

CAUSE NO. D-1-GN-20-002146

STEVEN HOTZE, MD.,	§	IN THE DISTRICT COURT
Hotze Health & Wellness Center,	§	
HOTZE MEDICAL ASSOCIATION, PA	§	
PHYSICIANS PREFERENCE PHARMACY	§	
INTERNATIONAL, LLC	§	
CURAM HEALTH, LLC,	§	
HON. WILLIAM W. ZEDLER,	§	
State Representative District 96,	§	
Texas House of Representatives,	§	
HON. KYLE BIEDERMANN,	§	
State Representative District 73,	§	
Texas House of Representatives,	§	
HON. MOLLY WHITE	§	
Former State Representative District 55,	§	
Texas House of Representatives,	§	
HON. GARY W. ELKINS,	§	
Former State Representative District 135,	§	
Texas House of Representatives,	§	
HON. RICK GREEN,	§	
Former State Representative District 45,	§	
Texas House of Representatives,	§	
CATHIE ADAMS,	§	
Former Chairman,	§	
Republican Party of Texas,	§	
NORMAN ADAMS,	§	
Adams Insurance,	§	
AL HARTMAN,	§	
Hartman Income REIT,	§	
EDD HENDEE,	§	
Taste of Texas,	§	
ROBERT MORGAN, MSN,	§	
Kingwood Health & Wellness,	§	
PASTOR JUAN BUSTAMANTE,	§	
City on a Hill Church,	§	
PASTOR GEORGE GARCIA,	§	
Power of Love Church,	§	
PASTOR DAVID VALDEZ,	§	
World Faith Center of Houston Church,	§	
PASTOR JOHN GREINER,	§	
Glorious Way Church,	§	
PASTOR MATT WOODFILL,	§	
The Way Church,	§	98 th JUDICIAL DISTRICT

GARY GIUFFRE,	§
Saint Jude Shrine,	§
PASTOR BRIDGETTE LOZANO,	§
New Mission Church,	§
PASTOR CODY WEIGHTMAN,	§
Elevate Life Church,	§
PASTOR AARON COLLIER,	§
First Baptist Church of Groves, Texas,	§
PASTOR PATRICK STEWART,	§
Harvest Christian Fellowship Church,	§
HANNAH YOUNG, KEN PREJEAN,	§
MIKE MORTON, MIKE ZULLO,	§
ALICIA ZULLO, ASHLEY ZULLO	§
ROB ZULLO, TRISHA LABLANC,	§
JUDSON AJA, JANE FRAZIER,	§
MARIO HERNANDEZ, MARK SHANNON,	§
TAMMY WARREN, ANNMARIE CANTWELL,	§
BRIAN SPEER, MELISSA CARLISLE,	§
PAUL GARLAND, DARRELL W. SELF,	§
LEE JENKINS, ROBERT WHEELER, JR.,	§
DONALD E. PAGE, PEGGY DENSON,	§
JAMES RAY WHITE, SHARON SYKES,	§
DAL L. SHARP, BRENT EDMISTER,	§
SAM ROGERS, MICHELLE PUSTEJOVSKY,	§
DANA BROCK, MIKE WALLACE,	§
BENJAMIN LaMOURE, KELLYE MESHBERG,	§
GABE TUFT, CAROL MAREK,	§
TERI A. WALTER, AMY SMITH,	§
MICHAEL VAUGHN, MINT POKER CLUBS,	§
TRAVIS NORMAN, THOMAS D. TYRRELL,	§
BONNIE ANDERSON, ROBERT HUNGATE,	§
GENE STEVENS, DAVID SMITH,	§
KEVIN MOORE, JOANIE MARKHAM,	§
DAVID KEMP, BARRY D. ADKINS,	§
CHRISTINE BRADLEY, CHRIS PERSAUD,	§
WILLIAM J. BOSWELL, JR.,	§
VICKIE MICHELLE KOTTWITZ,	§
R.J. SMITH, JULIA VON EHRENFRIED,	§
DAVID R. TRAYNOR, JANET JACKSON,	§
ASHLEY BRYAN, ANTHONY POWELL,	§
JASON ANDERSON, CYNTHIA D. CRUZ,	§
MICHELLE ANDERSON, IAN KATZ,	§
GARY PURVIS, BRENDA CHENEY,	§
GRANT BYNUM, BENJEMEN HITSON,	§
LESLIE HUNT, GBENGA ASEDEKO	§
MIKE TRACY, WARREN NORRED,	§

THOMAS BLACKMER, CHACE LYN,	§
ASHLEY HARVEY, WILLIAM M. STEVENS,	§
CHRISTINA BROWER,	§
EUGENE J. ROBINSON, EMANUEL LEWIS,	§
REBECCA STEINMETZ, ANDY PRESTRIDGE,	§
ALAYNA WHITE, STEVEN BAYSINGER,	§
PAULA MOORE, WILLIAM HAMMETT,	§
KEELY THOMAS, SCOTT CHAMBERLIN,	§
LYNDSEY LUSK, KRYSTAL KINCAID,	§
SEAN BIELSTEIN, AMBER MORRIS,	§
RILEY J. NASH, SALENA ROTHENBERGER,	§
KRIS MOULTON, CATHERINE BANKS,	§
MACK MILLER, BANDEE BRATTON,	§
GABRIEL DURAN, KELLY HAMILTON,	§
JAY WEBER, ARACELI CASTANEDA,	§
DALLAS WOTTLIN, FRANK ST. FRANCIS,	§
DWANYE RYMAN, TAMMY GENTRY,	§
CAREN MARSHALL, DENISE BLALOCK,	§
ARNOLDO RANGEL, JIM PALOMO,	§
CINDY PALOMO, JEROME PALOMO,	§
KARLA DAWN BALLUCH, TERRIE PAU,	§
PAMELA GRANGER, GLENNA HODGE,	§
KAREN ROGERS, RICHARD HOTZE, CEO	§
COMPRESSOR ENGINEERING CORPORATION,	§
CECO PIPELINE SERVICES COMPANY, INC.	§
CECO PSERVICES CORPORATION,	§
IN MANAGEMENT, LLC,	§
SOURCE OF SUPPLY CORPORATION,	§
INTER NOS, LTD., INTER NOS SPACE PLUS, LTD,	§
INTER NOS ODESSA, LTD,	§
INTER NOS PIPELINE, LTD,	§
INTER NOS TP INVESTMENTS, LTD,	§
INTER NOS WALKER, LTD,	§
INTER NOS SPRINGVILLE, LTD,	§
PRISCILLA GORMAN, DAWN WALSH,	§
TAMARA AUSTIN,	§
BARCLAY H. RUSSELL, JR.,	§
TEXAS ELECTRICAL SAFETY	§
ASSOCIATION, ROBERT E. HATFIELD, II,	§
VERONICA B. HATFIELD,	§
JEFF KIBODEAUX, ELIZABETH BLAKE,	§
CLAYTON DAVENPORT,	§
JENNIFER LEIENDECKER, JARED GREIN,	§
ADAM STACOVIAK, BRITT HURST,	§
RICK SMITH, BUILDING BLOCKS, LLC	§
ES FAMILY FITNESS, LLC,	§

BUILDING BLOCK, INC., RYANN DAY,	§
STUART DAVENPORT, RICHELE BATT	§
MATTHEW SMITH, RICHARD THOMAS,	§
LINDI BRADDOCK, REBECCA Y. LARSON,	§
RYAN MUNOZ, JEFF LANDRY,	§
LISA LANDRY, LINDA JANSEN,	§
TU PHAN, MELISSA ROWELL,	§
CYNTHIA SALINAS, SHANE WALKER,	§
DAYLA WALKER, KATHRYN STANDLEY,	§
JOHN BORETSKI, JOHN D. HOWELL,	§
BRUCE BOYD, DEBBIE RAMSEY,	§
LINDA ALLEN, MARGARETE COLE,	§
MATTHEW NOWELL, JACOB FELDMAN,	§
LINDA COLLINS, TIFFANI CHAPA,	§
ROBIN HUBBARD, DAVID KUCHURIVSKYY,	§
LAURIE LOZANO, ORALIA ACOSTA,	§
BRIENNE H. LOFTIS,	§
RAQUETTA PORTALATIN,	§
JONATHAN FINDLEY, CALVIN BROWN	§
ELVIN COY CHEW, CONNIE JONES,	§
TONIA ALLEN PARKER, MELISSA LUCE,	§
TRINITY JACKSON HALL,	§
NICHOLAS RITCHIE, KATHRYN RITCHIE,	§
JAMES BARCLIFT, STEPHINE CONNELLY,	§
RILEY NASH, MICHELLE LeTULLE,	§
DAMON SOLLMAN,	§
ROSE RIVERA HUTCHINSON, RANDY BOX,	§
MONIQUE COOPER, TAMMY COTTEN,	§
JENNY BREEN, TAMMIE BIRDWELL	§
KELLY PELLETIER, TARRIN WARREN,	§
PACEY CHYNOWETH,	§
DAVID LEE DYKSTRA, JR.,	§
JANIE BLOMQUIST, ANDREW HARMAN,	§
KRAIG ARON RUSSELL, JON W. MARSH,	§
ERIC CHRISTOPHER, NORMAN HARRIS,	§
TAMMY MORRIS, PAUL MORRIS,	§
HILARY WHEELER, SCOT MORAN,	§
TIM NICHOLS, MICHELE STRICKER,	§
CAROL CARTER, LAURIE McCRAWLEY,	§
LESLIE NEVES, WANDA WEBB,	§
SARAH VETERE, AARON R. RASOR,	§
WILLIAM J. ODOM, JOE W. MATHIAS,	§
MELANIE F. WEBB, COLLEEN CROCKETT,	§
LORI McDONOUGH, WAYNE RITCHIE,	§
JACQUELINE RITCHIE, LANCE CROCKETT,	§
LEE ANN CROCKETT,	§

MICHAEL J. LATHERN,	§	
MARY ANN LATHERN,	§	
M.J. LATHERN CO., INC., CONNIE WOLFE,	§	
BLAKE McDANIEL, JOSE A. RIVERA,	§	
LISA WOOLDRIDGE, BRYAN BILDERBACK,	§	
MARK LaGRANGE, CHRIS ADAMS,	§	
BOBBYE ADAMS, KEVIN MORGAN,	§	
KEVIN WANN, KELLIE MESSER,	§	
THOMAS WRIGHT, LAURIE TINDALL,	§	
KATRINA CANNON, DAWN HAYDEN,	§	
NANCY ROBERTS, KIMBERLY GUTIERREZ,	§	
ROBERT SCHOPPE, SHEILA BARTLEY,	§	
THOMAS BARRETT,	§	
KENNETH T. McDONALD,	§	
LAUREN B. McGEE, DAWN SIMPSON,	§	
KEN DERNEHL, RITA DERNEHL,	§	
MARK S. BARLOW, M.D., HOLLY LANDRY,	§	
TEE PARKER, HEATHER VAUGHAN	§	
CHRYSTAL PATTERSON,	§	
JOSHUA TROY FURNISH,	§	
CHARLENE CHEEK, CARMEN M. JAMES,	§	
DANIEL CORLEY, DAVID ALLEN,	§	
MARSHA WELLMANN, ASHLEY ZANELLA,	§	
LANCE OLSHOVSKY, BRANDIE FUSSELL,	§	
MARCIA NEWMAN, KEVIN PETERSON,	§	
MARY JENNIFER DUNCAN, and	§	
JAY MINCKS,	§	
 Plaintiffs,	§	
 v.	§	
 GREG ABBOTT, in his capacity as	§	
Governor of the State of Texas,	§	
 Defendant.	§	TRAVIS COUNTY, TEXAS

**PLAINTIFFS' FIRST AMENDED PETITION AND APPLICATION FOR TEMPORARY
INJUNCTION AND PERMANENT INJUNCTION**

COME NOW Plaintiffs, Steven Hotze, MD, Hotze Medical Association, PA, Physicians Preference Pharmacy International, LLC, Curam Health, LLC, Hon. William W. Zedler, Hon. Kyle Biedermann, Hon. Molly White, Hon. Gary W. Elkins, Hon. Rick Green, Cathie Adams, Norman Adams, Al Hartman, Edd Hendee, Pastor Juan Bustamante, Pastor George Garcia, Pastor David Valdez, Pastor John Greiner, Pastor Matt Woodfill, Gary Giuffre, Pastor Bridgette Lozano, Cody Weightman, Aaron Collier, Pastor Patrick Stewart, Hannah Young, Ken Prejean, Mike Morton, Mike Zullo, Alicia Zullo, Ashely Zullo, Rob Zullo, Trisha LaBlanc, Judson Aja, Jane Frazier, Mario Hernandez, Mark Shannon, Tammy Warren, Annmarie Cantwell, Brian Speer, Melissa Carlisle, Paul Garland, Darrell W. Self, Lee Jenkins, Robert Wheeler, Jr., Donald E. Page, Peggy Denson, James Ray White, Sharon Sykes, Dal L. Sharp, Brent Edminster, Sam Rogers, Michelle Pustejovsky, Dana Brock, Mike Wallace, Benjamin LaMoure, Kellye Meshberg, Gabe Tuft, Carol Marek, Teri A. Walter, Amy Smith, Michael Vaughn, Mint Poker Clubs, Travis Norman, Thomas D. Tyrrell, Bonnie Anderson, Rob Hungate, Gene Stevens, David Smith, Kevin Moore, Joanie Markham, David Kemp, Barry D. Adkins, Christine Bradley, Chris Persaud, William J. Boswell, Jr., Vickie MichelleKottwitz, R.J. Smith, Julia Von Ehrenfried, David R. Traynor, Janet Jackson, Ashley Bryan, Anthony Powell, Jason Anderson, Cynthia D. Cruz, Michelle Anderson, Ian Katz, Gary Purvis, Brenda Cheney, Grant Bynum, Benjemen Hitson, Leslie Hunt, Gbenga Asedeko, Mike Tracy, Warren Norred, Thomas Blackmer, Chace Lyn, Ashley Harvey, William M. Stevens, Christina Brower, Eugene J. Robinson, Emanuel Lewis, Rebecca Steinmetz, Andy Prestridge, Alayna White, Steven Baysinger, Paula Moore, William Hammett, Keely Thomas, Scott Chamberlin, Lyndsey Lusk, Krystal Kincaid, Sean Bielstein, Amber Morris, Riley J. Nash, Salena Rothenberger, Kris Moulton, Catherine Banks, Mack Miller, Bandee Bratton, Gabriel Duran, Kelly Hamilton, Jay Weber, Araceli Castaneda, Dallas Wottlin,

Frank St. Francis, Dwanye Ryman, Tammy Gentry, Caren Marshall, Denise Blalock, Arnoldo Rangel, Jim Palomo, Cindy Palomo, Jerome Palomo, Karla Dawn Balluch, Terrie Pau, Pamela Granger, Glenna Hodge, Richard Hotze, Compressor Engineering Corporation, CECO Pipeline Services Company, Inc., CECO Services Corporation, In Management, LLC, Source of Supply Corporation, Inter Nos, Ltd., Inter Nos Space Plus, Ltd., Inter Nos Odessa, Ltd., Inter Nos Pipeline, Ltd., Inter Nos TP Investments, Ltd., Inter Nos Walker, Ltd., Inter Nos Springville, Ltd., Pricella Gorman, Dawn Walsh, Tamara Austin, Barclay H. Russell, Jr., Texas Electrical Safety Association, Robert E. Hatfield, II, Veronica B. Hatfield, Robert Morgan, Jeff Kibodeaux, Elizabeth Blake, Clayton Davenport, Jennifer Leiendecker, Jared Grein, Adam Stacoviak, Britt Hurst, Rick Smith, Building Blocks, LLC, ES Family Fitness, LLC, Building Block, Inc., Ryann Day, Stuart Davenport, Richele Batt, Matthew Smith, Richard Thomas, Lindi Braddock, Rebecca Y. Larson, Ryan Munoz, Jeff Landry, Lisa Landry, Linda Jansen, Tu Phan, Melissa Rowell, Cynthia Salinas, Shane Walker, Dayla Walker, Kathryn Standley, John Boretski, John D. Howell, Bruce Boyd, Debbie Ramsey, Linda Allen, Margarete Cole, Matthew Nowell, Jacob Feldman, Linda Collins, Tiffani Chapa, Robin Hubbard, David Kuchurivskyy, Laurie Lozano, Oralia Acosta, Brienne H. Loftis, Raquetta Portalatin, Jonathan Findley, Calvin Brown, Elvin Coy Chew, Connie Jones, Tonia Allen Parker, Melissa Luce, Trinity Jackson Hall, Nicholas Ritchie, Kathryn Ritchie, James Barclift, Stephine Connelly, Riley Nash, Michelle LeTulle, Damon Sollman, Rose Rivera Hutchinson, Randy Box, Monique Cooper, Tammy Cotten, Jenny Breen, Tammie Birdwell, Kelly Pelletier, Tarrin Warren, Pacey Chynoweth, David Lee Dykstra, Jr., Janie Blomquist, Andrew Harman, Kraig Aron Russell, Jon W. Marsh, Eric Christopher, Norman Harris, Tammy Morris, Paul Morris, Hilary Wheeler, Scot Moran, Tim Nichols, Michele Stricker, Carol Carter, Laurie McCawley, Leslie Neves, Wanda Webb, Sarah Vetere, Aaron R. Rasor, William J.

