

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<p>SCHULMERICH BELLS, LLC, A Pennsylvania Limited Liability Company, on behalf of itself and others similarly situated</p> <p style="text-align: center;">and</p> <p>FRANK CARBALO, On behalf of himself and others similarly situated</p> <p style="text-align: center;">and</p> <p>WENDY HELVERSON, On behalf of herself and others similarly situated Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>THOMAS W. WOLF, in his official capacity as Governor of the Commonwealth of Pennsylvania,</p> <p style="text-align: center;">and</p> <p>RACHEL LEVINE, MD, in her official capacity as Secretary of the Pennsylvania Department of Health</p> <p style="text-align: center;">Defendants.</p>	<p>CIVIL ACTION</p> <p>No.</p>
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COMPLAINT

“The Fifth Amendment's guarantee that private property shall not be taken for a public use without just compensation was designed to bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.”

Armstrong v. United States, 364 U.S. 40, 49 (1960)

The above named Plaintiffs, by their attorneys, hereby bring this action for declaratory and injunction relief, and monetary damages, on behalf of themselves and all other similarly situated persons, companies and entities (collectively, “Plaintiffs”), and against Thomas W. Wolf, in his official capacity as Governor of the Commonwealth of Pennsylvania (“Governor Wolf” or “Governor”), and Rachel Levine, MD, in her official capacity as Secretary of the Pennsylvania Department of Health (“Dr. Levine”). The Governor and the Secretary have seized without compensation the property of businesses and the livelihoods of individuals across the Commonwealth, forcing indefinite closures and widespread layoffs. These uncompensated seizures violate the Takings Clause of the Fifth Amendment, made applicable to States through the Fourteenth Amendment, and also violate well-established notions of Substantive and Procedural Due Process. Plaintiffs respectfully request that this Court (i) declare the Governor’s actions unconstitutional, and (ii) order the payment of just compensation.

The Governor and Secretary issued a series of Executive Orders on March 19 and March 20, 2020 (“COVID-19 Closure Orders” or “Orders”), for the public purpose of protecting Pennsylvania’s public health, safety and welfare. A true and correct copy of these Orders, including all documents enclosed or incorporated within said Orders, are attached to this Complaint as Exhibit “A.” The Governor has placed the cost of these Orders – issued for the benefit of the public – squarely upon the shoulders of private individuals and their families, and has failed to justly compensate affected parties for these takings undertaken for their benefit to the public. Without extending constitutionally required just compensation to Plaintiffs and those similarly situated, these Orders jeopardize the sustainability of many Pennsylvania businesses and the livelihoods those businesses provide to individuals. In support of this demand for relief, Plaintiffs state as follows.

INTRODUCTION

1. Plaintiffs are individuals and businesses from across the Commonwealth of Pennsylvania, and are members of two distinct classes adversely affected by the Governor's actions: (i) affected businesses ordered to shutdown by the COVID-19 Closure Orders ("Business Class Members") and (ii) individual workers displaced from their gainful employment as a result of the same Executive Orders ("Employee Class Members").

2. In the wake of a fast moving disease outbreak, Plaintiffs stand on the precipice of economic collapse as a direct result of the actions taken by Governor Wolf and Dr. Levine in response to the novel coronavirus ("COVID-19") pandemic.

3. As noted above, the Governor issued the COVID-19 Closure Orders on March 19 and March 20, 2020, to protect Pennsylvania's public health, safety and welfare. These Orders mandated that all "non-life sustaining" businesses immediately cease operations at their physical locations, that their employees not work at these physical locations, and that this mandate to stay closed remain in force indefinitely.

4. The Governor claimed his authority to enact the Orders by citing a set of broad emergency statutes which he said authorized his actions to stem the spread of COVID-19 across Pennsylvania. This suit does not seek to contest whether Governor's decision to issue the COVID-19 Closure Orders were prudent or within his authority to issue.

