	
			Highway, Street, and ♦Nciion	No	
			Other Heavy and Civil Construction	No	
		Specialty Trade Contractors	Foundation, Structure, and 5U1101na Exterior Contractors	No	
			Building Equipment Contractors	No	
			Bililding Finishing Contractors	No	
			Other Soecialty Trade Contractors	No	
Manufacturing	Manufacturing	Food Manufacturing	Animal Food Manufacturing	Yes	
			Grain and OUseed Milling	Yes	
			Sugar and Confectionery Product Manufacturing	YOS	
			Fruit and Vegetable Preserving and Specialty Food Manufacturing	Yes	
			Dail)I Product Manufacturing	Yes	
			Animal Slaughtering and Processing	Yu	
			Seafood Product Preparation and Packaging	Yes	
			Bakeries and Tortilla Manufacturing	Yes	
			Othar Food Manufaciuring	Yes	
		Beverage and Tobacco Product Manufacturing	Beverage Manufacturing	Yes	
			Tobacco Manufacturing	No	
		Textile Mills	Fiber, Yam, and Thread Mills	No	
			Fabric Mills	No	
			Textile and Fabric Finishing and Fabric Coating Mills	No	
		Textile Produc1 Mills	Textile Furnishing Mills	No	
			Other Textile Product Mills	No	
		Apparel Manufacturing	Apparel Knitting Mills	No	
			Cut and Sew Apparel Manufacturing	No	
			Apparel Accessories and Other Apparel Manufacturing	No	
		Leather & Altied Product Manufacturing	Leather and Hide Tanning and Finishing	No	
			Footwear Manufacturing	No	
			Other Leather and Allied Product Manufacturing	No	
		Wood Product Manufacturing	Sawmills and Wood Preservation	No	
			Venaer. Plywood. and Engineered Wood Product Manufacturing	No	
			Other Wood Product Manulac1uring	No	
		Paper Manufacturing	Pulp, Paper, and Paperboard Mills	Yes	
			Converted Paper Product Manufacturing	Yes	
		Printing & Related Support Activities		No	
		PetrOleum & Coal Products Manufacturing		Yes	
		Chemical Manufacturing	Basic Chemical Manufacturing	Yes	
			Resin. Synthetic Rubber, and Artificial Synthetic Fibers and Filaments Manufacturing	Yes	
			Pesticide, Fertilizer. and Other Agricultural Chemical Manufacturing	Yes	
			Pharmaceutical and Medicine Manufacturing	Yes	
			Paint, Coating, and Adhesive Manufacturing	No	
			Soap, Cleaning Compound, and Toilet Preparation Manufacturing	Yes	
			Other Chemical Product and Preparation Manufacturing	Yes	