Odom, Joe W. Mathias, Melanie F. Webb, Colleen Crockett, Lori McDonough, Wayne Ritchie, Jacqueline Ritchie, Lance Crockett, Lee Ann Crockett, Michael J. Lathern, Mary Ann Lathern, M. J. Lathern Co., Inc., Connie Wolfe, Blake McDaniel, Jose A. Rivera, Lisa Wooldridge, Bryan Bilderback, Mark LaGrange, Chris Adams, Bobbye Adams, Kevin Morgan, Kevin Wann, Kellie Messer, Thomas Wright, Laurie Tindall, Katrina Cannon, and Dawn Hayden, Nancy Roberts, Kimberly Gutierrez, Robert Schoppe, Sheila Bartley, Thomas Barrett, Kenneth T. McDonald, Lauren B. McGee, Dawn Simpson, Ken Dernehl, Rita Dernehl, Mark S. Barlow, MD, Holly Landry, Tee Parker, Heather Vaughan, Chrystal Patterson, Joshua Troy Furnish, Charlene Cheek, Carmen M. James, Daniel Corley, David Allen, Marsha Wellmann, Ashley Zanella, Lance Olshovsky, Brandie Fussell, Marcia Newman, Kevin Peterson, Mary Jennifer Duncan, and Jay Mincks, and file this their First Amended Petition, Application for Temporary Injunction and Permanent Injunction, and for cause would show as follows.

I. RELIEF SOUGHT

Plaintiffs seek from the Court **declaratory judgment** that Texas Government Code §418.001 et seq., and certain former and current Executive Orders issued by Defendant Abbott in reliance on such void authority, are unconstitutional and void.

Plaintiffs also seek temporary and permanent **injunctive relief** enjoining Defendants from enforcing current Executive Orders because they are lawful and unconstitutional and are “based on” a Texas statute that is unconstitutional as applied (Texas Government Code §418.001 et seq.) or otherwise ultra vires of the Governor’s lawful authority.

Finally, Plaintiffs seek **money damages** for regulatory inverse condemnation.

II. BACKGROUND

The corona virus has resulted in politicians creating an environment and policies based on fear. Once government and its constituents start operating on the basis of fear rather than facts, they are willing to impose and accept whatever medicine they believe is “necessary,” no matter how harmful the side effects may be. The fear surrounding the corona virus/COVID-19 has resulted in Governor Abbott imposing draconian, unconstitutional requirements upon Plaintiffs and the residents of the State of Texas.

The Texas Constitution guarantees our God-given unalienable rights to worship, to peaceably assemble, to engage in lawful business, and to move about freely without unconstitutional restrictions on one’s ingress and egress. None of these rights is contingent upon our health status or subject to the limitations Governor Abbott is attempting to impose on these rights.

If Governor Abbott’s Executive Orders are not declared unconstitutional and void, once this virus passes, the rights we are afforded under the Texas Constitution will be forever damaged. Viruses mutate, so there may be a different coronavirus strain next year. Like the flu vaccine, this year’s coronavirus vaccine may not protect against next year’s strain. Absent the relief sought in this lawsuit, Governor Abbott’s Executive Orders will set dangerous precedent for future governmental actions. Every day that Governor Abbott’s Executive Orders are allowed to stay in place, the religious liberties of pastors, business owners and other individuals are trampled upon and the freedoms Plaintiffs enjoy are infringed and irreversibly damaged.

Governor Abbott's Executive Orders suspend several rights Plaintiffs enjoy under the Texas Constitution, and in so doing reach beyond the statutory and constitutional authority of the Governor. Plaintiffs contend that to the extent the Governor's Executive Orders and the Texas Disaster Act of 1975 ("Disaster Act") allow the Governor to "suspend the laws of this state," the

Disaster Act and the related Executive Orders are unconstitutional under the Texas Constitution, Article I, sections 28 and 29, and are, therefore, void. Additionally, Governor Abbott has violated the long-standing constitutional principles regarding the separation of powers between co-equal branches of Government. Finally, by picking winners and losers, Governor Abbott violates the equal protection clause of the Texas Constitution.

A. March 13, 2020: Governor Abbott Issues Disaster Declaration

On March 13, 2020, Governor Abbott issued a disaster proclamation, certifying under Section 418.014 of the Texas Government Code that COVID-19 poses an imminent threat of disaster for all counties in the State of Texas. (Exhibit "A"). In the interim, Governor Abbott has issued numerous executive orders that mandate the "suspension of Texas laws" in response to the COVID-19 virus. (Exhibit "B" and "C"). On their face, the Governor's COVID-19 Orders state that the Governor can and is suspending regulatory statutes, and that his executive orders have "the full force and effect of law." (Exhibit "B" and "C").

B. March 19, 2020: Governor Abbott Issues Executive Order GA-08

On March 19, 2020, Governor Abbott issued Executive Order GA-08, "mandating certain obligations for Texans" to "slow the spread of COVID-19 for 15 days...." (Exhibit "B"). GA-08 states that "businesses should be allowed to continue providing essential services during the COVID-19 disaster...." (Exhibit "B"). Those businesses that do not provide "essential services" were, for all practical purposes, shut down. The orders issued by Governor Abbott related to COVID-19 under review herein are referred to collectively as the "Executive Orders" no matter when issued if they derive their support from Tex.Govt.Code §418.

The Governor invokes the authority to shutter businesses, trample on religious liberties, and limit one's ability to do business and move about freely, under Texas Government Code

Section 418.012: "[T]he governor may issue executive orders...hav[ing] the force and effect of law." (Exhibit "B" and "C"). For instance, to limit Plaintiffs ability to move about freely, Governor Abbott references Texas Government Code Section 418.018(c) where he contends that "the governor may control ingress and egress to and from a disaster area and the movement of persons and the occupancy of premises in the area...." (Exhibit "B" and "C"). Prior to May, 7, 2020, those who failed to comply with the Governor's Executive Order-GA 08 "issued during the COVID-19 disaster," committed "an offense punishable by a fine not to exceed \$1,000, confinement in jail for a term not to exceed 180 day, or both fine and confinement." (Exhibit "B").

C. March 31, 2020: Governor Abbott Issues Executive Order GA-14

Executive Order GA-08 expired on April 3, 2020. (Exhibit "B"). On March 31, 2020, Governor Abbott issued GA-14, extending GA-08 through April 30, 2020. (Exhibit "C"). GA-14 added "religious services conducted in churches, congregations, and houses of worship" as "essential services". (Exhibit "C"). At first glance this sounds great to pastors and individuals who want to hold in-person worship services; however, the language that follows demonstrates that the Order does not truly consider in-person worship services to be "essential". Specifically, the details of the Order state that "churches, congregations, and houses of worship" are limited to "remote services." (Exhibit "C"). GA-14 states, "If religious services cannot be conducted from home or through remote services, they should be conducted consistent with the Guidelines from the President and the CDC by practicing good hygiene, environmental cleanliness, and sanitation, and by implementing social distancing to prevent the spread of COVID-19." (Exhibit "C"). The Pastor Plaintiffs all have the ability to hold remote services. Therefore, the Order precluded them from meeting in person as a corporate body.

D. April 27, 2020: Governor Abbott Issues Executive Order GA-18

GA-14 expired on April 30, 2020. On April 27, 2020, Governor Abbott issued GA-18, allowing for so-called “reopened services”. (Exhibit “D”). GA-18 states, among other things, that people “shall avoid” certain types of businesses, specifically “bars, gyms, public swimming pools, interactive amusement venues such as bowling alleys and video arcades, massage establishments, tattoo studios, piercing studios, or cosmetology salons.” (Exhibit “D”) GA-18 closes public schools for the rest of the 2019-20 school year and small *sections* of libraries, malls, and museums that have interactive exhibits and play areas. (Exhibit “D”) It also does not say any businesses may only operate at 25% capacity, but simply defines some business operating at 25% capacity as “reopened services” with no real explanation for what that means or why 25% is anything other than a completely arbitrary number. (Exhibit “D”). GA-18 leaves open so-called “essential services” including grocery stores, pharmacies, and dozens of other businesses, without imposing mandated restrictions. (Exhibit “D”).

E. May 5, 2020: Governor Abbott Issues GA-21

On May 5, 2020, Governor Abbott issued GA-21. (Exhibit “D-1”). The order “reopened” certain services and prohibited people from visiting other businesses. (Exhibit “D-1”).

F. May 7, 2020: Governor Abbott Issues GA-22

On May 7, 2020, Governor Abbott issued Executive Order GA-22 relating to expanded reopening of services. (Exhibit “F”). GA-22, among other things, opened “cosmetology salons, hair salons, barber shops, nail salons/shops, and other establishments where licensed cosmetologists or barbers practice their trade. . . .” (Exhibit “F”). The Order further stated that people shall “avoid visiting” certain businesses. (Exhibit “F”).

GA-22 eliminated confinement in jail as an available penalty for any violation of Governor Abbott's executive orders. (Exhibit "F"). Governor Abbott also ordered that the amendment regarding incarceration "operates retroactively to April 1, 2020. . ." (Exhibit "F").

It should be noted, on Tuesday, May 5, 2020, Shelly Luther was sentenced to seven (7) days in jail and fined \$7,000.00 for violating Governor Abbott's Order GA-18. Soon thereafter, on May 7, 2020, Governor Abbott issued GA-22.

II. DISCOVERY CONTROL PLAN

Plaintiffs intend to conduct discovery to be conducted under Level 3 of the rules set forth in Rule 190 of the Texas Rule of Civil Procedure.

III. PARTIES

Plaintiff Steven Hotze, M.D. is a resident of the State of Texas and resides in Harris County, Texas. He is the President of Hotze Health & Wellness Center, located at 20214 Braidwood Drive, Katy, Harris County, Texas. Dr. Hotze attends church in Harris County, Texas.

Plaintiff Hotze Medical Association, PA is a professional association duly formed under the laws of the State of Texas and doing business in Harris County, Texas.

Plaintiff Physicians Preference Pharmacy International, LLC is a limited liability corporation duly formed under the laws of the State of Texas and doing business in Harris County, Texas.

Plaintiff Curam Health, LLC is a limited liability corporation duly formed under the laws of the State of Texas and doing business in Harris County, Texas.

Plaintiff Hon. William W. Zedler is a member of the Texas House of Representatives and a resident of Tarrant County, Texas. He resides at 5502 Hidden Trails Drive, Arlington, Texas 76017.

Plaintiff Hon. Kyle Biedermann is a member of the Texas House of Representatives and a resident of Gillespie County, Texas. He resides at 616 W. Main Street, Suite 101, Fredericksburg, Texas 78624.

Plaintiff Hon. Molly White is a former member of the Texas House of Representatives and a resident of Bell County, Texas. She resides at 2572 Airville Road, Temple, Texas 76501.

Plaintiff Hon. Gary W. Elkins is a former member of the Texas House of Representatives and a resident of Harris County, Texas. He resides at 16430 Koester St., Jersey Village, Texas 77040.

Plaintiff Hon. Rick Green is a former member of the Texas House of Representatives and a resident of Hays County, Texas.

Plaintiff Cathie Adams is the former Chairperson, Republican Party of Texas and a resident of Collin County, Texas. She resides at 375 Adriatic Parkway, #1303, McKinney, Texas 75072.

Plaintiff Norman Adams is a resident of the State of Texas and resides in Harris County, Texas. Mr. Adams owns Adams Insurance located at 427 W. 20th Street, Suite 500, Houston, Harris County, Texas 77008. He also attends church in Harris County, Texas.

Plaintiff Al Hartman is a resident of the state of Texas and resides in Harris County, Texas. Mr. Hartman owns Hartman Income REIT located at 2909 Hillcroft, Suite 420, Houston, Harris County, Texas 77057. He also attends church in Harris County, Texas.

Plaintiff Edd Hendee is a resident of the state of Texas and resides in Harris County, Texas. Mr. Hendee owns Taste of Texas located at 10505 Katy Freeway, Houston, Texas 77024.

Plaintiff Robert Morgan is a resident of the state of Texas and resides in Montgomery County, Texas. Mr. Morgan owns Kingwood Health and Wellness located at 1543 Green Oak Place, Suite 200, Kingwood, Montgomery County, Texas 77339.

Plaintiff Pastor Juan Bustamante is pastor of City on a Hill Church, located at 3902 Cochran Street, Houston, Harris County, Texas 77009.

Plaintiff Pastor George Garcia is pastor of The Power of Love Church, located at 17431 Barnwood Road, Houston, Harris County, Texas 77090.

Plaintiff Pastor David Valdez is pastor of the World of Faith Center of Houston, Inc., located at 8117 East North Belt, Humble, Harris County, Texas 77396.

Plaintiff Pastor John Griener is pastor of Glorious Way Church, located at 11611 Champion Forest Drive, Houston, Harris County, Texas 77066.

Plaintiff Pastor Matt Woodfill is the pastor of The Way Church, 24418 I-45 North, Spring, Montgomery County, Texas 77386.

Plaintiff Gary Giuffre is the leader of the Saint Jude Shrine located at 3101 N. Main Street, Stafford, Fort Bend County, Texas 77477.

Plaintiff Pastor Bridgette Lozano is the pastor of New Mission Church located at 1500 Meadow Park Drive, Fort Worth, Tarrant County, Texas 76108.

Plaintiff Pastor Cody Weightman is the pastor of Elevate Life Church located at 8500 Teal Parkway, Frisco, Denton County, Texas 75034.