5. This suit accepts as fact that Governor Wolf took action for a public purpose. As he stated in the preamble to the March 19th Order, "the World Health Organization and the Centers for Disease Control and Prevention ("CDC") have declared [COVID-19] a 'public health emergency of international concern,' and the U.S. Department of Health and Human Services ("HHS") Secretary has declared that COVID-19 creates a public health emergency."

6. The Governor’s actions were not designed to serve Plaintiffs’ private interests, nor did the Governor identify any private interest served by his actions.

7. Notwithstanding their legitimate public purpose, the Governor’s Orders halted all economic activity for Business Class Members and Employee Class Members, the people and businesses covered by his Orders. The COVID-19 Closure Orders “make it commercially impracticable” to use the property belonging to the Business Class Members for any economically beneficial purpose, and inflict “very nearly the same effect for constitutional purposes as appropriating or destroying [the property as a whole].” *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 414–15 (1922); *Keystone Bituminous Coal Ass’n v. DeBenedictis*, 480 U.S. 470, 484–85 (1987) (explaining that regulatory taking occurs when the government action “makes it impossible for petitioners to profitably engage in their business, or that there has been undue interference with their investment-backed expectations”).

8. The property of Business Class Members, which the Governor’s Orders render unusable, includes both the real property in which the businesses are physically located (“Physical Location”) and the tangible property housed in such locations – such as machinery, inventory, tools, business records, and other forms of tangible equipment used in operating each business (“Tangible Property”) (both forms of property collectively referred to as “Property”).

9. Despite issuing the COVID-19 Closure Orders for a readily-apparent public purpose, the Governor did not provide compensation for those who suffered substantial – and perhaps total – diminution of value in their property interests as a result. The COVID-19 Closure Orders by their operative provisions deprived Business Class Members of all economically beneficial use of their Property and deprived Employee Class Members of their livelihoods for an undefined time period.

10. Businesses Class Members were ordered to close under threat of fines, unspecified criminal penalties and denial of access to disaster relief funding and services, which penalties were announced publicly and contemporaneously with the release of the COVID-19 Closure Orders.

11. The Orders constitute a regulatory taking implemented for a recognized public purpose, and therefore the failure to pay just compensation contravenes the Takings Clause of the Fifth and Fourteenth Amendments. *See Penn Central Transportation Co. v. City of New York*, 438 U.S. 104 (1978); *Lucas v. S.C. Coastal Council*, 505 U.S. 1003 (1992); *Horne v. Dep't of Agric.*, 576 U.S. 350, 135 S. Ct. 2419, 2426 (2015) (“Nothing in the text or history of the Takings Clause, or our precedents, suggests that the rule is any different when it comes to appropriation of personal property. The Government has a categorical duty to pay just compensation when it takes your car, just as when it takes your home.”).

JURISDICTION AND VENUE

12. This Court has jurisdiction to hear this case under 28 U.S.C. §§ 1331, 1343(a)(3)-(4), which confer original jurisdiction on federal district courts to hear suits alleging the violation of rights and privileges under the United States Constitution.

13. This is a class action where Plaintiffs seek relief under 28 U.S.C. §§ 2201-2202, 42 U.S.C. §§ 1983 and 1988, and the Fifth and Fourteenth Amendments. U.S. CONST. AMEND. V, XIV; *see also* Fed. R. Civ. P. 23.

14. Venue is proper under 28 U.S.C. § 1391(b), because a substantial part of the events giving rise to Plaintiffs' claim occurred in this district.

PARTIES

15. Schulmerich Bells, LLC (“Schulmerich”) is a named Plaintiff and a member of the Business Class; it is a Pennsylvania limited liability corporation, with its principle place of business located in Hatfield, Bucks County, Pennsylvania (“Hatfield Facility”), which is the site of its sole Physical Location and where the vast majority of its Tangible Property is stored.

16. Frank Carballo (“Frank”) is a named Plaintiff and a member of the Employee Class; Frank is an adult individual and citizen of Pennsylvania, who resides in Montgomery County, Pennsylvania.