Industry	Sector	Subsector	Industry Group	May Continue Physical Operations	Notes
Manufacturing (Continued)	Manufacturing (Continued)	Plastics & Rubber Products Manufacturing	Plastics Product Manufacturing	Yes	
			Rubber Product Manufacturing	Yes	
		Nonmetallic Mineral Product Manufaciuring	Clay Product and Refractory Manufacturing	No	
			Glass and Glass Product Manufacturing	No	
			Cement and Concrete Product Manufacturing	Yes	
			Lime and Gypsum Product Manufacturing	No	
			Other Nonmetallic Mineral Product Manufacturing	No	
		Primary Metal Manufacturing	Iron and Steel Mills and Ferroalloy Manufacturing	Yes	
			Steel Product Manufacturing from Purchased Steel	Yes	
			Alumina and Aluminum Production and Processing	Yes	
			Nonferrous Metal (except Aluminum) Production and Processing	No	
			Foundries	No	
		Fabricated Metal Product Manufacturing	Forging and Stamping	No	
			Cutlery and Handtool Manufacturing	No	
			Boiler, Tank, and Shipping Container Manufacturing	No	
			Hardware Manufacturing	No	
			Spring and Wire Product Manufacturing	No	
			Machine Shops, Turned Product, and Screw, Nut, and Bolt Manufacturing	No	
			Coating, Engraving, Heat Turning, and Allied Activities	No	
			Other Fabricated Metal Product Manufacturing	No	
		Machine Manufacturing	Agriculture, Construction, and Mining Machinery Manufacturing	Yes	
			Industrial Machinery Manufacturing	No	
			Commercial and Service Industry Machinery Manufacturing	Yes	
			Ventilation, Heating, Air-Conditioning, and Commercial Refrigeration Equipment Manufacturing	Yes	
			Metalworking Machinery Manufacturing	No	
			Engine, Turbine, and Power Transmission Equipment Manufacturing	Yes	
			Other General Purpose Machinery Manufacturing	N0	
		Ccmputer & Electronic Product Manufacturing	Computer and Peripheral Equipment Manufacturing	No	
			Communications Equipment Manufacturing	No	
			Audio and Video Equipment Manufacturing	No	
			Semiconductor and Other Electrical Ccmponenl Manufacturing	Yes	
			Navigational, Measuring, Electromedical, and Control Instruments Manufacturing	Yes	
			Manufacturing and Reproducing Magnetic and Optical Media	No	
		Electrical Equipment, Appllance, & Component Manufacturing	Electric Lighting Equipment Manufacturing	No	
			Household Appliance Manufacturing	No	
			Electrical Equipment Manufacturing	No	
			Other Electrical Equipment and Component Manufacturing	No	
		Transportation Equipment Manufacturing	Motor Vehicle Manufacturing	No	
			Motor Vehicle Body and Trailer Manufacturing	No	
			Motor Vehicle Parts Manufacturing	No	
			Aerospace Product and Parts Manufacturing	No	
			Railroad Rolling Stock Manufacturing	No	
			Ship and Boat Building	No	
			Other Transportation Equipment Manufacturing	No	
		Furniture & Related Produci Manufacturing	Household and Institutional Furniture and Kitchen Cabinet Manufacturing	No	
			Office Furniture (including Fixtures) Manufacturing	No	
			Other Furniture Related Product Manufacturing	No	
		Miscellaneous Manufacturing	Medical Equipment and Supplies Manufacturing	Yes	
			Other Miscellaneous Manufacturing	No	