Plaintiff Pastor Aaron Collier is the pastor of First Baptist Church located at 4000 Grant Avenue, Groves, Jefferson County, Texas 77619.

Plaintiff Pastor Patrick Stewart is pastor of Harvest Christian Fellowship Church located at 9207 Emmott Road, Houston, Texas 77040.

Plaintiff Hannah Young is a citizen and resident of Harris County, Texas. She is a legal adult of over the age of eighteen (18) and she resides in Harris County, Texas.

Plaintiff Ken Prejean is a citizen and resident of Montgomery County, Texas. He is a legal adult over the age of eighteen (18), and he resides in Harris County, Texas.

Plaintiff Mike Morton is a citizen and resident of Montgomery County, Texas. He is a legal adult over the age of eighteen (18), and he resides at 165 Carriage Hills Blvd, Ap. 531, Conroe, Texas 77384.

Plaintiff Mike Zullo is a citizen and resident of Montgomery County, Texas. He is a legal adult over the age of eighteen (18), and he resides at 6 N. Havenridge Dr., The Woodlands, Texas 77381.

Plaintiff Alicia Zullo is a citizen and resident of Montgomery County, Texas. He is a legal adult over the age of eighteen (18), and he resides at 6 N. Havenridge Dr., The Woodlands, Texas 77381.

Plaintiff Ashley Zullo is a citizen and resident of Montgomery County, Texas. He is a legal adult over the age of eighteen (18), and he resides at 6 N. Havenridge Dr., The Woodlands, Texas 77381.

Plaintiff Rob Zullo is a citizen and resident of Montgomery County, Texas. He is a legal adult over the age of eighteen (18), and he resides at 6 N. Havenridge Dr., The Woodlands, Texas 77381.

Plaintiff Trisha LaBlanc is a citizen and resident of Montgomery County, Texas. She is a legal adult over the age of eighteen (18), and he resides at 11714 Fawnview Dr., Houston, Texas 77070.

Plaintiff Judson Aja is a citizen and resident of Montgomery County, Texas. He is a legal adult over the age of eighteen (18), and he resides at 25116 Glen Loch Dr., The Woodlands, Texas 77380.

Plaintiff Jane Frazier is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 718 Rennie Drive, Katy, Texas 77450.

Plaintiff Mario Hernandez is a resident of the State of Texas and resides in Bexar County, Texas. Mr. Hernandez owns Mario's Canteen & Grill located 19903 Stoney Oak Parkway, Suite 202, San Antonio, Bexar County, Texas 78258.

Plaintiff Mark Shannon is a citizen and resident of Taylor County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 157 Divide Avenue, Tuscola, Texas 79562.

Plaintiff Tammy Warren is a citizen and resident of Collin County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 2109 Westview Drive, McKinney, Texas 75070.

Plaintiff Annmarie Cantwell is a citizen and resident of Wise County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 100 Chloe Court, Boyd, Texas 76023.

Plaintiff Brian Speer is a citizen and resident of Houston County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 1161 W. Houston Street, Lovelady, Texas 75851.

Plaintiff Melissa Carlisle is a citizen and resident of Collin County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 318 West FM 544, Suite D2, Murphy, Texas 75094.

Plaintiff Paul Garland is a citizen and resident of Grayson County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 320 King Avenue, Denison, Texas 75020.

Plaintiff Darrell W. Self is a citizen and resident of Collin County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 101C N. Greenville Avenue, Apt. 304, Allen Texas 75002.

Plaintiff Lee Jenkins is a citizen and resident of Dallas County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 9100 N. Central Expressway, #190, Dallas, Texas 75231.

Plaintiff Robert Wheeler, Jr. is a citizen and resident of the State of Texas. He is a legal adult over the age of eighteen (18).

Plaintiff Donald E. Page is a citizen and resident of Gonzales County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 614 Saint Paul Street, Gonzales, Texas 78629.

Plaintiff Peggy Denson is a citizen and resident of Nueces County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 2002 Yorktown Boulevard, #49, Corpus Christi, Texas 78418.

Plaintiff James Ray White is a citizen and resident of Johnson County, Texas. He is a legal adult over the age of eighteen (18) and he resides in Cleburne, Texas 75070.

Plaintiff Sharon Sykes is a citizen and resident of Denton County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 2508 Avalon Drive, Lewisville, Texas 75056.

Plaintiff Dal L. Sharp is a citizen and resident of Williamson County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 1133 La Conterra Boulevard, Georgetown, Texas 78626.

Plaintiff Brent Edminster is a citizen and resident of Ellis County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 313 North 9th Street, Midlothian, Texas 76065.

Plaintiff Sam Rogers is a citizen and resident of Denton County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 131 Oakview Drive, Double Oak, Texas 75077.

Plaintiff Michelle Pustejovsky is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 9243 McDade, Houston, Texas 77080.

Plaintiff Dana Brock is a citizen and resident of Clay County, Texas. She is a legal adult over the age of eighteen (18) and she resides in Herietta, Texas 76365.

Plaintiff Mike Wallace is a citizen and resident of Rains County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 934 North Texas Street, #565, Emory, Texas 75440.

Plaintiff Benjamin LaMoure is a citizen and resident of Van Zandt County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 149 Colorado Street, Van, Texas 75790.

Plaintiff Kellye Meshberg is a citizen and resident of Dallas County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 7305 Belmont Road, Rowlett, Texas 75089.

Plaintiff Gabe Tuft is a citizen and resident of the State of Texas. He is a legal adult over the age of eighteen (18).

Plaintiff Carol Marek is a citizen and resident of Dallas County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 3883 Turtle Creek Boulevard, Dallas, Texas 75219.

Plaintiff Teri A. Walter is a resident of the State of Texas and resides in Harris County, Texas. Ms. Walter is the owner of Walter Law Firm, PC located at 1111 North Loop West, Suite 1115, Houston, Harris County, Texas 77008.

Plaintiff Amy Smith is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 2211 Huffsmith-Khorville, Tomball, Texas 77375.

Plaintiff Michael Vaughn is a citizen and resident of Harris County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 2319 Micliff Boulevard, Houston, Texas 77068.

Plaintiff Mint Poker Clubs is a business in Harris County, Texas is located at 18313 Egret Bay Boulevard, Suite A, Houston, Texas 77058.

Plaintiff Travis Norman is a citizen and resident of Harris County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 6403 Tabana Drive, Katy, Texas 77449.

Plaintiff Thomas D. Tyrrell is a citizen and resident of the state of Texas. He is a legal adult over the age of eighteen (18).

Plaintiff Bonnie Anderson is a citizen and resident of Fort Bend County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 27722 Cold Springs Trace, Katy, Texas 77494.

Plaintiff Rob Hungate is a citizen and resident of the state of Texas. He is a legal adult over the age of eighteen (18).

Plaintiff Gene Stevens is a citizen and resident of the state of Texas. He is a legal adult over the age of eighteen (18).

Plaintiff David Smith is a resident of the State of Texas and resides in Tarrant County, Texas. Mr. Smith is the owner of The Knife Shoppe located at 3811 South Cooper Street, Arlington, Tarrant County, Texas 76015.

Plaintiff Kevin Moore is a resident of the State of Texas and resides in Johnson County, Texas. Mr. Moore is the owner of Dynamic Harvest LLC located at 234 S.W. Wilshire Boulevard, Burleson, Johnson County, Texas 76028.

Plaintiff Joanie Markham is a citizen and resident of Denton County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 4006 St. Christopher Lane, Dallas, Texas 75287.

Plaintiff David Kemp is a citizen and resident of the state of Texas. He is a legal adult over the age of eighteen (18).

Plaintiff Barry D. Adkins is a resident of the State of Texas and resides in Harris County, Texas. Mr. Adkins is the owner of DaRam Engineers, Inc. located at 11000 Richmond Avenue, Suite 300, Houston, Harris County, Texas 77042.

Plaintiff Christine Bradley is a citizen and resident of Collin County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 6960 Highway 78 S, Nevada, Texas 75173.

Plaintiff Chris Persaud is a citizen and resident of the state of Texas. He is a legal adult over the age of eighteen (18).

Plaintiff William J. Boswell, Jr. is a citizen and resident of Lubbock County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 7047 95th Street, Lubbock, Texas 79424.

Plaintiff Vickie Michelle Kottwitz is a citizen and resident of the state of Texas. She is a legal adult over the age of eighteen (18).

Plaintiff R.J. Smith is a citizen and resident of the state of Texas. He is a legal adult over the age of eighteen (18).

Plaintiff Julia Von Ehrenfried is a citizen and resident of Tarrant County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 310 E. Front Street, Arlington, Texas 76011.

Plaintiff David R. Traynor is a citizen and resident of Denton County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 1206 Wild Cherry Drive, Carrollton, Texas 75010.

Plaintiff Janet Jackson is a citizen and resident of Tarrant County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 3600 Golden Triangle Boulevard, Keller, Texas 76244.

Plaintiff Ashley Bryan is a resident of the State of Texas and resides in Parker County, Texas. Ms. Bryan is the owner of Drakes Yoke located at 229 Shops Boulevard, #1010, Willow Park, Parker County, Texas 76087.

Plaintiff Anthony Powell is a citizen and resident of Dallas County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 2719 Wallin, Irving, Texas 75062.

Plaintiff Jason Anderson is a citizen and resident of Smith County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 3927 S. Broadway Avenue, Tyler, Texas 75701.

Plaintiff Cynthia D. Cruz is a resident of the State of Texas and resides in Tarrant County, Texas. Ms. Cruz is the owner of Health Factor Massage Therapy located at 5004 Thompson Terrace, Suite 114, Colleyville, Tarrant County, Texas 76034.

Plaintiff Michelle Anderson is a citizen and resident of Fort Bend County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 14007 Kathi Lynn Lane, Sugar Land, Texas 77498.

Plaintiff Ian Katz is a citizen and resident of Tarrant County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 720 W. Harwood Road, Hurst, Texas 76054.

Plaintiff Gary Purvis is a citizen and resident of Dallas County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 3210 Royal Coach Way, Garland, Texas 75044.

Plaintiff Vickie Michelle Kottwitz is a citizen and resident of the state of Texas. She is a legal adult over the age of eighteen (18).

Plaintiff Grant Bynum is a resident of the State of Texas and resides in Collin County, Texas. Mr. Bynum is the owner of Home Base Services, Inc. located at 6505 W. Park Boulevard #306-268, Plano, Collin County, Texas 76034.

Plaintiff Benjemen Hitson is a citizen and resident of Parker County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 180 Western Lake Drive, Weatherford, Texas 76087.

Plaintiff Leslie Hunt is a resident of the State of Texas and resides in Hays County, Texas. Ms. Hunt is the owner of Hands On Healing located at 147 Elmhurst #600, Kyle, Hays County, Texas 78640.

Plaintiff Gbenga Asedeko is a citizen and resident of El Paso County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 14569 Meadow Lawn Drive, El Paso, Texas 79938.

Plaintiff Mike Tracy is a citizen and resident of Brazoria County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 918 E. Highway 6, Alvin, Texas 77511.

Plaintiff Warren Norred is a citizen and resident of Tarrant County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 515 E. Border, Arlington, Texas 76010.

Plaintiff Thomas Blackmer is a citizen and resident of Dallas County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 6561 Trammel Drive, Dallas, Texas 75214.

Plaintiff Chace Lyn is a citizen and resident of Ellis County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 1104 C. Marvin Avenue, Waxahachie, Texas 75165.

Plaintiff Ashley Harvey is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 14914 Spring Cypress Road, Cypress, Texas 77439.

Plaintiff William M. Stevens is a resident of the State of Texas and resides in Dallas County, Texas. Mr. Stevens is the owner of Law Office of William M. Stevens PLLC located at 12900 Preston Road, Dallas, Dallas County, Texas 75230.

Plaintiff Christina Brower is a resident of the State of Texas and resides in Tarrant County, Texas. Ms. Brower is the owner of Tribe Salon FTW located at 6323 Camp Bowie Boulevard #149, Fort Worth, Tarrant County, Texas 76116.

Plaintiff Eugene J. Robinson is a citizen and resident of Dallas County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 3940 Northaven Road, Dallas, Texas 75229.

Plaintiff Emanuel Lewis is a resident of the State of Texas and resides in Dallas County, Texas. Mr. Lewis is the owner of Pull Business Development located at 701 Commerce Street #611, Dallas, Dallas County, Texas 75202.

Plaintiff Rebecca Steinmetz is a resident of the State of Texas and resides in Fort Bend County, Texas. Ms. Steinmetz is the owner of Steinmetz Plumbing, Inc. located at 1646 Blaisdale Road #1900, Richmond, Fort Bend County, Texas 77406.

Plaintiff Andy Prestridge is a citizen and resident of Taylor County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 1350 S. Leggett, Abilene, Texas 79605.

Plaintiff Alayna White is a citizen and resident of Travis County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 12304 Corner Brook Pass, Austin, Texas 78739.

Plaintiff Steven Baysinger is a citizen and resident of Comal County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 274 Lantana Cerro, Spring Branch, Texas 78070.

Plaintiff Paula Moore is a citizen and resident of Bexar County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 4905 Furman Street, San Antonio, Texas 78249.

Plaintiff William Hammett is a citizen and resident of Harrison County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 17853 FM 31, Elysian Fields, TX 75642.

Plaintiff Keely Thomas is a citizen and resident of Collin County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 3719 Wood Rail Drive, Plano Texas 75074.

Plaintiff Scott Chamberlin is a citizen and resident of Parker County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 160 Green Branch Road, Weatherford, Texas 76085.

Plaintiff Lyndsey Lusk is a citizen and resident of Smith County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 2665 Park Ridge Drive, Tyler, Texas 75703.

Plaintiff Krystal Kincaid is a resident of the State of Texas and resides in Travis County, Texas. Ms. Kincaid is the owner of The Massage Studio located at 3801 S. Congress Avenue, Suite 101, Austin, Travis County, Texas 78704.

Plaintiff Sean Bielstein is a resident of the State of Texas and resides in Fort Bend county, Texas. Mr. Bielstein is the owner of Clancy's Public House located at 503 FM 359, Suite 118, Richmond, Fort Bend County, Texas 77406.

Plaintiff Amber Morris is a resident of the State of Texas and resides in Marion County, Texas. Ms. Morris is the owner of The Old Vault Antiques located at 215 North Polk Street, Jefferson, Marion County, Texas 77406.

Plaintiff Riley J. Nash is a citizen and resident of Galveston County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 1850 Dublin Drive, League City, Texas 77573.

Plaintiff Salena Rothenberger is a resident of the State of Texas and is a resident of Nacogdoches County, Texas. Ms. Rothenberger is the owner of The Functional Perspective, LLC located at 1010 Hollyberry Drive, Nacogdoches, Nacogdoches County, Texas 75961.

Plaintiff Kris Moulton is a resident of the State of Texas and resides in Tarrant County, Texas. Mr. Moulton is the owner of Moulton Chiropractic located at 1450 Hughes Road, Suite 250, Grape Vine, Tarrant County, Texas 76051.

Plaintiff Catherine Banks is a resident of the State of Texas and resides in Collin County, Texas. Ms. Banks is the co-owner of Legacy Travel located at 3400 Preston Road #235, Plano, Collin County, Texas 75093.