17. Wendy Helverson (“Wendy”) is a named Plaintiff and a member of the Employee Class; Wendy is an adult individual and citizen of Pennsylvania, who resides in Bucks County, Pennsylvania.

18. Defendant Governor Thomas W. Wolf, named in his official capacity, is the Governor of the Commonwealth of Pennsylvania and is responsible for enforcing the laws of the Commonwealth of Pennsylvania, and is charged with implementing policy through executive orders, including the Executive Orders issued on March 19 and March 20, 2020.

19. Defendant Rachel Levine, MD, named in her official capacity, is the Secretary of the Pennsylvania Department of Health and is responsible for enforcing and implementing laws, regulations and policies aimed at the public health of Pennsylvania and its citizens, including the COVID-19 Closure Orders; Dr. Levine is also responsible for advising Governor Wolf and other officials regarding issues of public health.

FACTS

COVID-19 Pandemic and Governor Wolf's Executive Order on March 19, 2020

20. On March 19, 2020, Governor Wolf issued the COVID-19 Closure Order, which mandated the shutdown of all business not deemed “life sustaining.”

21. The World Health Organization (“WHO”) and the Center for Disease Control and Prevention (“CDC”) identified the novel coronavirus (“COVID-19”) as a “public health emergency of international concern.”

22. Likewise, the U.S. Department of Health and Human Services (“HHS”) declared that COVID-19 has created a public health emergency.

23. On March 6, 2020, Governor Wolf proclaimed the existence of a disaster emergency throughout the Commonwealth of Pennsylvania under 35 Pa. C.S. § 7301(c).

24. As the perambulatory language of the COVID-19 Closure Orders indicate, Governor Wolf relies upon a number of different sources to justify the executive action he undertook to address the threat of the COVID-19 pandemic. *See e.g.*, Exhibit A (citing 35 Pa. C.S. § 7301(b)).

25. Specifically, Governor Wolf asserted his authority “to control ingress and egress to and from a disaster area and the movement of persons within it and the occupancy of premises therein[.]” *See* Exhibit A (citing 35 Pa. C.S. § 7301(f)).

26. The COVID-19 Closure Orders further identify Dr. Levine’s authority as the Secretary of Health, “to determine and employ the most efficient and practical means for the prevention and suppression of disease” ... “[which] include isolation, quarantine, and any other control measure needed.” *See* Exhibit A (citing 71 P.S. § 532(a), 71 P.S. 1403(a) and 35 P.S. § 521.5).

27. The COVID-19 Closure Orders allow only businesses categorized as “life sustaining” to remain in operation at their physical locations. *See* Exhibit A (“No person or entity shall operate a place of business in the Commonwealth that is not a life sustaining business regardless of whether the business is open to members of the public.”).

28. The COVID-19 Closure Orders authorize “life sustaining” businesses to remain operational at their physical locations, so long as those businesses implemented safety precautions delineated by the CDC.

29. The Order of March 19, 2020 included as an attachment a list of businesses deemed to be “life sustaining.” The Governor subsequently issued a revise list when he issued his second Order on March 20, 2020. Wolf then issued a third revised list on the afternoon of March 24, 2020. *See* Exhibit A.

30. Governor Wolf originally sought to enforce these mandated shutdowns by March 21, 2020, at 12:01 a.m.; however, he decided to delay enforcement until March 23, 2020, at 8 a.m.

31. Any business operating out of compliance with the COVID-19 Closure Orders is subject to the possibility of severe fines and penalties, including the denial of government assistance and disaster relief.

32. Notably absent from the COVID-19 Closure Orders, or any other executive orders issued by Governor Wolf, is any provision addressing the inherent financial burden inflicted by the Orders on individuals and businesses throughout Pennsylvania – a direct result of the mandated shutdowns.

33. The COVID-19 Closure Orders “will remain in effect until further notice.” Exhibit A.

34. As of the filing of this Complaint, these Orders remain in effect with no end date announced.

Schulmerich Bells, LLC

35. Plaintiff Schulmerich is the oldest manufacturer of orchestral quality musical handbells and handchimes in the United States.