Industry	Sector	Subsector	Industry Group	May Continue Physical Operations	Notes
	Wholesale	Merchant Wholesalers, Durable Goods	Motor Vehicle and Motor Vehicle Parts and Supplies Merchant Wholesalers	Yes	
			Furniture and Home Furnishing Merchant Wholesalers	No	
			Lumber and Other Construction Materials Merchant Wholesalers	No	
			Professional and Commercial Equipment and Suppties Merchant Wholesalers	Yes	
			Metal and Mineral (except Petroleum) Merchant Wholesalers	Yes	
			Electrical and Electronic Goods Merchant Wholesalers	Yes	
			Hardware, and Plumbing and Heating Equipment and Supplies Merchant Wholesalers	Y.is	
			Machinery, Equipment, and Supplies Merchant Wholesalers	Yes	
			Miscellaneous Durabie Goods Merchant Wholesalers	Yes	
		Merchant Wholesalers, Nondurable Goods	Paper and Product Merchant Whoelsalers	Yes	
			Drugs and Druggists' Sundries Merchant Wholesalers	Yes	
			Apparel, Pi- Goods, and Notions Merchant Wholesalers	No	
			Grocery and Related Product Wholesalers	Yes	
			Farm Product Raw Material Merchant Wholesalers	Yes	
			Chemical and AUied Products Merchant Wholesalers	Yes	
			Petroleum and Petroleum Products Merchant Wholesalers	Yes	
			Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers	Yes	
			Miscellaneous Nondurable Goods Merchant Wholesalers	No	
		Wholesale Electronic Markets and Aoents & Brokers		No	
	Retail	Motor Vehicle & Parts Dealers	Automobile Dealers	No	
			Othar Motor Vehicle Dealers	No	
			Automotive Parts, Accessories, and Tire Stores	Yes	
		Furniture & Home Furnishing Stores	Furnitura Stores	No	
			Home Furnishings Stores	No	
		Electronics & Anpilance Stores		No	
		Building Material, Garden Equipment. & Supplies Dealers	Building Material and Supplies Dealers	Yes	
			Lawn and Garden Equipment and Supplies Stores	No	
		Food & Beverage Stores	Grocery Stores	Yes	
			Specialty Food Stores	No	
			Beer, Wine, and Liquor Stores (Beer Distributors to Remain Open)	Yes	
		Health & Personal Care Stores		No	
		Gasoline Stations		Yes	
		Clothing & Clothing Accessories Stores	Clothing Stores	No	
			Shoe Stores	No	
			Jewelry, Luggage, and Leather Goods Stores	No	
		Sporting Goods, Hobby, Book, & Music Stores	Sporting Goods, Hobby, and Musical Instrument Stores	No	
			Book, Periodical, and Music Stores	No	
		General Merchandise Stores	Department Stores	No	
			Other General Merchandise Stores	Yes	
		Miscellaneous Store Retailers	Florists	No	
			Office Supplies, Stationery, and Gift Stores	No	
			Used Merchandise Stores	No	
			Other Miscellaneous Store Retailers	No	
		Nonstore Retailers	Electronic Shopping and Mail-Order Houses	Yes	
			Vending Machine Operators	No	
			Direct Selling Establishments	No	
	Transportation & Warehousing	Air Transportation	Scheduled Air Transportation	Yes	
			Nonscheduled Air Transportation	Yes	
		Rail Transoortation		Yes	
		Water Transportation	Deep Sea, Coastal, and Great Lakes Water Transportation	Yes	
			Inland Waler Transportation	YH	
		Truck Transportation	General Freight Trucking	Ye$	
			Specialized Freight Trucking	Yes	
		Transit and Ground Passenger Transportation	Urban Transit Systems	Yes	
			Interurban and Rural Bus Transportation	Yes	
			Taxi and Limousine Service	Yes	
			School and EmpiOyee Bus Transportation	Yes	
			Charter Bus Industry	No	
			Other Transit and Ground Passenger Transportation	Yes	
		Pipeline Transportation	Pipeline Transportation of Crude Oail	Yes	
			Pipeline Transportation of Natural Gas	Yes	
			Other Pipeline Transportation	Yes	
		Scenic and Sightseeing Transportation	Scenic and Sightseeing Transportation, Land	No	
			Scenic and S◆rtation, Water	No	
			Scenic and Si rtation, Other	No	
		Support Activities for Transportation	Support Activities ortation	Yes	
			Support Activities for Rail Transportation	Yes	
			Support Activities for Water Transportation	Yes	
			Support Activrtes for Road Transportation	Yes	
			Freight Transportation Arrangement	Yes	
			Other Support Activities for Transportation	Yes	
		Postal Service		Yes	
		Couriers and Messengers	Couriers	Yes	
			Local Messengers and Local Delivery	Yes	
		Warehousino and Storaae		Yes	
	Utilities	Utilities	Electric Power Generation, Transmission, and Distribution	Yes	
			Natural Gas Distribution	Yes	
			Waler, Sewaoe and Other Svstems	Yes	