Plaintiff Mack Miller is a resident of the State of Texas and resides in Harris County, Texas. Mr. Miller operates The UPS Store located at 4008 Louetta Road, #321, Spring, Harris County, Texas 77388.

Plaintiff Bandee Bratton is a citizen and resident of Victoria County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 104 E. Rio Grande Street, Victoria, Texas 77901.

Plaintiff Gabriel Duran is a resident of the State of Texas and resides in Dallas County, Texas. Mr. Duran is the owner of DFW Storm Solutions located at 2000 Sandy Lane, Building C, Dallas, Dallas County, Texas 75220.

Plaintiff Kelly Hamilton is a citizen and resident of Parker County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 1833 Laura Street, Weatherford, Texas 76086.

Plaintiff Jay Weber is a citizen and resident of Harris County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 503 Forge River Road, Webster, Texas 77598.

Plaintiff Araceli Castaneda is a resident of the State of Texas and resides in Uvalde County, Texas. Ms. Castaneda is the owner of The Skin & Wax Studio located at 118 E. North Street, Uvalde, Uvalde County, Texas 78801.

Plaintiff Dallas Wottlin is a resident of the State of Texas and resides in Dallas County, Texas. Mr. Wottlin is the owner of Dallas Diamonds located at 2207 Oates Drive, Mesquite, Dallas County, Texas 75150.

Plaintiff Frank St. Francis is a citizen and resident of Schleicher County, Texas. He is a legal adult over the age of eighteen (18) and he resides in Eldorado, Texas.

Plaintiff Dwanye Ryman is a citizen and resident of Collin County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 1001 Ridgecrest Drive, McKinney, Texas 75069.

Plaintiff Tammy Gentry is a citizen and resident of Van Zandt County, Texas. She is a legal adult over the age of eighteen (18) and she resides in Ben Wheeler, Texas.

Plaintiff Caren Marshall is a citizen and resident of Bexar County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 8855 Barrow Path, Converse, Texas 78109.

Plaintiff Denise Blalock is a resident of the State of Texas and resides in Tarrant County, Texas. Ms. Blalock is the owner of Hair By Denise located at 800 Glad Road, Suite 44, Colleyville, Tarrant County, Texas 76034.

Plaintiff Arnoldo Rangel is a citizen and resident of Bexar County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 8416 Dixon Ridge Drive, San Antonio, Texas 78239.

Plaintiff Jim Palomo is a citizen and resident of the state of Texas. He is a legal adult over the age of eighteen (18).

Plaintiff Cindy Palomo is a citizen and resident of the state of Texas. She is a legal adult over the age of eighteen (18).

Plaintiff Jerome Palomo is a citizen and resident of the state of Texas. He is a legal adult over the age of eighteen (18).

Plaintiff Terrie Pau is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 11434 Crayford Drive, Houston, Texas 77065.

Plaintiff Pamela Granger is a resident of the State of Texas and resides in Denton County, Texas. Ms. Granger is the owner of Stardust Marketing located at 3033 E. Hebron Parkway, Carrollton, Denton County, Texas 75010.

Plaintiff Glenna Hodge is a citizen and resident of Burnet County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 915 County Road 404, Spicewood, Texas 78669.

Plaintiff Karen Rogers is a resident of the State of Texas and resides in Ector County, Texas. Ms. Rogers is the owner of Rock'n Rogers Services, LLC located at 3205 Kermit Highway, Suite 11, Odessa, Ector County, Texas 79764.

Plaintiff Rick Hotze is a resident of the State of Texas and resides in Harris County, Texas. Mr. Hotze is a business owner whose corporate offices are located at 5440 Alder Drive, Houston, Harris County, Texas 77081.

Plaintiff Compressor Engineering Corporation is a corporation duly formed and existing under the laws of the State of Texas and doing business in Harris County, Texas.

Plaintiff CECO Pipeline Services Company, Inc. is a corporation duly formed and existing under the laws of the State of Texas and doing business in Harris County, Texas.

Plaintiff CECO Services Corporation is a corporation duly formed and existing under the laws of the State of Texas and doing business in Harris County, Texas.

Plaintiff In Management, LLC is a limited liability company duly formed and existing under the laws of the State of Texas and doing business in Harris County, Texas.

Plaintiff Source of Supply Corporation is a corporation duly formed and existing under the laws of the State of Texas and doing business in Harris County, Texas.

Plaintiff Inter Nos, Ltd. is a business entity duly formed and existing under the laws of the State of Texas and doing business in Harris County, Texas.

Plaintiff Inter Nos Space Plus, Ltd. is a business entity duly formed and existing under the laws of the State of Texas and doing business in Harris County, Texas.

Plaintiff Inter Nos Odessa, Ltd. is a business entity duly formed and existing under the laws of the State of Texas and doing business in Harris County, Texas.

Plaintiff Inter Nos Pipeline, Ltd. is a business entity duly formed and existing under the laws of the State of Texas and doing business in Harris County, Texas.

Plaintiff Inter Nos TP Investments, Ltd. is a business entity duly formed and existing under the laws of the State of Texas and doing business in Harris County, Texas.

Plaintiff Inter Nos Walker, Ltd. is a business entity duly formed and existing under the laws of the State of Texas and doing business in Harris County, Texas.

Plaintiff Inter Nos Springville, Ltd. is a business entity duly formed and existing under the laws of the State of Texas and doing business in Harris County, Texas.

Plaintiff Priscella Gorman is a resident of the State of Texas and resides in Harris County, Texas. Ms. Gorman is the owner of Fee-Fee's Dog Grooming located at 3610 Laurel Hollow Drive, Spring, Harris County, Texas 77388.

Plaintiff Dawn Walsh is a resident of the State of Texas and resides in Henderson County, Texas. Ms. Walsh is the owner of Hair by Dawn located at 1918 West Main Street, Gun Barrel City, Henderson County, Texas 75156.

Plaintiff Tamara Austin is resident of the State of Texas and resides in Collin County, Texas. Ms. Austin is the owner of Little Angel Daycare located at 1512 Janwood Drive, Plano, Collin County, Texas 75075.

Plaintiff Barclay H. Russell, Jr. is a citizen and resident of Bexar County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 5311 Charter Oak Drive, San Antonio, Texas 78229.

Plaintiff Texas Electrical Safety Association is a non-profit vocational trade school duly formed under the laws of the State of Texas and doing business in Harris County, Texas.

Plaintiff Robert E. Hatfield, II is a citizen and resident of Harris County, Texas. He is a legal adult over the age of eighteen (18).

Plaintiff Veronica B. Hatfield is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18).

Plaintiff Jeff Kibodeaux is a citizen and resident of Montgomery County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 2202 Timberway Court, Magnolia, Texas 77355.

Plaintiff Elizabeth Blake is a resident of the State of Texas and resides in Wood County, Texas. Ms. Blake is the owner of B & C Photography located at 130 E. Broad Street #2, Mineola, Wood County, Texas 75773.

Plaintiff Clayton Davenport is a resident of the State of Texas and resides in Val Verde County, Texas. Mr. Davenport is the president and CEO of Russell Hardware, Inc. located at 506 E. Gibbs Street, Del Rio, Val Verde County, Texas 78840.

Plaintiff Jennifer Leiendecker is a citizen and resident of Fort Bend County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 2018 Spreading Bough Lane, Richmond, Texas 77406.

Plaintiff Jared Grein is a resident of the State of Texas and resides in Harris County, Texas. Mr. Grein is the owner of Phoenix Insulation located at 21107 West Kelsey Creek Trail, Cypress, Harris County, Texas 77433.

Plaintiff Adam Stacoviak is a citizen and resident of Harris County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 15707 Jacobs Creek Drive, Cypress, Texas 77429.

Plaintiff Britt Hurst is a citizen and resident of Lubbock County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 6107 75th Place, Lubbock, Texas 79424.

Plaintiff Rick Smith is a citizen and resident of Harris County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 17631 Miller Wilson Road, Crosby, Texas 77532.

Plaintiff Building Blocks, LLC is a limited liability company duly formed and existing under the laws of the State of Texas and doing business in Henderson County, Texas.

Plaintiff ES Family Fitness, LLC is a limited liability company duly formed and existing under the laws of the State of Texas and doing business in Henderson County, Texas.

Plaintiff Building Blocks, Inc. is a corporation duly formed and existing under the laws of the State of Texas and doing business in Harris County, Texas.

Plaintiff Ryann Day is a resident of the State of Texas and resides in Galveston County, Texas. Ms. Day is the owner of Aria Salon located at 810 South Friendswood Drive, Suite 108, Friendswood, Galveston County, Texas 77433.

Plaintiff Stuart Davenport is a citizen and resident of Bexar County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 3711 Sumantra Cliff, San Antonio, Texas 78261.

Plaintiff Richelle Batt is a resident of the State of Texas and resides in Montgomery County, Texas. Ms. Batt is the owner of Single Socialites of Houston and Enriching Lives Coaching both located at 2207 Riva Row, #3301, The Woodlands, Montgomery County, Texas 77380.

Plaintiff Matthew Smith is a citizen and resident of Harris County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 22403 Stokes Road, Waller, Texas.

Plaintiff Richard Thomas is a resident of the State of Texas and resides in Harris County, Texas. Mr. Thomas is the owner of Peregrine Personnel Solutions located at 2600 Gessner Road, #250, Houston, Harris County, Texas 77080.

Plaintiff Lindi Braddock is a resident of the State of Texas and resides in Washington County, Texas. Ms. Braddock is the owner of Coldwell Banker Properties Unlimited located at 601 Medical Court, Brenham, Washington County, Texas 77833.

Plaintiff Rebecca Y. Larson is a resident of the State of Texas and resides in Washington County, Texas. Ms. Larson is the owner of Rebecca and Company located at 400 Peabody Street, Brenham, Washington County, Texas 77833.

Plaintiff Ryan Munoz is a resident of the State of Texas and resides in Harris County, Texas. Mr. Munoz is the owner of Voodoo Color Lounge located at 3526 FM 528 Road, Suite 102, Friendswood, Harris County, Texas 77546.

Plaintiff Jeff Landry is a resident of the State of Texas and resides in Harris County, Texas. Mr. Landry is the owner of JPL Entertainment located at 16518 House Hahl Road, Cypress, Harris County, Texas 77433.

Plaintiff Lisa Landry is a resident of the State of Texas and resides in Harris County, Texas. Ms. Landry is the owner of I Do Boutique located at 16518 House Hahl Road, Cypress, Harris County, Texas 77433.

Plaintiff Linda Jansen is a citizen and resident of Galveston County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 1029 17th Avenue North, Texas City, Texas 77590.

Plaintiff Tu Phan is a resident of the State of Texas and resides in McLennan County, Texas. Mr. Phan is the owner of Blessed Spa located at 123 Topeka Drive, Suite H, Woodway, McLennan County, Texas 76712.

Plaintiff Melissa Rowell is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 12403 Pantano Drive, Houston, Texas 77065.

Plaintiff Cynthia Salinas is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 7402 Camporee Lane, Houston, Texas 77083.

Plaintiff Shane Walker is a citizen and resident of Clay County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 22200 FM 2393, Wichita Falls, Texas 76310.

Plaintiff Dayla Walker is a citizen and resident of Clay County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 22200 FM 2393, Wichita Falls, Texas 76310.

Plaintiff Kathryn Standley is a citizen and resident of Washington County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 3610 North Briarwood Drive, Brenham, Texas 77833.

Plaintiff John Boretski is a resident of the State of Texas and resides in Harris County, Texas. Mr. Boretski is the owner of Uptown Salons with locations at 7805 Louetta Road, Spring, Harris County, Texas 77379, 12350 Westheimer Road, Suite H, Houston, Harris County, Texas 77077, and 3099 College Park Drive, The Woodlands, Montgomery County, Texas 77384.

Plaintiff John D. Howell is a citizen and resident of Brazoria County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 5714 Shady Hollow Court, Rosharon, Texas 77583.

Plaintiff Bruce Boyd is a citizen and resident of Travis County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 507 Ladin Lane, Lakeway, Texas 78734.

Plaintiff Debbie Ramsey is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 1007 Valley Ranch Drive, Katy, Texas 77450. Ms. Ramsey attends Second Baptist Church in Harris County, Texas.

Plaintiff Linda Allen is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 3909 Canterbury Drive, Baytown, Texas 77521.

Plaintiff Margarete Cole is a citizen and resident of Harris County, Texas. she is a legal adult over the age of eighteen (18) and she resides at 11411 Marrs Drive, Houston, Texas 77065.

Plaintiff Matthew Nowell is a citizen and resident of Bell County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 5424 FM 3117, Temple, Texas 76501.

Plaintiff Jacob Feldman is a citizen and resident of Harris County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 12822 Pine Meadows Street, Tomball, Texas 77375.

Plaintiff Linda Collins is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 17255 S. Summit Canyon Drive, Houston, Texas 77095.

Plaintiff Tiffani Chapa is a citizen and resident of Galveston County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 418 Scarlet Sage Drive, League City, Texas 77573.

Plaintiff Robin Hubbard is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 31715 Ironwood Drive, Waller, Texas 77484.

Plaintiff David Kuchurivskyy is a citizen and resident of Johnson County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 816 Canyon Cove Drive, Burleson, Texas 76028.

Plaintiff Laurie Lozano is a resident of the State of Texas and resides in Tarrant County, Texas. Ms. Lozano is the owner of L3 Services, LLC d/b/a Upscale Barber Shop located at 6101 Watauga Road, Suite D, Watauga, Tarrant County, Texas 76148.

Plaintiff Oralia Acosta is a citizen and resident of Galveston County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 1204 Abbott Drive, Texas City, Texas 77590.

Plaintiff Brienne H. Loftis is a citizen and resident of Collin County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 2620 Pin Oak Lane, Plano, Texas 75075.

Plaintiff Raquetta Portalatin is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 13526 Kavanaugh Lane, Cypress, Texas 77429.

Plaintiff Jonathan Findley is a citizen and resident of Harris County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 4108 Venetian Way, Pasadena, Texas 77503.

Plaintiff Calvin Brown is a citizen and resident of Harris County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 12623 Banchester Court, Houston, Texas 77070.

Plaintiff Elvin Coy Chew is a resident of the State of Texas and resides in Taylor County, Texas. Mr. Chew is the owner of Whiskey Girl Bar located at 833 US Highway 80 E, Abilene, Taylor County, Texas 79601.

Plaintiff Connie Jones is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 17630 Hunters Glen Circle, Humble, Texas 77396.

Plaintiff Tonia Allen Parker is a citizen and resident of Gregg County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 311 S. White Oak Road, White Oak, Texas 75693.

Plaintiff Melissa Luce is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 17242 Meadow Butte Drive, Houston, Texas 77090.

Plaintiff Trinity Jackson Hall is a citizen and resident of Ector County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 1607 Dotsy Avenue, Odessa, Texas 79763.

Plaintiff Nichols Ritchie is a citizen and resident of Harris County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 20522 Spring Lilac Lane, Spring, Texas 77388.

Plaintiff Kathryn Ritchie is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 20522 Spring Lilac Lane, Spring, Texas 77388.

Plaintiff James Barclift is a citizen and resident of Montgomery County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 2017 Green Terrace Lane, Pinehurst, Texas 77362.

Plaintiff Stephine Connelly is a citizen and resident of Travis County, Texas. She is a legal adult over the age of eighteen (18).

Plaintiff Riley Nash is a citizen and resident of Orange County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 1850 Dublin Drive, Vidor, Texas 77662.