36. Schulmerich is based at its Hatfield Facility in Bucks County, Pennsylvania.

37. In the COVID-19 Closure Orders, Schulmerich's business was not categorized as an "essential" or "life-sustaining" business that would be permitted to stay open when Governor Wolf ordered several categories of businesses to close for the stated public purpose of controlling COVID-19 to protect public health.

38. Schulmerich's busiest time of year is the spring and summer when various handbell performing groups send their instruments to Schulmerich for repair and refurbishment at its Hatfield facility.

39. Timing is crucial for these repairs.

40. School based performing groups must contract in early spring, generally February and March, for one of a limited number of available refurbishment slots on Schulmerich's calendar that will ensure that a particular school's instruments can be sent to Schulmerich in the narrow window between the end of the school's performing season in the early spring and the commencement of the school's next performing season at the start of the following school year.

41. Church based performing groups contract during the same window to ensure that they can send their instruments to Schulmerich after the conclusion of their performance season, generally around the Easter holidays, and have the instruments back for the fall practice season which gears up in the months before Christmas.

42. A group that misses these narrow booking windows may not be able to refurbish their instruments and will generally wait a year until the following summer to refurbish.

43. The refurbishment business is a substantial portion of Schulmerich's overall business each year.

44. The COVID-19 Closure Orders closed Schulmerich in the midst of its spring refurbishment season.

45. Schulmerich already had in its factory a number of time sensitive refurbishment orders sent to Schulmerich by schools and churches across the world under tight scheduling constraints designed to return the instruments to groups with publicly announced performance and concert schedules.

46. To enable it to perform this refurbishment work, Schulmerich had ordered and received hundreds of thousands of dollars in parts from its suppliers. Some parts have acquisition lead times as long as sixteen (16) weeks.

47. With the COVID-19 Closure Orders, Schulmerich was unable to book additional refurbishments or undertake the refurbishments that were already in its factory when the factory was ordered closed by Governor Wolf.

48. Under threat of fines, unspecified criminal penalties and denial of access to disaster relief funding and services, Schulmerich and other Business Class Members are substantially denied the use of their Tangible Property and their Physical Locations for the full duration of the COVID-19 Closure Orders.

49. By denying Schulmerich and other Business Class Members access to their Physical Locations, they were unable to generate any additional sales or other forms of revenue, to collect the bulk of their outstanding receivables or pay many of their payables.

50. As a result, the working capital of Schulmerich and other Business Class Members was severely constrained and they were forced to immediately reduce their expenses in order to survive until the COVID-19 Closure Orders are lifted.

51. The same day as the first COVID-19 Closure Order, Schulmerich was forced to lay off nine (9) workers, irreparably damaging its sterling reputation with its workforce. Many Business Class Members were forced to undertake similar layoffs.

52. With his forced closures, Governor Wolf caused considerable damage to Schulmerich's business and the business of all Business Class Members, to their reputations, and to their relationships with their customers, vendors and employees.

53. Specifically, the closures occurred when Schulmerich was preparing to book and receive its summer refurbishments and when it was undertaking its early spring refurbishments. This only added to the damage caused to its business reputation and relationships.

54. Neither Governor Wolf, Dr. Levine, nor the Commonwealth of Pennsylvania offered compensation to Schulmerich in exchange for the total regulatory seizure of Schulmerich's property.

55. The COVID-19 Closure Orders prevent Schulmerich and other Business Class Members from using their Physical Location or their Tangible Property in any economically beneficial manner. The Orders require that Schulmerich, other Business Class Members and their Tangible Property sit idle in Physical Locations they are prohibited from accessing.

56. During the pendency of the COVID-19 Closure Orders while they have no use of their Tangible Property and their Physical Locations, the value of Schulmerich's and Business Class Members' Property is substantially diminished.