industry	Sector	Subsector	industry Group	May Continue Physical Operations	Notes
		Publishing Industries (except Internet)	Newspaper, Periodical, Book, and Directory Pubfishers	Yes	
			Software Publishers	No	
		Motion Picture and Sound Recording Industries	Motion Picture and Video Industries	No	
			Sound Recording Industries	No	
		Broadcasting (except Internet)	Radio and Television Broadcasting	Yes	
			Cable and Other Subscription Programming	Yes	
		Telecommunications	Wired Telecommunications Carriers	Yes	
			Wireless Telecommunications Carriers (except Satellite)	Yes	
			Telecommunications Resellers	No	
			Satellite Telecommunications	Yes	
			Cable and Other Program Distribution	Yes	
			Other Telecommunications	Yes	
		Data Processing, Hostino, and Related Services		Yes	
		Other Information Services		Yes	
		Monetary Authorities - Central Bank		Yes	
		Credit Intermediation and Related Activities	Depository Credrt Intermediation	Yes	
			Nondepository Credit Intermediation	Yes	
			Activities Related to Credrt Intermediation	Yes	
		Securities, Commodity Contracts, and Other Financial Investments and Related Activities	Securities and Commodity Contracts Intermediation and Brokerage	No	
			Securities and Commodity Exchanges	No	
			Other Financial Investment Activities	No	
		Insurance Carriers and Related Activities	Insurance Carriers	No	
			Agencies, Brokerages, and Other Insurance Related Activities	No	
		Funds, Trusts, and Other Financial Activities	Insurance and Employee Benefit Funds	No	
			Other Investment Pools and Funds	No	
		Real Estate	Lessors of Real Estate	No	
			Offices of Real Estate Agents and Brokers	No	
			Activities Related to Real Estate	No	
		Rental and Leasing Services	Automotive Equipment Rental and Leasing	Yes	
			Consumer Gocids Rental	Yes	
			General Rental Centers	Yes	
			Commercial and Industrial Machinely and Equipment Rental and Leasing	Yes	
		Lessors of Nonfinancial Intanaible Assets (exceot Coovriahted Works)		No	
		Legal Services		No	
		Accoun<lm,, Tax Prel>aration, Bookkeel>ino, and PavroU Services		No	
		Architectural, Enaineerina, and Related Services		No	
		SpecializZed Desian Services		No	
		Computer Systems Desian and Related Services		No	
		Manaoement, Scientific, and Technical Consullina Services		No	
		Scientific Research and Develooment Services		Yes	
		Advertising and Related Services		No	
		Other Professional, Scientific, and Technical Services		Yes	
Management of Companies and Enterprises				No	
		Administrative and Support Services	Office AdminiStrative Services	No	
			Facilities Support Services	Yes	
			Employment Services	No	
			Business Support Services	No	
			Travel Arrangement and Reservation Services	No	
			Investigation and Security Services	Yes	
			Services to Building and DweUings	Yes	
			Other Support Services	No	
		Waste Management and Remediation Services	Waste Collection	Yes	
			Waste Treatment and Disposal	Yes	
			Remediation and Other Waste Management Services	Yes	
		Elementarv and Secondary Schools		No	
		Junior Colleoes		No	
		Cofleaes, Universities, and Professional Schools		No	
		Business Schools and Comouter and Manaoement Trainina		No	
		Technical and Trade Schools		No	
		Other Schools and Instruction		No	
		Education Support Services		No	
		Ambulatoiy Health Care Services	Offices of Physicians	Yes	Elective procedures prohibited
			Offices of Dentists	Yes	Elective procedures prohibited
			Offices of Other Health Practitioners	Yes	Elective procedures prohibited
			Outpatient Care Centers	Yes	Elective procedures prohibited
			Medical and Diagnostic Laboratories	Yes	Elective procedures prohibited
			Home Health Care Services	Yes	Elective prooedures prohibited
			Other Ambulatory Health Care Services	Yes	Elective prooedures prohibited
		Hospitals	General Medical and Surgical Hospitals	Yes	Elective prooedures prohibited
			Psychiatric and Substance Abuse Hospitals	Yes	Elective prooedures prohibited
			Specialty (except Psychiatric and SUbstance Abuse) Hospitals	Yes	Elective prooedures prohibited
		Nursing and Residential Care Facilities	Nursing Care Facilities	Yes	
			Residential Mental Retardation, Mental Health and Substance Abuse Facilities	Yes	
			Community Care FacUities for the Elderly	Yes	
			Other Residential Care FaciUties	Yes	
		Social Assistance	Individual and Family Services	Yes	
			Community Food and Housing, and Emergency and Other Relief Services	Yes	
			Vocational RehabIUtation Services	Yes	
			Child Dav Care Services	No	