Plaintiff Michelle LeTulle is a citizen and resident of Fort Bend County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 403 Insurance Road, Booth, Texas 77469.

Plaintiff Damon Sollman is a citizen and resident of Dallas County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 9690 Forest Lane, Apt. 403, Dallas, Texas 75243.

Plaintiff Rose Rivera Hutchinson is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 13334 Forest Knoll Street, Houston, Texas 77049.

Plaintiff Randy Box is a citizen and resident of Harris County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 12015 Cooper Canyon Drive, Tomball, Texas 77377.

Plaintiff Monique Cooper is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 18402 Spruce Tree Line Trail, Houston, Texas 77084.

Plaintiff Tammy Cotten is a resident of the State of Texas and resides in Burleson County, Texas. Ms. Cotten is the owner of Angel Botanicals LLC located at 209 W. Buck Street, Caldwell, Burleson County, Texas 77836.

Plaintiff Jenny Breen is a resident of the State of Texas and resides in Smith County, Texas. Ms. Breen is the owner of Sir Dapper Permanent Makeup and Ink Revitalization LLC located at 6722 S. Broadway Avenue, Suite B, Tyler, Smith County, Texas 75703.

Plaintiff Tammie Birdwell is a citizen and resident of Dallas County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 5955 Alpha Road #102-709, Dallas, Texas 75240.

Plaintiff Kelly Pelletier is a citizen and resident of El Paso County, Texas. She is a legal adult over the age of eighteen (18).

Plaintiff Tarrin Warren is a resident of the State of Texas and resides in Milam County, Texas. Mr. Warren is the owner of TNT Quarter Horses LLC located at 2468 County Road 346, Milano, Milam County, Texas 76556.

Plaintiff Pacey Chynoweth is a citizen and resident of Williamson County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 315 Rawhide Loop, Round Rock, Texas 78681.

Plaintiff David Lee Dykstra, Jr. is a citizen and resident of Harris County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 7418 Magnolia Shadows Lane, Houston, Texas 77095.

Plaintiff Janie Blomquist is a citizen and resident of Waller County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 23102 Verona Vista Drive, Kay, Texas 77493.

Plaintiff Andrew Harman is a citizen and resident of Waller County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 24038 AJs Way, Hempstead, Texas 77445.

Plaintiff Kraig Aron Russell is a citizen and resident of El Paso County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 4730 N. Mesa #113, El Paso, Texas 79912.

Plaintiff Jon W. Marsh is a resident of the State of Texas and resides in Fort Bend County, Texas. Mr. Warren is the owner of Marsh Holdings LLC located at 1427 Waterside Village Drive, Richmond, Fort Bend County, Texas 77407.

Plaintiff Eric Christopher is a citizen and resident of Harris County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 2555 Bering, #20, Houston, Texas 77057.

Plaintiff Norman Harris is a citizen and resident of Fort Bend County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 702 Merrick Drive, Sugar Land, Texas 77478.

Plaintiff Tammy Morris is a citizen and resident of Wood County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 1305 CR 4510, Winnsboro, Texas 75494.

Plaintiff Paul Morris is a citizen and resident of Wood County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 1305 CR 4510 Winnsboro, Texas 75494.

Plaintiff Hilary Wheeler is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 3002 Royal Oaks Crest, Houston, Texas 77082.

Plaintiff Scot Moran is a resident of the State of Texas and resides in Tarrant County, Texas. Mr. Moran is the owner of MyUnCard located at 3023 S. University Drive, #154, Fort Worth, Tarrant County, Texas 76109.

Plaintiff Tim Nichols is a resident of the State of Texas and resides in Dallas County, Texas. Mr. Nichols is the owner of Christmas Lights in Dallas located at 15166 Vizcaya Drive, Dallas, Dallas County, Texas 75248.

Plaintiff Michele Stricker is a citizen and resident of Hays County, Texas. She is a legal adult over the age of eighteen (18). She attends Fellowship at Plum Creek Church in Hays County, Texas.

Plaintiff Carol Carter is a citizen and resident of Tarrant County, Texas. She is a legal adult over the age of eighteen (18). She attends Eden Blessing Tabernacle in Tarrant County, Texas.

Plaintiff Laurie McCawley is a citizen and resident of Tarrant County, Texas. She is a legal adult over the age of eighteen (18). She attends Rush Creek Church in Tarrant County, Texas.

Plaintiff Leslie Neves is a citizen and resident of Dallas County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 2189 Carmel Drive, Carrollton, Texas 75006.

Plaintiff Wanda Webb is a citizen and resident of Hardin County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 7905 Gold Star, Apt. 5, Lumberton, Texas 77657.

Plaintiff Sarah Vetere is a resident of the State of Texas and resides in Tarrant County, Texas. Ms. Vetere is the owner of Fiori Skincare by Sarah Vetere located at 1500 Montgomery Street, Fort Worth, Tarrant County, Texas 76107.

Plaintiff Aaron R. Rasor is a resident of the State of Texas and resides in Tarrant County, Texas. Mr. Rasor is the owner of Lone Star Chop Shop located at 4474 Bryant Irvin Road, suite 934, Fort Worth, Tarrant County, Texas 76132.

Plaintiff William J. Odom is a resident of the State of Texas and resides in Harris County, Texas. Mr. Odom is the owner of Deerfield Advisors Insurance Agency located at 16225 Park Ten Place, Suite 500, Houston, Harris County, Texas 77084.

Plaintiff Joe W. Mathias is a resident of the State of Texas and resides in Denton County, Texas. Mr. Mathias is the owner of Auto Repair Excellence located at 122 Rose Lane, Suite 402, Frisco, Denton County, Texas 75034.

Plaintiff Melanie F. Webb is a citizen and resident of Travis County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 12501 Tech Ridge Boulevard, Apt. 913, Austin, Texas 78753.

Plaintiff Colleen Crockett is a citizen and resident of Bexar County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 12614 Carriage Dove, San Antonio, Texas 78249.

Plaintiff Lori McDonough is a citizen and resident of Bexar County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 13070 Adobe Walls Drive, Helotes, Texas 78023.

Plaintiff Wayne Ritchie is a citizen and resident of Harris County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 3636 Shipman Lane, Spring, Texas 77388.

Plaintiff Jacqueline Ritchie is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 3636 Shipman Lane, Spring, Texas 77388.

Plaintiff Lance Crockett is a citizen and resident of Bexar County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 12614 Carriage Dove, San Antonio, Texas 78249.

Plaintiff Lee Ann Crockett is a citizen and resident of Bexar County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 12614 Carriage Dove, San Antonio, Texas 78249.

Plaintiff Michael J. Lathern is a citizen and resident of McLennan County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 711 Poage Drive, Woodway, Texas 76712.

Plaintiff Mary Ann Lathern is a citizen and resident of McLennan County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 711 Poage Drive, Woodway, Texas 76712.

Plaintiff M.J. Lathern Co., Inc. is a corporation duly formed and existing under the laws of the State of Texas and doing business in McLennan County, Texas.

Plaintiff Connie Wolfe is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 3138 Silver Cedar Trail, Katy, Texas 77449. She attends church in Harris County, Texas.

Plaintiff Blake McDaniel is a citizen and resident of Williamson County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 1201 Meadow Lark, Cedar Park, Texas 78613.

Plaintiff Jose A. Rivera is a citizen and resident of Harris County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 10711 Jordan Heights Drive, Houston, Texas 77016.

Plaintiff Lisa Wooldridge is a citizen and resident of Montgomery County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 20011 Country Lake Drive, Magnolia, Texas 77355.

Plaintiff Bryan Bilderback is a citizen and resident of Harris County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 11322 Bassdale Drive, Houston, Texas 77070.

Plaintiff Mark LaGrange is a citizen and resident of Harris County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 1019 Grovewood Lane, Houston, Texas 77008.

Plaintiff Chris Adams is a citizen and resident of Harris County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 12434 Millridge Forest Court, Houston, Texas 77070.

Plaintiff Bobbye Adams is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 12434 Millridge Forest Court, Houston, Texas 77070.

Plaintiff Kevin Morgan is a citizen and resident of Orange County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 560 Larry Ward, Bridge City, Texas 77611.

Plaintiff Kevin Wann is a resident of the State of Texas and resides in Harris County, Texas. Mr. Wann is the owner of Texas Borders Bar & Grill located at 20940 Katy Freeway, Suite H, Katy, Harris County, Texas 77449.

Plaintiff Kellie Messer is a resident of the State of Texas and resides in Harris County, Texas. Ms. Messer is the owner of Texas Borders Bar & Grill located at 20940 Katy Freeway, Suite H, Katy, Harris County, Texas 77449.

Plaintiff Thomas Wright is a citizen and resident of Harris County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 5614 Valkeith Drive, Houston, Texas 77096.

Plaintiff Laurie Tindall is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 5614 Valkeith Drive, Houston, Texas 77096.

Plaintiff Katrina Cannon is a citizen and resident of Victoria County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 306 Tanglewood Drive, Victoria, Texas 77901.

Plaintiff Dawn Hayden is a resident of the State of Texas and resides in McLennan County, Texas. Ms. Hayden is the owner of Vital Touch Massage Therapy and Bodywork located at 818 N. 59th Street, Waco, McLennan County, Texas 76710.

Plaintiff Nancy Roberts is a citizen and resident of Upshur County, Texas. She is a legal adult over the age of eighteen (18).

Plaintiff Kimberly Gutierrez is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 4941 Katy Hockley Road, Katy, Texas 77493.

Plaintiff Robert Schoppe is a citizen and resident of Fort Bend County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 1127 Adams Street, Missouri City, Texas 77489.

Plaintiff Sheila Bartley is a citizen and resident of Collin County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 4601 Avenida Lane, McKinney, Texas 75070.

Plaintiff Thomas Barrett is a citizen and resident of Harris County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 3414 Luella Avenue, Deer Park, Texas 77536.

Plaintiff Kenneth T. McDonald is a citizen and resident of Bastrop County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 142 Colorado Bluff, Cedar Creek, Texas 78612.

Plaintiff Lauren B. McGee is a resident of the State of Texas and resides in Hays County, Texas. Ms. McGee is the owner of McGee Hair LLC located at 13800 FM 1826, Austin, Hays County, Texas 78737.

Plaintiff Dawn Simpson is a resident of the State of Texas and resides in Harris County, Texas. Ms. Simpson is the owner of New Beginnings Massage & Wellness located at 1322 Space Park Drive, #112, Houston, Harris County, Texas 77058.

Plaintiff Ken Dernehl is a citizen and resident of Fayette County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 1018 Konetzke Lane, La Grange, Texas 78945.

Plaintiff Rita Dernehl is a citizen and resident of Fayette County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 1018 Konetzke Lane, La Grange, Texas 78945.

Plaintiff Mark S. Barlow, MD is a citizen and resident of Harris County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 2354 Central Park Circle, Houston, Texas 77059.

Plaintiff Holly Landry is a resident of the State of Texas and resides in Galveston County, Texas. Ms. Landry is the owner of Sharkey's Tavern located at 504 25th Street, Galveston, Galveston County, Texas 77550.

Plaintiff Tee Parker is a resident of the State of Texas and resides in Smith County, Texas. Ms. Parker is the owner of Machine Shed Bar and Grill located at 6113 State Highway 31, Kilgore, Smith County, Texas 75662.

Plaintiff Heather Vaughan is a citizen and resident of Howard County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 2106 Grace Street, Big Spring, Texas 79730.

Plaintiff Chrystal Patterson is a resident of the State of Texas and resides in Brazoria County, Texas. Ms. Patterson is the owner of Massage Therapy Rocks located at 700 N. Front Street, Suite B, Angleton, Brazoria County, Texas 77515.

Plaintiff Joshua Troy Furnish is a citizen and resident of Hunt County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 2009 Robin Road, Greenville, Texas 75402.

Plaintiff Charlene Cheek is a citizen and resident of Carson County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 601 Pecan Avenue #903, Panhandle, Texas 79068.

Plaintiff Carmen M. James is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 6500 West Road, #1108, Houston, Texas 77064.

Plaintiff Daniel Corley is a citizen and resident of Hays County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 121 Masonwood Drive, Kyle, Texas 78640.

Plaintiff David Allen is a citizen and resident of Dallas County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 2406 Shorewood Court, Rowlett, Texas 75088.

Plaintiff Marsha Wellmann is a citizen and resident of Harris County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 6605 Toledo Street, Houston, Texas 77008.

Plaintiff Ashley Zanella is a citizen and resident of Williamson County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 333 Swenson Drive, Hutto, Texas 78634.

Plaintiff Lance Olshovsky is a citizen and resident of Brazoria County, Texas. He is a legal adult over the age of eighteen (18) and she resides at 92 Plantation Court, Lake Jackson, Texas 77566.

Plaintiff Brandie Fussell is a citizen and resident of Jefferson County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 2135 Franklin Street, Beaumont, Texas 77701.

Plaintiff Marcia Newman is a citizen and resident of Montgomery County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 10 E. Misty Dawn Drive, Conroe, Texas 77385.

Plaintiff Kevin Peterson is a citizen and resident of Walker County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 119 Palisade Circle, Huntsville, Texas 77320.

Plaintiff Mary Jennifer Duncan is a citizen and resident of Fort Bend County, Texas. She is a legal adult over the age of eighteen (18) and she resides at 7611 Hunters Point Drive, Sugar Land, Texas 77479.

Plaintiff Jay Mincks is a citizen and resident of Montgomery County, Texas. He is a legal adult over the age of eighteen (18) and he resides at 19001 Crescent Springs, Kingwood, Texas 77339.

Defendant Greg Abbott is the Governor of the State of Texas and is sued in his official capacity only. He may be served at 1100 San Jacinto Blvd., Austin, Texas 78701.

IV. JURISDICTION AND VENUE

The subject matter in controversy is within the jurisdictional limits of this Court, and the Court has jurisdiction over this action pursuant to Article V, Section 8, of the Texas Constitution and section 24.007 of the Texas Government Code, as well as under the Texas Uniform Declaratory Judgments Act, Tex. Civ. Prac. & Rem. Code §§ 37.001 and 37.003. This Court has jurisdiction over the parties because all Defendants reside or have their principal place of business in Texas.

This Court has jurisdiction over this action and the requested relief sought under Tex. Civ. Prac. & Rem. Code, sections 110 et seq.

Sovereign immunity to be sued and from liability are waived and abolished, and Plaintiffs may sue for declaratory relief, injunctive relief, and damages under the Texas Religious Freedom Restoration Act, Tex. Civ. Prac. & Rem. Code, section 110.008, and the Texas Constitution.

Venue is proper in Travis County because Defendants have their principal office in Travis County. Tex. Civ. Prac. & Rem. Code § 15.002(a)(3).

BACKGROUND FACTS AND LEGAL AUTHORITY

In early 2020, the country was informed by the U.S. government that a novel coronavirus named COVID-19 had been discovered. It was asserted at the time that this particular strain of virus was much more contagious and must more deadly than other known viruses. Governor Abbott and the country panicked.

The Texas Constitution limits the Governor's authority even in times of crisis. If not limited, and if Constitutional rights may be suspended or infringed, unilaterally and for unlimited duration, whenever the Governor “declares” an emergency, such as here where no present emergency exists but rather only a possible or predicted emergency, then such rights are wholly illusory.