Frank Carballo and Wendy Helverson

57. Frank Carballo, a male, has worked at Schulmerich for approximately 6 years.

58. Wendy Helverson, a female, has worked at Schulmerich and its predecessor entities for approximately 15 years.

59. Frank and Wendy are hardworking and committed employees, who routinely receive praise for their work at Schulmerich. Both are highly skilled artisans with deeply specialized skills in the manufacture of tuned musical handbells.

60. Wendy's and Frank's skills are not easily transferrable to other professions, particularly since there is only one other manufacturer of musically tuned handbells in the entire world and it, too, is located in Bucks County, Pennsylvania. That other Pennsylvania handbell manufacturer, a member of the Business Class, was also forced to close as a result of COVID-19 Closure Orders.

61. Frank is a navy veteran who came to this country as a child after being chased from Cuba by Castro and his communists.

62. Wendy is a widow and is the primary breadwinner in a three-generation household, where she cares for her daughter and grandchild.

63. Before the COVID-19 Closure Orders, Frank had been contemplating his eventual retirement and Wendy had been satisfied in the knowledge that she earned a living capable of providing for her family.

64. Now, they and other Employee Class Members are solely concerned with surviving day-to-day and left to wonder whether they will ever be allowed to return to work – or if their employers and their jobs will still exist once the Governor's Orders are finally lifted.

65. The COVID-19 Closure Orders purported to shutdown all non-“life-sustaining” businesses to preserve public health, safety and welfare; however, the Orders paid no attention to the substantial and adverse impact such closures would have on the livelihoods of workers like Frank, Wendy and other Employee Class Members.

66. The COVID-19 Closure Orders forced Schulmerich to layoff both Wendy and Frank; countless other Pennsylvania workers, who were similarly situated – the other Employee Class Members – suffered the same consequences as the Governor’s Orders closed other businesses.

67. With no revenue coming in and no orders shipping, small employers like Schulmerich and other Business Class Members cannot afford to continue paying workers when their businesses are forced to close their doors at Governor Wolf’s direction.

68. Because of Governor Wolf’s Orders, Wendy, Frank and other Employee Class Members no longer have a regular paycheck or healthcare benefits (unless they choose, at their own expense, to pay the costs of health insurance individually).

69. All Employee Class Members, like Frank and Wendy, recognize the exigent nature of the extant public health emergency; nevertheless, they question why employees and small business are asked to bear the cost for the measures that Governor Wolf and Dr. Levine have determined are necessary to support public health.

70. Frank, Wendy and other Employee Class Members have applied for unemployment, but they remain uncertain of when they will receive their first payment. Notwithstanding various bills working their way through Congress that purportedly will make them whole for their lost wages, they are both cognizant of the fact that unemployment only

replaces a fraction of their former paychecks from Schulmerich and other Business Class Members.

71. The COVID-19 Closure Orders specify that they “will remain in effect until further notice[,]” which is terrifying for workers like Frank, Wendy and other Employee Class Members. They fear contracting the novel coronavirus, but they equally fear the ominous and looming possibility that – soon – they will be unable to pay their bills or buy food for their families without paychecks.

72. The longer the COVID-19 Closure Orders remain in effect, and the longer Pennsylvanians live without a clear end date for the closure of their businesses, the greater the fear of economic ruin becomes for employees like Wendy, Frank and other Employee Class Members.

73. Frank, Wendy and other Employee Class Members cannot simply find new employment or an alternative source of income. This is particularly true of Frank and Wendy, who have highly specialized skill sets. Moreover, the COVID-19 Closure Orders direct Employee Class Members to stay home until the Orders are lifted, making a job search a near impossibility.

74. It shocks the conscience, and is arbitrary and capricious, to allow employees – and the small businesses that employ them – to privately bear without compensation the cost of the COVID-19 Closure Orders, orders which were issued for the public purpose of slowing the spread of the novel coronavirus across Pennsylvania.