Industry	Sector	Subsector	Industry Group	May Continue Physical Operations	Notes
		Performing Arts. Spectator Sports, and Related Industries	PerfOllTling Arts Companies	No	
			Spectator Sports	No	
			Promoters of Performing Arts, Sports, and Similar Events	No	
			Agents and Managers for Artists, Athletes, Entertainers, and Other Pubfic Figures	No	
			Independent Artists. Writers, and Performers	No	
		Museums, Historical Sites, and Similar Institutions		No	
		Amusemenl. Gambling, and Recreation Industries	Amusement Parks and Arcades	No	
			Gambting Industries	No	
			Other Amusement and Recreation Industries	No	
		Accommodation	Traveler Accommodation	No	
			RV (Recreational Vehicle) Parks and Recreational Camps	Yes	Res!dential only
			Rooming and Boarding Houses	Yes	Residential only
		Food Services and Drinking Places	Futt-Service Restaurants	Yes	Takeout only
			Limited-Service Eating Places	Yes	Takeout only
			Special Food Services	No	
			Drinkino Places /Alcoholic Bevoraoes!	No	
		Repair and Maintenance	Automotive Repair and Maintenance	Yes	
			Electronic and Precision Equipment Repair and Maintenance	Yes	
			Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance	Yes	
			Personal and Household Goods Repair and Maintenance	Yes	
		Personal and Laundry Services	Personal Care Services	No	This category includes barbershops, nail salons, beauty salons, gyms (including yoga, barre and spm facilities).
			Death Care Services	Yes	
			Orycleaning and Laundry Services	No	
			Other Personal Services	No	
		Religious, Grantmaking, Civic. Professional. and Similar Organizations	Religious Organizations	Yes	
			Grantmaking and Giving Services	Yes	
			Social Advocacy Organizations	Yes	
			Civic and Social Organizations	Yes	
			Business, Professional, Labor, Political, and Similar Organizations	No	
		Private Households		No	

EXHIBIT C

ALL NON-LIFE-SUSTAINING BUSINESSES IN PENNSYLVANIA TO CLOSE PHYSICAL LOCATIONS AS OF 8 PM TODAY TO SLOW SPREAD OF COVID-19

March 19, 2020

Press Release, Public Health

Wolf Administration Orders Closure of Non-Life-Sustaining Businesses at 8 p.m. Today, March 19
Enforcement Actions for Restaurant, Bar Dine-In Closure Began at 8 p.m., March 18
Enforcement Actions for Non-Compliance will Begin at 12:01 a.m. Saturday, March 21

Governor Tom Wolf today ordered all non-life-sustaining businesses in Pennsylvania to close their physical locations as of 8 p.m. today, March 19, to slow the spread of COVID-19. Enforcement actions against businesses that do not close physical locations will begin at 12:01 a.m. Saturday, March 21.

Gov. Wolf's order is here.
A video statement from Gov. Wolf is here.
Sec. of Health's order is here.
A list of life-sustaining businesses is here.

In extenuating circumstances, special exemptions will be granted to businesses that are supplying or servicing health care providers.

"To protect the health and safety of all Pennsylvanians, we need to take more aggressive mitigation actions," said Gov. Wolf. "This virus is an invisible danger that could be present everywhere. We need to act with the strength we use against any other severe threat. And, we need to act now before the illness spreads more widely."