By suspending provisions of the Texas Constitution and the laws of the state of Texas, Governor Abbott’s Executive Orders related to COVID-19, unlawfully violate the Texas Constitution and undercut the authority of the Texas Legislature.

On March 13, 2020, Governor Abbott declared a State of Disaster for the State of Texas due to the viral infection-COVID 19. *See* GA-08 Order No. 1, Order No. 2, Order No. 3, Order No. 4 (Exhibit “B”). The Disaster Act, Texas Government Code, section 418.001 et seq., purports

to give virtually unlimited powers to elected officials, including the Governor, to order Texas residents to take certain actions or to prohibit others in the interests of public safety, particularly in the case of emergency or disaster. However, assuming, *arguendo*, that the Disaster Act is not unconstitutional, these powers are strictly limited by the text of the governing statutes and by the provisions of the Texas Constitution.

The Disaster Act also gives political subdivisions of the State of Texas certain limited powers to declare “local emergencies” or “disasters,” and similarly provides those subdivisions limited powers to meet and address the conditions causing or fostering the emergency or disaster.

Executive Order GA-08 stated in part:

In accordance with the Guidelines from the President [of the United States] and the CDC, every person in Texas shall avoid social gatherings in groups of more than 10 people. In accordance with the Guidelines from the President and the CDC, people shall avoid eating or drinking at bars, restaurants, and food courts, or visiting gyms or massage parlors; provided, however, that the use of drive-thru, pickup, or delivery options is allowed and highly encouraged throughout the limited duration of this executive order. In accordance with the Guidelines from the President and the CDC, people shall not visit nursing homes or retirement or long-term care facilities unless to provide critical assistance. In accordance with the Guidelines from the President and the CDC, schools shall temporarily close. This, executive order does not prohibit people from visiting a variety of places that are identified as “essential services.”

(Exhibit “B”).

Governor Abbott references “the power and authority vested in me by the Constitution and laws of the State of Texas” as the legal support for the Orders (this alleged authority is globally referred to herein as the “Emergency Act”). He then goes on to state: “I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code.” Defendant Abbott subsequently went on to issue numerous other Executive Orders discussed herein.

However, in Texas the power to suspend legislation belongs exclusively to the legislature, not the Governor. Tex. Const., Article I, Section 28 plainly and clearly states:

SUSPENSION OF LAWS. No power of suspending laws in this State shall be exercised except by the Legislature.

In addition, Texas Constitution, Article II, Section 1 states (emphasis added):

The powers of the Government of the State of Texas shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are Legislative to one; those which are Executive to another, and those which are Judicial to another; *and no person, or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.*

Accordingly, the “suspension of laws” portions of Governor Abbott’s Executive Orders are unconstitutional and thus void.

A. Governor Abbott’s Executive Orders Violate the Constitutional Prohibition on Suspension of Laws

“The Constitution is not suspended when the government declares a state of disaster.” *In re Abbott*, No. 20-0291, 2020 WL 1943226, at *1 (Tex. Apr. 23, 2020). “All government power in this country, no matter how well-intentioned, derives only from the state and federal constitutions.” *In re Salon A La Mode et al.*, No. 20-0340 (concurring opinion, J Blacklock) (Tex. May 5, 2020). As Justice Blacklock writes in his concurring opinion in *In re Salon A La Mode*, during a pandemic “the judiciary, the other branches of government, and our fellow citizens—must insist that every action our governments take complies with the Constitution, especially now. If we tolerate unconstitutional government orders during an emergency, whether out of expediency or fear, we abandon the Constitution at the moment we need it most.” *Id.*

Any government that has made the grave decision to suspend the liberties of a free people during a health emergency should welcome the opportunity to demonstrate—both to its citizens

and to the courts—that its chosen measures are absolutely necessary to combat a threat of overwhelming severity. *Id.* The government should also be expected to demonstrate that less restrictive measures cannot adequately address the threat. *Id.* Whether it is strict scrutiny or some other rigorous form of review, courts must identify and apply a legal standard by which to judge the constitutional validity of the government’s anti-virus actions. Governor Abbott failed to use the less restrictive, more targeted way to respond to COVID-19 and continues to place burdens on the constitutional liberties Plaintiffs enjoy. Justice Blacklock further states, “[W]hen constitutional rights are at stake, courts cannot automatically defer to the judgments of other branches of government. When properly called upon, the judicial branch must not shrink from its duty to require the government’s anti-virus orders to comply with the Constitution and the law, no matter the circumstances.” *Id.*

Government power cannot be exercised in conflict with the constitution, even in a pandemic. Texas law does not and cannot empower the Governor to suspend the laws of the State of Texas. The Texas Supreme Court has long held that the Legislature cannot delegate “to anyone else the authority to suspend a statute law of the state.” *Brown Cracker & Candy Co. v. City of Dallas*, 104 Tex. 290, 294-95 (1911); *Arroyo v. State*, 69 S.W. 503, 504 (Tex. Crim. App. 1902) (“Under the constitution, the legislature ha[s] no right to delegate its authority . . . to set aside, vacate, suspend, or repeal the general laws of this state.”).

“[P]rior to 1874 this section was as follows: ‘No power of suspending laws in this state shall be exercised, except by the legislature, *or its authority*’” (emphasis added). *Arroyo*, 69 S.W. at 504. This constitutional provision was then specifically amended to remove the provision allowing the Legislature to delegate its suspension power by “its authority.” This was expressly

done to remedy “the history of the oppressions which grew out of the suspension of laws by reason of such delegation of legislative authority and the declaration of martial law.” *Id.*

Article I, section 28 of the Texas Constitution was created in part in response to then-Governor F.J. Davis “declar[ing] . . . counties under martial law” and depriving of liberty “offenders by court martial in Houston.” George D. Braden, 1 *The Constitution of the State of Texas: An Annotated and Comparative Analysis* 84 (1977).

As the subject Executive Orders endeavor to suspend several provisions of the Texas Constitution, and on their face admit that Governor Abbott is suspending laws, the Orders are an unconstitutional suspension of the laws and, therefore, violate Article I section 28 of the Texas Constitution and are “null and void.” See *Arroyo*, 69 S.W. at 504. Additionally, to the extent the Disaster Act allows for the suspense of laws by the Governor or any local official, it is unconstitutional and also void.

B. Governor Abbott’s Executive Orders are an Impermissible Violation of Separation of Powers Established by the Texas Constitution.

Not only do the provisions of Governor Abbott’s Executive Orders unconstitutionally suspend laws in violation of Article I, section 28, they also infringe on the roles of the co-equal branches of the Legislature and the Judiciary.

The Texas Constitution divides the government into “three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are Legislative to one; those which are Executive to another, and those which are Judicial to another.” TEX. CONST. art. II, § 1. This Article provides that “no person, or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.” See also *In re Dean*, 393 S.W.3d 741, 747 (Tex. 2012).

The Texas separation of powers doctrine “prohibits one branch of government from exercising a power belonging inherently to another.” *Id.* Because of the Texas Constitution’s “explicit prohibition against one government branch exercising a power attached to another,” *Perry v. Del Rio*, 67 S.W.3d 85, 91 (Tex. 2001), exceptions to the constitutionally-mandated separation of powers may “never be implied in the least; they must be ‘expressly permitted’ by the Constitution itself.” *Fin. Comm’n of Texas v. Norwood*, 418 S.W.3d 566, 570 (Tex. 2013).

The subject Executive Orders infringe on the constitutionally ascribed powers of the Texas Legislature. Specifically, Governor Abbott’s Executive Orders infringe upon the Legislature’s powers by suspending laws enacted by the Legislature, in the absence of constitutional authority to do so. Since the Texas Constitution was adopted 175 years ago, it has vested all lawmaking power in the Legislature. This includes the power to make, alter, suspend, and repeal laws, in accordance with the other provisions of the Constitution. *Walker v. Baker*, 196 S.W.2d 324, 328 (1946).

On their face, the subject Governor Abbott’s Executive Orders seek to determine which people, services, and groups are essential and which are non-essential based on vague or arbitrary criteria. Such authority to make or alter constitutional rights and/or create legislation is the province of the legislature and the people.

C. Governor Abbott’s Executive Orders Violate Article IV, section 8(a) of the Texas Constitution

Since 1845, the Texas Constitution has allowed the Governor to convene the Legislature “on extraordinary circumstances.” TEX. CONST. art. V, sec. 8 (1845). In 1866, Article V, section 8 of the Texas Constitution was amended to include language that allowed the Governor to convene the Legislature “at a different place, if that should be dangerous by reason of disease...” TEX. CONST. art. V, sec. 8 (1866). In 1869, the Texas Constitution was amended,

moving former Article V, Section 8, to Article IV, Section VIII. TEX. CONST. art. IV, sec. VIII (1869).

Article IV, section 8 (a) of the Texas Constitution states: “The governor may, on extraordinary occasions, convene the Legislature at the seat of government, or at a different place in case that should be in possession of the public enemy or in case of the prevalence of disease threat. His proclamation therefor shall state specifically the purpose for which the Legislature is convened.”

Clearly, the Texas Constitution accounts for a pandemic, allowing the Governor to convene the legislature “in case of the prevalence of disease threat.” This is consistent with Article I, Section 28: “No power of suspending laws in this State shall be exercised except by the Legislature.” TEX. CONST. art. I, sec. 28. Additionally, Article IV, section 8 is consistent with our strong separation of powers tradition identified in Article II, section 1 of the Texas Constitution. TEX. CONST. art. III, sec. 1.

Over the past two and a half months, Governor Abbott has not convened the Legislature to address the COVID-19 pandemic. Instead, he has unilaterally issued numerous executive orders that trample on the liberties of Plaintiffs and all Texans.

D. Governor Abbott’s Executive Orders are an Impermissible Violation of Separation of Powers Established by the Texas Constitution

The Texas Constitution vests law-making power in the legislature. TEX. CONST. art. III, sec. 1. *Boykin v State*, 818 S.W.2d 782, 785 (Tex. Crim. App. 1991); *Copeland v. State*, 92 Tex. Crim. 554, 244 S.W. 818, 819 (Tex. Crim. App. 1922. *See also Russell v. Farquhar*, 55 Tex. 355., 359 (1881). Only the legislature can exercise that power, subject to restrictions imposed by the constitution. TEX. CONST. art. II, sec. 1. These restrictions must be express or clearly implied. *Jones v. State*, 803 S.W.2d 712, 716 (Tex. Crim. App. 1991) (citing *Gov’t Servs. Ins. Underwriters*

v. Jones, 368 S.W.2d 560, 563 (Tex. 1963)). The legislature may enact laws that enhance the general welfare of the state and resolve political questions, such as the boundaries of political subdivisions, subject to constitutional limits. *Carter v. Hamlin Hosp. Dist.*, 538 S.W.2d 671, 673 (Tex. Civ. App.-Eastland 1976); see *Hunter v. City of Pittsburgh*, 207 U.S. 161, 178-79 (1907). It also has exclusive dominion over the fixing of penalties for offenses under the state's penal laws. See *Sasser v. State*, 98 S.W.2d 211, 212 (Tex. Crim. App. 1936); *David v. State*, 453 S.W.2d 172, 179 (Tex. Crim. App. 1970), vacated on other grounds in *David v. Texas*, 408 U.S. 937 (1972); *Grant v. State*, 505 S.W.2d 279, 282 (Tex. Crim. App. 1974). The legislature may delegate some of its powers to another branch, but only if those powers are not more properly attached to the legislature. For example, legislative power cannot be delegated to the executive branch, either directly or to an executive agency. *State v. Rhine*, 297 S.W.3d 301, 306 (Tex. Crim. App. 2009). The issue becomes a question of the point at which delegation becomes unconstitutional. *Id.* The Texas Supreme Court has described the problem: "the debate over unconstitutional delegation becomes a debate not over a point of principle but over a question of degree." *Tex. Boll Weevil Eradication Found., Inc.*, 952 S.W.2d 454, 466 (Tex. 1997). The Court, in *Ex parte Granviel*, 561 S.W.2d 503 (Tex. Crim. App. 1978), stated that sufficient standards are necessary to keep the degree of delegated discretion below the level of legislating. The existence of an area for exercise of discretion by the executive branch requires that standards are formulated for guidance and there is limited discretion. *Ex parte Granviel*, 561 S.W.2d at 514. The statute must be sufficiently complete to accomplish the regulation of the particular matters falling within the legislature's jurisdiction, the matters of detail that are reasonably necessary for the ultimate application, operation and enforcement of the law may be expressly delegated to the authority charged with the administration of the statute. *Ex parte Granviel*, 561 S.W.2d at 514. Therefore, if the legislature

has not provided sufficient standards to guide the executive's discretion and the delegated power is legislative, that executive has been granted a power that is more properly attached to the legislature and the delegation is an unconstitutional violation of separation of powers. *State v. Rhine*, 297 S.W.3d 306.

Here, Texas Government Code section 418 et seq. does not provide any standards to guide the Governor's discretion when identifying penalties, including fines and incarceration. TEX. GOV'T CODE sec. 418 et seq. With respect to the COVID-19 related orders, Governor Abbott has chosen to fine violators up to \$1,000 and incarcerate them up to 180 days.

Not only do the provisions of the Executive Orders unconstitutionally suspend laws in violation of Article I, section 28, they also infringe on the roles of the coequal branches of the Legislature and the Judiciary.

The Texas Constitution divides the government into "three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are Legislative to one; those which are Executive to another, and those which are Judicial to another." TEX. CONST. art. II, § 1. This Article provides that "no person, or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted." *See also In re Dean*, 393 S.W.3d 741, 747 (Tex. 2012).

The Texas separation of powers doctrine "prohibits one branch of government from exercising a power belonging inherently to another." *Id.* Because of the Texas Constitution's "explicit prohibition against one government branch exercising a power attached to another," *Perry v. Del Rio*, 67 S.W.3d 85, 91 (Tex. 2001), exceptions to the constitutionally-mandated separation of powers may "never be implied in the least; they must be 'expressly permitted' by the Constitution itself." *Fin. Comm'n of Texas v. Norwood*, 418 S.W.3d 566, 570 (Tex. 2013). Here,

the Texas Constitution, Article I, section 28, expressly delegates to the Legislature the sole authority to “suspend law.” TEX. CONST. art. I, section 28.

The subject Executive Orders infringe on the constitutionally ascribed powers of the Texas Legislature. Specifically, these Orders infringe upon the Legislature’s powers by suspending laws enacted by the Legislature, in the absence of constitutional authority to do so. Since the Texas Constitution was adopted 175 years ago, it has vested all lawmaking power in the Legislature. This includes the power to make, alter, suspend, and repeal laws, in accordance with the other provisions of the Constitution. *Walker v. Baker*, 196 S.W.2d 324, 328 (1946).

E. Governor Abbott’s March 31, 2020 Amendment (GA-14) to his March 19, 2020 Order (GA-08) Violates Article I Section 6 of the Texas Constitution

On March 31, 2020, Governor Abbott amended his March 19, 2020 Order to include “religious services conducted in churches, congregations, and houses of worship” as “essential services”. (Exhibit “B” and “C”). However, this “essential service” was limited by the following language: “If religious services cannot be conducted from home or through remote services, they should be conducted consistent with the Guidelines from the President and the CDC by practicing good hygiene, environmental cleanliness, and sanitation, and by implementing social distancing to prevent the spread of COVID-19.” (Exhibit “B” and “C”).