CLASS ALLEGATIONS

Schulmerich Bells, LLC and Business Class Members

75. Schulmerich brings this action on behalf of the all Business Class Members pursuant to provisions of Federal Rules of Civil Procedure 23 (a), (b)(1), (b)(2) and/or (b)(3). Fed. R. Civ. P. 23(a), (b)(1)-(3).

76. Schulmerich and Business Class Members are, as noted above, affected businesses ordered to shutdown by the COVID-19 Closure Orders.

77. The class consists of all businesses who satisfy each of the following criteria:

- (a) At the time when the COVID-19 Closure Orders became effective, they were (i) categorized as “non-life sustaining” and, thus, (b) instructed to shutdown by the COVID-19 Closure Orders;
- (b) They applied for an exemption waiver from the Pennsylvania Department of Community Development, as directed, and either received no response or received a denial; and
- (c) They cannot perform all of their normal business operations through alternative means, such as telecommuting.

78. Excluded from the class are any individual, company or entity that was categorized as “life sustaining” according the list attached to the Governor’s COVID-19 Closure Orders, including all subsequent updates and revisions to the list, and thus authorized to continue operating at its Physical Location. Also excluded from the class are all directors, officers, employees, parents, affiliates and subsidiaries, their successors, agents, legal representatives, heirs and assigns, and any persons or entities controlled by any excluded individual, company or entity.

79. This class is so numerous that joinder of all members is impractical. The class is composed tens of thousands of businesses across the Commonwealth of Pennsylvania.

80. As the named Plaintiff, Schulmerich's claims are typical of the claims of the Business Class. All of the claims are based on the same factual and legal theories.

81. Schulmerich will fairly and adequately protect the interests of the class. It is committed to litigating this matter vigorously. Schulmerich has retained counsel experienced at handling constitutional claims against government actors, often involving questions of substantive and procedural due process and violations of the Takings Clause. Neither Schulmerich, nor counsel for Schulmerich, has any interest that might cause either not to pursue this action vigorously.

82. Class certification under Fed. R. Civ. P. 23(b)(1) is appropriate in this action because prosecuting separate actions by or against individual class members would create a risk of either:

- (a) Inconsistently or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for the party opposing class; or
- (b) Adjudications with respect to individual class members that, as a practical matter, would be dispositive of the interests of the other members not parties to the individual adjudications or would substantially impair or impede their ability to protect their interests.

83. Class certification under Fed. R. Civ. P. 23(b)(2) is appropriate in this action because Governor Wolf and Dr. Levine have acted on grounds that apply generally to the

Business Class – that is, *inter alia*, issuance of the COVID-19 Closure Orders – so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.

84. Class certification under Fed. R. Civ. P. 23(b)(3) is appropriate in this action because there are numerous questions of law and fact which are common to the Business Class and which predominate over any questions affecting individual members of the Class, including, without limitation, the following:

- (a) Whether the COVID-19 Closure Orders affected a regulatory taking upon businesses who were classified as “non-life sustaining” and thus instructed to halt all business operations – ceasing all economically beneficial uses of their Physical Location and of their Tangible Property – without providing just compensation;
- (b) Whether the COVID-19 Closure Orders violated the substantive due process rights of affected businesses by arbitrarily, capriciously and irrationally interfering with such businesses’ fundamental right to use and enjoy of such their Physical Locations and Tangible Property in such a manner that would shock the conscience; and
- (c) Whether COVID-19 Closure Orders violated the substantive due process rights of affected businesses by arbitrarily, capriciously and irrationally interfering with their fundamental Property and liberty interests without providing *any* procedural safeguards, either before, during or after the government interference or deprivation.

85. Indeed, the only individual question appears to be the amount of monetary damage suffered as a result of the COVID-19 Closure Orders – and thus, just compensation owed – which is attributable to each Business Class Member.