The governor had previously encouraged non-life-sustaining businesses to close to mitigate the spread of COVID-19. Restaurants and bars were already required to stop all dine-in services. Enforcement for establishments with a liquor license began at 8 p.m. March 18, and enforcement for all other food establishments will begin at 8 p.m. tonight. Food establishments can offer carry-out, delivery, and drive-through food and beverage service, including alcohol.

Pursuant to the Emergency Management Services Code, the governor is granted extraordinary powers upon his declaration of a disaster emergency, such as COVID-19. Among these powers, the governor may control the ingress and egress into the disaster area, the movement of persons, and the occupancy of premises within the disaster area, which has been established to be the entire commonwealth for the COVID-19 disaster emergency. The secretary of health separately is authorized under the law to employ measures necessary for the prevention and suppression of disease.

Separately, and taken together, the administration is exercising these powers to temporarily close all non-life-sustaining businesses and dine-in facilities at all restaurants and bars across the commonwealth. Persons must be removed from these premises to cope with the COVID-19 disaster emergency.

Failure to Comply and Enforcement

Failure to comply with these requirements will result in enforcement action that could include citations, fines, or license suspensions.

The governor has directed the following state agencies and local officials to enforce the closure orders to the full extent of the law:

- Pennsylvania Liquor Control Board
- Department of Health

- Department of Agriculture
- Pennsylvania State Police
- Local officials, using their resources to enforce closure orders within their jurisdictions

Private businesses, local organizations and other noncompliant entities that fail or refuse to comply with the governor's orders that protect the lives and health of Pennsylvanians will forfeit their ability to receive any applicable disaster relief and/or may be subject to other appropriate administrative action. Such action may include termination of state loan or grant funding, including Redevelopment Assistance Capital Project (RACP) grant funding and/or suspension or revocation of licensure for violation of the law.

Finally, in addition to any other criminal charges that might be applicable, the Department of Health is authorized to prosecute noncompliant entities for the failure to comply with health laws, including quarantine, isolation or other disease control measures. Violators are subject to fines or imprisonment.

Business Loans and **Support**

The Department of Community and Economic Development (DCED) offers working capital loans that could be of assistance to businesses impacted by COVI0-19. Resources and information will be posted to http://dced.pa.gov/resources as they become available. The U.S. Small Business Administration, in addition to local funding partners, may also be a source of assistance for affected businesses.

The Wolf Administration today announced the availability of low-interest loans for small businesses and eligible non-profits in all 67 counties in Pennsylvania through the U.S. Small Business Administration (SBA).

Businesses seeking guidance from DCED can also contact its customer service resource account at ra-dcedcs@pa.gov or by calling 1-877-PA-HEALTH and selecting option 1.

For the most up-to-date information on COVID-19, Pennsylvanians should visit: htlps://www.pa.gov/guides/responding-to-covid-19/.