Governor Abbott does not have the constitutional authority to relegate religious services conducted in churches, congregations, and houses of worship to the internet or “through remote services.” Additionally, Governor Abbott’s March 31, 2020 Order is unconstitutional in that it is vague and does not define “remote services,” and is arbitrary in that it attempts to single out churches from other gatherings at which people also congregate in groups such as grocery stores, offices, and hospitals.

The infringement on Plaintiffs' religious liberty by Governor Abbott is shocking when one considers that on March 19, 2020 Governor Abbott told the press, "There is nothing specific in the executive order about churches because there is freedom of religion here in the United States of America." It appears that sometime between March 19, 2020 and March 31, 2020, Governor Abbott's understanding of religious freedom changed.

In-person religious services are needed now more than ever as suicides and domestic violence numbers skyrocket. Over the last few weeks, the number of texts to the domestic violence hotline have been 47% to 116% higher than an average day, corresponding with a dramatic spike in novel corona virus cases, as well as historic unemployment in the United States. *Business Insider*, April 5, 2020. Adding another public health crisis to the toll of the new coronavirus, mounting data suggests that domestic abuse is acting like an opportunistic infection, flourishing in the conditions created by illicit government responses to the pandemic.

According to the New York Times, "'there was every reason to believe that the restrictions imposed to keep the virus from spreading would have such an effect,' said Marianne Hester, A Bristol University sociologist who studies abusive relationships . . . 'Now, with families in lockdown worldwide, hotlines are lighting up with abuse reports, leaving governments trying to address a crisis that experts say they should have seen coming.'" Amanda Taub, "*A New Covid-19 Crisis: Domestic Abuse Rises Worldwide*", New York Times, April 6, 2020.

For the Plaintiff Pastors and others in Texas, Governor Abbott has given them an unconstitutional choice: follow his Executive Orders or abide by their deeply held religious beliefs and the scriptures found in their Bible (e.g., Hebrews 10: 24-25). Should these pastors or individuals elect to follow their faith and hold in-person services when they could do so remotely, Governor Abbott's Executive Orders subject them to heavy fines and incarceration.

On April 27, 2020, Governor Abbott issued GA-18. (See Exhibit “D”). While GA-18 somewhat relaxes the restrictions on various businesses and church activities, it still creates and maintains an arbitrary distinction between so-called “essential services” and other businesses similarly situated, and thus violates the due process and equal protection provisions of the Texas Constitution.

To the extent Governor Abbott’s Executive Orders conflict with and infringe the Texas Constitution, they must be declared void and of no further force or effect and the court should enjoin their enforcement.

Specific to this case, Plaintiffs here complain about the provisions of the Executive Orders in that they are not only in excess of the limited powers granted to Governor Abbott under the Government Code, but they also violated the Texas Constitution, Art. 1, §§ 6-8 and the Texas Religious Freedom Restoration Act by restricting the Plaintiffs’ religious freedom.

Article I, Sec. 6 of the Texas Constitution states:

FREEDOM OF WORSHIP. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences. No man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent. No human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion, and no preference shall ever be given by law to any religious society or mode of worship. But it shall be the duty of the Legislature to pass such laws as may be necessary to protect equally every religious denomination in the peaceable enjoyment of its own mode of public worship.

GA-14 violated Plaintiffs’ religious liberties under the Texas Constitution and the Texas Religious Freedom Restoration Act. Specifically, GA-14 stated: “If religious services cannot be conducted from home or through remote services, they should be conducted consistent with the Guidelines from the President and the CDC by practicing good hygiene, environmental cleanliness, and sanitation, and by implementing social distancing to prevent the spread of

COVID-19.” (Exhibit “C”). Failure to comply with the Order was punishable by a fine that does not exceed \$1,000.00 or confinement in jail for a term that does not exceed 180 days. (Exhibits “B” and “C”). The existence of this Executive Order thereby chilled Plaintiffs’ free exercise of their religion and religious practices.

Governor Abbott does not have the constitutional authority to relegate religious services conducted in churches, congregations, and houses of worship to the internet or “through remote services.” Additionally, GA-14 was unconstitutionally vague in that it did not define “remote services,” and imposed fines and incarceration on those who did not follow the Order. (Exhibit “B” and “C”). For the Plaintiffs and others in Texas, Governor Abbott gave them an unconstitutional choice - follow his Orders or abide by their deeply held religious beliefs and the scriptures found in their Bible (Hebrews 10: 24-25). Should these pastors or individuals elect to follow their faith and hold or attend in person church services, Governor Abbott will have them fined and put in jail.

To the extent GA-08 and GA-14 conflicted with the Art. 1. §§ 6-8 of the Texas Constitution, they must be declared void and of no further force or effect, and the court should enjoin its enforcement.

Governor Abbott’s GA-08 and GA-14 violated the Texas Constitution in the following particulars:

a. GA-14 Does Not Address a Compelling Government Interest

A government regulation that impairs rights under the Texas Constitution must meet a higher standard of need, called a "compelling government interest," to be constitutional. Regulation vital to the protection of public health and safety, including the regulation of violent

crime, the requirements of national security, and military necessity, may be compelling governmental interests.

A compelling state (or governmental) interest is an element of the strict scrutiny test by which courts exercise judicial review of legislative and executive branch enactments that affect constitutional rights, such as those found in the Article 1 of the Texas Constitution. An interest is compelling only when it is essential or necessary rather than a matter of choice, preference, or discretion.

Attached to this Petition is the affidavit of Dr. Shiva Ayyadurai. Dr. Ayyadurai is a world-leading expert in systems biology, the immune system, personalized and precision medicine, systems science, data analysis and visualization, enterprise software development, email technology, and information technology. (Exhibit “E”) Dr. Ayyadurai has been invited to deliver Distinguished and Keynote lectures at institutions such as the National Science Foundation (NSF), the Massachusetts Institute of Technology (M.I.T.), Harvard Medical School, the Arthritis Foundation, American Society of Clinical Pharmacology and Therapeutics (ASCPT), University Health Network of Canada, Tufts Medical School, National Institute of Health (NIH)/ National Center for Advancing Translational Sciences (NCATS), Council for Scientific and Industrial Research, India (CSIR-India), to name a few. (Exhibit “E”).

Dr. Ayyadurai has earned four (4) degrees from the Massachusetts Institute of Technology (M.I.T.) including:

- a. Ph.D. from M.I.T. Department of Biological Engineering;
- b. Masters from M.I.T. Department of Mechanical Engineering;
- c. Masters in Visual Studies from M.I.T. Media Laboratory; and,
- d. Bachelors from M.I.T. Department of Electrical Engineering & Computer Science.

Dr. Ayyadurai's full curriculum vitae is attached to this Petition. (Exhibit "E").

i. General Overview of Data in the United States for COVID-19

As of Tuesday, April 15, 2020 at 4pm, according to the U.S. Center for Disease Control ("CDC"):

- a) there have been 632,548 confirmed and suspected cases of the coronavirus ("COVID-19") in the United States;
- b) **U.S. COVID-19 incidence rate** – the number of cases of a disease in the U.S. divided by the U.S. population of 317,000,000 - is approximately 2 out of every 1,000 confirmed with or presumed to have the COVID-19; and
- c) there have been 31,071 confirmed or presumed deaths due to the COVID-19. [Ref.: <https://www.cdc.gov/coronavirus/2019-ncov/cases-in-us.html>]. (Exhibit "E")

As of Tuesday, April 15, 2020 at 4pm, according to the CDC, the overall **U.S. COVID-19 mortality rate** - the number of assumed COVID deaths in the U.S. – 31,071- divided by the U.S. population of 317,000,000 – is approximately 1 out of every 10,000 Americans. [Ref.: <https://www.cdc.gov/coronavirus/2019-ncov/cases-in-us.html>]. (Exhibit "E").

ii. Comparative Analysis of COVID-19 Relative to Flu in the United States

Compared to the 632,548 confirmed and presumptive cases of coronavirus COVID-19, per the CDC's estimates, there have been upwards of 56,000,000 ("Fifty-Six Million") - cases of influenza (the flu) in the U.S between October 1, 2019 and April 4, 2020. **The U.S. flu incident rate** – 56 Million divided by the U.S. population of 317 Million – **is 1 out of every 6 Americans who have had the flu.** [Ref: <https://www.cdc.gov/flu/about/burden/preliminary-in-season-estimates.htm>]. (Exhibit "E").

There have been upwards of 730,000 hospitalizations and upwards of 62,000 deaths due to this year's flu. That is upwards of 344 deaths per day due to the flu since October 1, 2019. **The**

U.S. flu mortality rate - the number of flu deaths in the U.S. divided by the U.S. population of 317,000,000 – is 1 out of every 5,000. [Ref: <https://www.cdc.gov/flu/about/burden/preliminary-in-season-estimates.htm>]. (Exhibit “E”).

Compared to the **U.S. flu incident rate of 1 out of every 6 (17.6%)**, the **U.S. COVID-19 incident rate of is 2 out of every 1,000 (.2%)**. This means the incident rate of the flu in the U.S. is approximately 90 times more than the COVID-19 incident rate. (Exhibit “E”) Compared to the **U.S. flu mortality rate of 1 out of 5,000 (.02%)**, the **U.S. COVID-19 mortality rate of is 1 out of 10,000 (.1%)**. This means the mortality rate due to the flu in the U.S. is 2 times more than COVID-19. (Exhibit “E”).

iii. Analysis of COVID-19 Relative to Flu in the Texas

According to the Texas Department of State Health Services (“TDSHS”), there have been 16,455 coronavirus COVID-19 cases reported in Texas as of Thursday, April 16, 2020 at 12:00 pm. (Exhibit “E”). The **Texas COVID-19 incidence rate** – the number of cases of a COVID-19 in Texas divided by the Texas population of approximately 30,000,000 – is about 1 in every 2000 (0.05%). The TDSHS reports 393 deaths in Texas from the COVID-19. The **Texas COVID-19 mortality rate** due to the coronavirus is about 1 out of every 100,000 Texans, (**0.001%**). [Ref: <https://dshs.texas.gov/coronavirus/>]. (Exhibit “E”).

iv. A Perspective on the Lock Down

The flu season, 2017 - 2018, was extremely severe. The U.S. CDC estimated that there were 45,000,000 cases of the flu with 810,000 flu related hospitalizations, and 61,000 deaths due to the flu. There was no lock down during these events. [Ref.: <https://www.cdc.gov/flu/about/burden/2017-2018.htm>]. (Exhibit “E”).

The record shows that there have been no widespread closings of businesses, churches, schools and public gatherings due to an epidemic in the U.S. since the Spanish flu epidemic of

1918, when it is estimated that 675,000 Americans died. (Exhibit “E”). As of April 15, 2020, approximately 31,071 deaths have occurred in the U.S. – that is approximately 5% of the total number of Americans that died in the Spanish flu epidemic. (Exhibit “E”).

During the Obama administration the swine flu (H1N1) epidemic occurred between April 12, 2009 and April 10, 2010. (Exhibit “E”). The CDC estimated that there were 60,800,000 cases of the swine flu in the U.S. and 12,469 deaths. (Exhibit “E”). President Obama did not declare a national emergency until October 24, 2009, six (6) months after the swine flu (H1N1) had been recognized. (Exhibit “E”). In this incident between 2009 and 2010, there was no lock down. (Exhibit “E”).

If the incident rate and the death rate, as aforementioned, for the annual influenza infection were the criteria for determining a public health hazard, and the basis for locking down a country, the COVID-19 rates being orders of magnitude less, would not constitute COVID-19 as a public health hazard, and therefore would not be a rational basis for a lock down. (Exhibit “E”).

If Americans were to react to the annual flu epidemic in the same way that people are reacting to COVID-19, then all Americans would isolate themselves from school, church services, work, and public gatherings for six (6) months annually during *every* flu season. (Exhibit “E”). But this is not what has occurred, and it is something Americans do not do. (Exhibit “E”).

Locking down and shutting down the country and Texas, based on the metrics available to date on COVID-19, seems to be setting a new norm – a new standard - for determining a public health hazard, and a new norm for the basis to shut down Texas and the U.S. (Exhibit “E”). If this is the new norm, a new paradigm will likely need to be created for the Texas and U.S. economy, if it is to survive in its current form. (Exhibit “E”).

v. Standardizing Our “Concern” for Public Health

The recent events provide an opportunity to develop a standard for modulating our “concern” for public health – in general. (Exhibit “E”). Consider that every year upwards of 650,000 people worldwide die of respiratory illness related to the flu. (Exhibit “E”). That is 1,781 per day. A million and a half, or 4,109 per day, die of tuberculosis. (Exhibit “E”). Over 800,000 children die of diarrhea annually—2,192 deaths per day. (Exhibit “E”). There are 200 million cases of malaria every year and nearly 450,000 deaths. (Exhibit “E”). That is 1,232 deaths daily. (Exhibit “E”).

Below are some statistics about illness and death in the United States. These statistics may vary; however, the error is likely to be no more than +/- 5% (“five-percent”):

• Iatrogenic (Medical Errors incl. Prescription Drugs):	780,000 deaths/yr, 2136/day
• Heart Disease:	650,000 deaths/yr, 1,772/day
• Cancer:	600,000 deaths/yr, 1,650/day
• Traffic Deaths:	37,000 deaths/yr, 100/day
• Traffic Injuries:	2.35 million/yr, 6,438/day
• Lung Infections:	160,000 deaths/yr, 438/day
• Stroke:	146,000 deaths/yr, 400/day
• Alzheimer’s:	121,000 deaths/yr, 332/day
• Alcohol Abuse:	88,000 deaths/yr, 241/day
• Diabetes:	84,000 deaths/yr, 230/day
• Flu:	Avg. 50,000 deaths/yr, 278/day
• Kidney Disease:	51,000 deaths/yr, 140/day
• Suicides:	47,000 deaths/yr, 129/day
• Abortions:	800,000 deaths/yr, 2,192/day
• Opioid/Narcotic Overdoses:	47,000 deaths/yr, 129/day
• HIV/AIDS:	56,500 new cases/yr, 155/day
• STD Infections (gonorrhea, syphilis & chlamydia):	2.4 million cases/yr, 6,575/day

[Ref.:<https://www.cdc.gov/nchs/fastats/leading-causes-of-death.htm>]

(Exhibit “E”).

If one considers that there are approximately 2.4 million injuries from traffic accidents every year, resulting in 37,000 deaths per year - that means there are 6,575 injuries per day, and 100 deaths per day from traffic accidents. (Exhibit “E”). We as society no doubt acknowledge that

this is significant and ongoing public health issue. (Exhibit “E”). However, there appears to be neither lock down orders being issued to stop driving nor outcry from our public health officials about eliminating all motor vehicles and forcing Americans to only travel via bicycles and horses. (Exhibit “E”).

vi. The Science

When one rationally, with common sense, considers the current situation on COVID-19, the mathematics simply do not add up. (Exhibit “E”). The reaction – or, more specifically the over-reaction – is dissonant to the incident and death rates of COVID-19 situation, particularly given the data on the annual and daily death rates of other diseases and public health events. (Exhibit “E”).

The reality is that individuals with weakened and dysfunctional immune systems are more likely to contract and respond negatively to infectious diseases than those with healthy immune systems. Food, vitamins and minerals strengthen the immune system. (Exhibit “E”). In fact, a true understanding of the immune system reveals that it is *not* the pathogen or virus which damages cells and tissues, but rather the over-reaction via a “cytokine storm” of the individual’s own immune system attacking their own tissue and cells. (Exhibit “E”).

In the current situation with COVID-19, the infection inspires a “cytokine storm” in those that have weakened and dysfunctional immune systems. (Exhibit “E”). As one ages, the immune system has a tendency to become weakened. (Exhibit “E”). Indicative of this is that the more serious symptoms, in the current situation, occur in those over the age of 60, who are debilitated and infirm, and those with pre-existing conditions, such as heart disease, chronic lung disease, diabetes, and obesity. (Exhibit “E”). The older and sicker the individual, the more severe the disease tends to be. (Exhibit “E”). Younger and healthier people are less likely to manifest serious symptoms, even if they are infected. (Exhibit “E”). If they do have any symptoms, then they will

be mild or moderate, and they will recover. (Exhibit “E”). Up to 25% of those who have the COVID-19 are without symptoms. (Exhibit “E”).

Dr. Ayyadurai further suggests a prudent and balanced approach, based on the principles of modern personalized medicine, where one size does not fit all, and for using our vast scientific understanding of nutritional interventions to differentially support four groups: COVID-19 positive, those in critical care, immuno-compromised, and the healthy, to enable immune health, as well as to end the lock down so we can get our economy back in order. (Exhibit “E”).

vii. Unintended Consequences

Governor Abbott’s Order has huge unintended consequences. On a daily basis, one can see the harm such orders are causing society by trampling on individual liberties, shutting down businesses, and closing places of worship, and preventing the exercise of one’s rights under the Texas Constitution.

b. Order Must Be Narrowly Tailored

Strict scrutiny requires the government to demonstrate that it is using the most narrowly tailored, or least restrictive, means to achieve an interest that is compelling. Although not explicitly defined, “compelling” is obviously intended to be a higher interest than “legitimate” or “important”; some have described it as “necessary” or “crucial,” meaning more than an exercise of discretion or preference.

c. The Executive Orders Violate Article I §§ 6-8 of the Texas Constitution

In her concurring opinion in *Matthews v. Kountze Independent School District*, 484 S.W.3d 416 (Tex. 2016), Justice Eva Guzman identified the religious liberty all Texans enjoy:

“The fundamental right of every American to hold and profess individual religious beliefs is deeply rooted in our constitutional firmament and derives from the ideal of religious liberty that gave birth to our nation. In enacting the Texas Constitution, the people of this

Commented [JAP1]: Okay, there are public policy concerns that courts do not concern themselves with. There either is or there is not a rational basis or compelling state interest for the lockdowns. We need to stick to that metric.

Commented [JAP2]: Again, public policy not Constitutional concerns.

Commented [JAP3]: We will not be able to win on the “compelling interest” test. Public health is a compelling state interest per *Jacobson v. Massachusetts*, 197 U.S. 1 (1905). We should thus concede, at least arguendo, that we have a compelling interest and attack only this second prong: least restrictive means. Otherwise, we lose credibility and the momentum goes toward the state.

great State, ‘[h]umbly invoking the blessing of Almighty God,’ further guaranteed freedom of religious expression. See TEX.CONST. PREAMBLE & ART. 1, §§ 6–8.”

The Constitution of the State of Texas guarantees our citizens the right to practice their own religion in their respective places of worship. See TEX.CONST. art. 1, §§ 6–8. The Texas Constitution guarantees religious freedom through a pair of complementary directives prohibiting laws respecting an establishment of religion or prohibiting the free exercise thereof. TEX.CONST. art. 1, §§ 6–8; *HEB Ministries, Inc. v. Tex. Higher Educ. Coordinating Bd.*, 235 S.W.3d 627, 642 (Tex. 2007).

The free exercise of religion cannot be taken lightly and should not be sacrificed at the altar of political expediency. Our state constitution embodies a fundamental commitment to religious liberty and guarantee the freedom to express diverse thoughts without governmental interference. To adequately protect these rights, courts must not jealously guard their jurisdiction when disputes arise. “[O]ur Constitution requires vigilance lest courts overstep their jurisdictional bounds, [but] courts also must dutifully exercise jurisdiction rightly theirs.” *Heckman v. Williamson Cnty.*, 369 S.W.3d 137, 144 (Tex. 2012).

d. The Executive Orders are Unconstitutionally Arbitrary

Governor Abbott’s Executive Orders unilaterally and arbitrarily pick winners and losers. People of faith are prohibited from worshipping in person. Many private businesses are prevented from operating while others are fully open, and people are not allowed to associate together in groups of ten (10) or more. Individuals’ rights to move about in society are restricted. These are some of the individual freedoms Governor Abbott has chosen to sacrifice. However, liquor stores, yard maintenance crews, housekeepers, pool cleaners, janitorial staff, furniture suppliers, big box stores, bicycle repair shops, and dry cleaners have been allowed to operate their businesses under Governor Abbott’s Orders. Because his hand-picked losers have been shuttered, his self-identified

winners are allowed to thrive while other private businesses are closed indefinitely and there is no reasonable differences between the winners and losers as to the compelling government interest Governor Abbott identifies as support for the Executive Orders.

Further, like the church, members of the media enjoy protections under the Texas Constitution. However, Governor Abbott distinguishes the two groups, shutting down in-person church services, while placing no restrictions on the media/press.

e. Governor Abbott Engaged In *Ultra Vires* Activity

Governor Abbott's Executive Orders are illegal in that they violate the Texas Constitution and trample on the freedoms and liberties Plaintiffs enjoy under the Texas Constitution. A government official does not have discretion to disobey the law. It is well established that in order to determine whether an official has acted *ultra vires*, a court must interpret the relevant legal enactments. *Klumb v. Houston Mun. Emp. Pension Sys.*, 458 S.W.3d 1, n. 2 (Tex. 2015) (jurisdiction question was "a matter of statutory construction, which is determined as a matter of law considering the statute's plain language"). As in *ultra vires* litigation, the fact that the action is foreclosed by law should end the legal inquiry. *Hall v. McRaven*, 508 S.W.3d 232, 243 (Tex. 2017) (citing *SW Bell Tel., L.P. v. Emmett*, 459 S.W.3d 578, 587 (Tex. 2015), for definition of ministerial duty). The courts have held that *ultra vires* and mandamus/injunctive relief are two sides of the same coin, addressing the cessation of ongoing action by a governmental official. *City of Houston v. Houston Municipal Employees Pension Sys.*, 549 S.W.3d 566, 576-77 (Tex. 2018). GA-8 and 14 violate constitutional limitations on the Governor's authority.

To the extent there is any ambiguity as to whether the Executive Orders are *ultra vires* the Disaster Act, this Court should interpret the Act to not permit the suspension of Plaintiffs constitutional rights. See *Barshop v. Medina Cty. Underground Water Conservation Dist.*, 925

S.W.2d 618, 629 (Tex. 1996) (“When possible, we are to interpret legislative enactments in a manner to avoid constitutional infirmities.”).

F. The Executive Orders Violate the Texas Religious Freedom Restoration Act

The Texas Religious Freedom Restoration Act (“Texas RFRA”) defines the “[f]ree exercise of religion” as an act or refusal to act that is substantially motivated by sincere religious belief. Tex. Civ. Prac. & Rem. Code section 110.001(a)(1). In determining whether an act or refusal to act is substantially motivated by sincere religious belief under the Texas Religious Freedom Restoration Act, it is not necessary to determine that the act or refusal to act is motivated by a central part or central requirement of the person's sincere religious belief. *Id.*

Texas RFRA defines a “[g]overnment agency” as the state or a municipality or other political subdivision of this state. Tex. Civ. Prac. & Rem Code section 110.001 (a)(2)

Texas RFRA applies to any ordinance, rule, order, decision, practice, or other exercise of governmental authority such as GA-14. Tex. Civ. Prac. & Rem Code section 110.002(a)

As described above, the Executive Orders do not satisfy a compelling governmental interest that would justify infringing on the religious liberties and enjoyed by Plaintiffs. Tex. Civ. Prac. & Rem Code section 110.001 (b).

The Executive Orders substantially burden Plaintiffs' free exercise of religion and are not the least restrictive means of furthering a governmental interest. Tex. Civ. Prac. & Rem Code section 110.003 (b).

G. The Executive Orders are Illegally Vague and Arbitrary

The Executive Orders are illegally vague and arbitrary and violate the Texas Constitution. They do not pass strict scrutiny analysis, and violate the Texas Constitution, article 1, secs. 28 and 29:

Sec. 28 SUSPENSION OF LAWS. No power of suspending laws in this State shall be exercised except by the legislature.

Sec. 29. BILL OF RIGHTS EXCEPTED FROM POWERS OF GOVERNMENT AND INVIOLEATE. To guard against transgressions of the high powers herein delegated, we declare that everything in this “Bill of Rights” is excepted out of the general powers of the government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

Note: neither section 28 nor 29 says “...unless the government contends an emergency might possibly exist.” Indeed, our rights are MOST important during times of emergencies!

The sections of the Texas Bill of Rights that the Executive Orders violate by “suspending” them include Sections 17 (property rights), 19 (due process), and 27 (assembly). Abbott also illegally suspends the laws allowing licensed salons, bars, gyms, spas, etc. to operate.

Governor Abbott can claim all day that the legislature gave him “broad powers.” However, those powers that Abbott claims to have, whatever they may be, cannot supersede the Constitution.

H. Declaratory Relief

Plaintiffs request declaratory relief under the Uniform Declaratory Judgments Act (“UDJA”). The UDJA is remedial and intended to settle and afford relief from uncertainty and insecurity with respect to rights under state law and must be liberally construed to achieve that purpose. Tex. Civ. Prac. & Rem. Code. § 37.002. The UDJA and the Texas Religious Freedom Restoration Act (“Texas RFRA”) waive the sovereign immunity of the State and its officials in actions that challenge the constitutionality of government actions and statutes that seek equitable relief.

Pursuant to the UDJA and Texas RFRA, Plaintiffs seek a declaratory judgment of the Court that the Executive Orders:

- a. Are ultra vires and exceed the Governor’s authority under the Texas Constitution;

- b. Impermissibly suspend state laws in violation of Article I, Section 28 of the Texas Constitution;
- c. Contravene separation of powers established by Article II of the Texas Constitution.
- d. Impermissibly infringe upon Plaintiffs' rights under Article I section 6 of the Texas Constitution; and
- e. Violate the Texas Religious Freedom Restoration Act.

See also id. § 2001.003(6) (defining a rule as a "state agency statement of general applicability that . . . prescribes law"); *id.* § 2001.003(7) (defining a state agency as "a state officer . . . that makes rules").

In order to stop this ultra vires and unconstitutional Orders from being enforced, Plaintiffs also seek temporary and permanent injunctive relief pursuant to Texas Civil Practices & Remedies Code §§ 37.011, 65.011 and 110 *et seq.*

I. The Executive Orders Violate Article I sections 6 and 28 of the Texas Constitution and Are Void Under Art. I section 29

As described throughout this Petition, the Executive Orders violate Article I sections 6 and 28 and are, therefore, void under article I section 29. Specifically, Article I section 29 states, "Everything in this 'Bill of Rights' is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to following provisions, shall be void". Tex. Const. Art. I sec. 29.

Accordingly, Plaintiffs respectfully request declaratory relief and injunctive relief to prevent the continued violation of their right to freely exercise their deeply held religious belief by holding or attending in-person services. Additionally, Plaintiffs request compensatory damages for pecuniary and nonpecuniary losses and reasonable attorney's fees, court costs, and other reasonable expenses incurred in bringing the action.

J. Governor Abbott's Orders Violate the Texas Constitution, article I, section 17:

Regulatory Inverse Condemnation

A landowner, business or individual may bring an inverse condemnation claim pursuant to article I, section 17, of the Texas Constitution when their property is taken, damaged, or destroyed for, or applied to, public use without adequate compensation. TEXAS CONST. art. I, sec. 17. A physical taking occurs when the government physically appropriates or invades private property or unreasonably interferes with the landowner's right to use and enjoy it. *Tarrant Reg'l Water Dist. v. Gragg*, 151 S.W.3d 546, 554 (Tex. 2004). To recover on an inverse condemnation claim, a property owner must establish that

(1) the State or other governmental entity intentionally performed certain acts,

(2) that resulted in the taking, damaging, or destruction of its property, (3) for public use. *Steele v. City of Houston*, 603 S.W.2d 786, 790B91 (Tex. 1980). Here, Governor Abbott has taken Plaintiffs' businesses, shut them down and/or condemned them, resulting in damage and a taking without adequate compensation.

K. Governor Abbott's Orders Violate the Equal Protection Clause of the Texas Constitution, Article I, sec. 3.

All of Governor Abbott's Executive Orders related to the COVID-19 virus pick and choose winners and losers. For instance, bars have been ordered closed, but liquor stores remain open. Cosmetologist, manicurist, barbers and others are now open, but bars, amusement parks and others remain closed. Clearly, a barber, manicurist or cosmetologist are within six feet of their client/customer for an extended period of time. Yet restaurants, bars, amusement parks and many other small businesses are closed or are required to limit their patrons and/or customers to a certain percentage. Big box stores, bicycle repair shops, law care services, maid services and many others

have been allowed to operate their businesses while numerous others small businesses have been shuttered by Governor Abbott's orders.

Article I, section 3 of the Texas Constitution prohibits this type of discrimination. Specifically, it states, "All free men, when they form a social compact, have equal rights, and no man, or set of men, is entitled to exclusive separate public emoluments, or privileges, but in consideration of public services." TEX. CONST. art. I, sec. 3.

VI. APPLICATION FOR TEMPORARY INJUNCTION, AND PERMANENT INJUNCTION

In addition to the above-requested relief, Plaintiffs seek a temporary injunction, and permanent injunction to stop this ultra vires and unconstitutional Orders from being enforced by Defendants.

Plaintiffs meet all of the elements necessary for injunctive relief. Plaintiffs state a valid cause of action against each Defendant and have a probable right to the relief sought. For the reasons detailed above, there is a substantial likelihood that Plaintiffs will prevail after a trial on the merits because GA-08 and GA-14 are ultra vires the Governor's authority and unconstitutional. Plaintiffs have already been injured by GA-08 and GA-14 and will continue to experience imminent and irreparable harm without injunctive relief.

Plaintiffs in this suit include pastors, small business owners, and individuals from different parts of Texas. Absent injunctive relief by this Court, Plaintiffs will continue to be imminently and irreparably harmed by the Governor's ultra vires actions.

For the same reasons above, Plaintiffs request the Court issue a temporary injunction and a permanent injunction after a trial on the merits. Since there is no adequate remedy at law that is complete, practical, and efficient to the prompt administration of justice in this case, equitable

relief is necessary to enjoin the enforcement of Defendants' illegal policy, preserve the status quo, and ensure justice.

Plaintiffs are willing to post a bond, if ordered to do so by the Court, but request that no bond be required because Defendants are acting in a governmental capacity, have no pecuniary interest in the suit, and no monetary damages can be shown. Tex. R. Civ. P. 684.

VII. INJUNCTIVE RELIEF REQUESTED

For the foregoing reasons, Plaintiffs request the Court grant the following relief:

- a. A temporary injunction to preserve the status quo and restrain Defendants from enforcing the Executive Orders, while the Orders' validity is determined.
- b. A permanent injunction prohibiting Defendants from enforcing the Executive Orders or passing any similarly infirm orders in the future.

Respectfully submitted,

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