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EXHIBIT D

Industry	Sector	Subsector	Industry Group	May Continue Physical Operations	Notes
Natural Resources	Agriculture, Forestry, Fishing and Hunting	Crop Production	Oilseed and Grain Farming	Yes	
			Vegetable and Melon Fanning	Yes	
			Fruit and Trea Nut Fanning	Yes	
			Greenhouse, Nursery, and Florieulture Production	Yes	
			Other Crop Farming	Yes	
		Animal Production	Cattle Ranching and Farming	Yes	
			Hog and Pig Farming	Yes	
			Pouttry and Egg Production	Yes	
			Sheep and Goat Farming	Yes	
			Animal Aquacutture	Yes	
			Other Animal Production	Yes	
		Forestry and logging	Timber Tract Operations	Yes	
			Forest Nurseries and Loeat Gathering of Forest Products	Yes	
			logging	Yes	
		Fishing, Hunting, and Trapping	Fishing	Yes	
			Hunting and Trapping	Yes	
		Support Activiles for Agnculture & Forestry	Support Activities for Crop Production	Ye	
			Support Activities for Animal Production	Yes	
			Support Activities for Forestry	Yes	
	Mining	Oil and Gas Extraction		Yes	
		Mining	Coal Mining	Yes	
			Metal Ore Mining	Yes	
			Nonmetallic Mineral MininQ and Quarrying	Yes	
		Support Activites for Mining		Yes	
Construction	Construction	Construction of Buildings	Residential Building Construction	No	Exeot ememencv reoalts oermitted
			Nonresidential Bu»ding Conshuction	No	Except em&rg&ncy repairs and construction of health care facilities pennitted
		Heavy and CIVJI Engtneerin-g Construction	Utility Subsystem Construction	No	Exeeot ememeocv r-eoairs oermitted
			Iand Subdivision	No	
			[illegible]	No	Except emergency repairs permitted
			and Civil Engineering Construction	No	Excep1 emem,ml"-:l repairs oermitted
		Specialty Trade Contractors	Structure, and Building Exterior Contractors	No	Except effetQency repairs permitted
			ipment Contractors	No	Except emAMAney repairs pennitted
			Building Finishing Contractors	No	E<C<>pl emergency repairs l)<!rmitted
			Other Soecialtv Trade Contractors	No	Exe.eat em-eroencv reoatrS permitted
Manufacturing	Manufacturing	Food Manufactunng	Animal Food Manufacturing	Yes	
			Grain and Oilseed Milllng	Yes	
			Sugar and Confectionery Product Manufacturing	Yes	
			Fruit and Vegetable Preserving and Speciatty Food Manufacturing	Yes	
			Dairy Product Manufacturing	Yes	
			Animal Slaughtering and Processing	Yes	
			Seafood Product Preparauon and Packaging	Yes	
			Bakeries and Tortiffa Manufacturing	Yes	
			Other Food Manufacturing	Yes	
		Beverage and Tobacco Product Manufacturing	Beverage Manufacturing	Yes	
			Tobacco Manufaciuring	No	
		Textile Mills	Fiber, Yam, and Thread Mills	No	
			Fabric Mills	No	
			Textile and fabric Finishing and Fabric Coaling Miffs	No	
		Textile Product MiHs	Textile Furnishing Mffls	No	
			Other Textile Product Mills	No	
		Apparel Manufacturing	Apparel Knitting Miffs	No	
			Cut and Sew Apparel Manufacturing	No	
			Apparel Accessories and Othar Apparel Manufacturing	No	
		Leather & AlUed Product Manufacturing	Leather and Hide Tanning and Finishing	No	
			Footwear Manufacturing	No	
			Other leaH1er and Allied Product Manufacturing	No	
		Wood Product Manufacturing	Sawmills and Wood Preservation	No	
			Veneer, Plywood, and Engineered Wood Product Manufacturing	No	
			Other Wood Product ManufacturiOQ	Nu	
		Paper Manufacturing	Pulp, Paper, and Paperboard Mills	Yes	
			Converted Paper Product Manufacturing	Yes	
		Printing & Related Support Activities		Yes	
		Petroleum & Coal Products Manufacturing		Yes	
		Chemical Manufacturing	Basic Chemical Manufacturing	Yes	
			Resin, Synthetic Rubber, and Artificial Synthetic Fibers and Filaments Manufacturing	Yes	
			Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing	Yes	
			Pharmaceutical and Medicine Manufacturing	Yes	
			Paint, Coating, and Adhesive Manufacturing	No	
			Soap, Cleaning Compound, and Toilet Preparation Manufacturing	Yes	
			Other Chemical Product and Preparation Manufacturing	Yes	

Industry	Sector	Subsector	Industry Group	May Continue Physical Operations	Notes
		Plastics & Rubber Products Manufactunng	Plastics Product Manufactunnn	Yes	
			Rubber Product Manufacturina	Yes	
		Nonmetallic Mineral Procuct Manufacturing	Clav Product and RefractoN Manufacturina	No	
			Glass and Glass Product Manulactunnn	No	
			Cement and Concrete Product Manufacturinn	Yes	
			Lime and Gypsum Product Manufacturinn	No	
			[redacted]	No	
		Primary Metal Manufacturing	[redacted]	Yes	
			eel	Yes	
			[redacted]	Yes	
			Nonferrous Metal (except Aluminum) Production and Processing	No	
			Foundries	No	
		Fabricated Metal Product Manufacturing	[redacted]	No	
			ufacturino	No	
			Container Manufacturin<l	No	
			[redacted]	No	
			Manufacturino	No	
			Machine Shops, Turned Product, and Screw, Nut and Bott Manufacturing	No	
			Coatina. Enaravlno. Heat Tumina. and Allied Activities	No	
			Other Fabricated Metal Product Manufacturino	No	
		Machine Manufacturing	Aoriculture, Construction, and Minino Machinerv Manufacturina	Yes	
			Industrial Machinerv Manufacturino	No	
			Commercial and Serviee tndustrv Machinerv Manufacturina	res	
			Ventilation, Healing, Air-Conditioning, and Commercial Refrigeration Equipment Manufacturing	Yes	
			Metalworl<ina Machinerv Manufacturino	No	
			Engine, Turbine, and Power Transmission Equipment Manufacturing	Yes	
			Other General Puroose Machinerv Manufacturinn	No	
		Computer & Electronic Product Manufacturing	oment Manufacturnno	No	
			anutaclurino	No	
			Manufacturina	No	
			Semiconductor and Other Eleclrical Component Manufacturing	Yes	
			Navigational, Measuring, Electromedical, and Control Instruments Manufacturing	Yes	
			Manufacturing and Reproducinn Maanelic and Ontical Media	No	
		Electrical Equipment, Appliance, & Component Manufacturing	Electric Lighting Equipment Manufacturing	No	
			Household Appliance Manufacturing	No	
			Electrical Equipment Manufacturing	No	
			Other Electrical Equipment and eo ent... Manufacturina	No	
		Transportation Equipment Manufacturing	Moto< Vehicle Manufacturing	No	
			Motor Vehicle Body and Trailer Manufaclu"""	No	
			Motor Vehiele Paris Manufacturina	No	
			Aerospace Product and Parts Manufacturing	Nt)	Except defense industrial base manufacturing under CISA advisory is permitted
			Railroad Rollina Stock Manufacturin<i	No	
			Shi> and Boat Buildinn	No	
			Other Transportation Equipment Manufacturing	No	
		Furniture & Related Product Manufacturing	Household and Institutional Furniture and Kitchen Cabinet Manufacturing	No	
			Office Furniture (including Fixtures) Manufacturing	No	
			Other Furniture Related Product Manufacturina	No	
		Miscellaneous Manufacturing	Medical Eauioment and Suoolies Manufacturina	Yes	
			Other Miscellaneous Manufacturing	No	Except defense industrial base manufacturing under CISA advisory is pennitted

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IN THE SUPREME COURT OF PENNSYLVANIA

FRIENDS OF DANNY DEVITO GREGORY, B&J LAUNDRY, LLC BLUEBERRY HILL PUBLIC GOLF COURSE & LOUNGE, and CALEDONIA LAND COMPANY,	:	No.
Petitioners	:	EMERGENCY APPLICATION FOR EXTRAORDINARY RELIEF
v.	:	
TOM WOLF, GOVERNOR AND RACHEL LEVINE, SECRETARY OF PA. DEPARTMENT OF HEALTH,	:	
Respondents	:	

ORDER

AND NOW, on this the ___ day of March, 2020, upon review of the attached Emergency Application for Extraordinary Relief, it is hereby ordered that Respondents shall file an Answer thereto on or before the ___ day of March 2020.

BY THE COURT,

_____

J.