86. Class certification under Fed. R. Civ. P. 23(b)(3) is also appropriate in this action because a class action is superior to other methods for the fair and efficient adjudication of this controversy, in that:

- (a) The critical facts and applicable questions of law are identical across all Business Class Members, even though the effects of the COVID-19 Closure Order may be small to some members of the Class, and establishing whether Governor Wolf's actions were unconstitutional is complex, such that prosecution of individual actions is impractical and not economically feasible;
- (b) By contrast, the cumulative damages caused by the COVID-19 Closure Orders across all Members of the Business Class is substantial;
- (c) In the absence of the class action device, Schulmerich and Business Class Members would be left without a remedy for the wrongful acts alleged, and Defendants' allegedly unconstitutional actions would be left unchallenged;
- (d) The prosecution of separate lawsuits by individual members of the class would create the risk of inconsistent adjudications with respect to the individual class members, which would establish incompatible standards of conduct for Governor Wolf and Dr. Levine, making

concentration of the litigation concerning this matter in this Court desirable; and

- (e) No unusual difficulties are likely to be encountered in the management of this action as a class-action.

Frank, Wendy and Employee Class Members

87. Frank and Wendy bring this action on behalf of the all Employee Class Members pursuant to provisions of Federal Rules of Civil Procedure 23 (a), (b)(1), (b)(2) and/or (b)(3). Fed. R. Civ. P. 23(a), (b)(1)-(3).

88. Frank, Wendy and Employee Class Members are, as noted above, individual workers displaced from their gainful employment as a result of the Governor's COVID-19 Closure Orders.

89. The class consists of all displaced workers who satisfy each of the following criteria:

- (a) At the time when the COVID-19 Closure Orders became effective, they were employees of businesses (i) categorized as “non-life sustaining” and, thus, (b) instructed to shutdown by the COVID-19 Closure Orders; and
- (b) As a result of the mandated shutdown, they were subject to a layoff, furloughed, or suffered a reduction in work hours or overall compensation.

90. Excluded from the class are (i) any unemployed individual when the COVID-19 Closure Orders became effective, or (ii) any individual who worked for a business categorized as “life sustaining” according the list attached to the Governor's COVID-19 Closure Orders,

including all subsequent updates and revisions to the list, and thus authorized to continue operating at its Physical Location. Also excluded from the class are all directors, officers, employees, parents, affiliates and subsidiaries, their successors, agents, legal representatives, heirs and assigns, and any persons or entities controlled by any excluded individual, company or entity.

91. This class is so numerous that joinder of all members is impractical. The class is composed tens of thousands – and possibly millions – of individual workers across the Commonwealth of Pennsylvania.

92. As the named Plaintiffs, Frank and Wendy’s claims are typical of the claims of the Employee Class. All of the claims are based on the same factual and legal theories.

93. Frank and Wendy will fairly and adequately protect the interests of the class. They are committed to litigating this matter vigorously. Frank and Wendy have retained counsel experienced at handling constitutional claims against government actors, often involving questions of substantive and procedural due process and violations of the Takings Clause. Neither Frank, Wendy, nor their counsel, has any interest that might cause them not to pursue this action vigorously.

94. Class certification under Fed. R. Civ. P. 23(b)(1) is appropriate in this action because prosecuting separate actions by or against individual class members would create a risk of either:

- (a) Inconsistently or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for the party opposing class; or

- (b) Adjudications with respect to individual class members that, as a practical matter, would be dispositive of the interests of the other members not parties to the individual adjudications or would substantially impair or impede their ability to protect their interests.

95. Class certification under Fed. R. Civ. P. 23(b)(2) is appropriate in this action because Governor Wolf and Dr. Levine have acted on grounds that apply generally to the Employee Class – that is, *inter alia*, issuance of the COVID-19 Closure Orders – so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.

96. Class certification under Fed. R. Civ. P. 23(b)(3) is appropriate in this action because there are numerous questions of law and fact which are common to the Employee Class and which predominate over any questions affecting individual members of the Class, including, without limitation, the following:

- (a) Whether the COVID-19 Closure Orders violated the substantive due process rights of affected individual workers by arbitrarily, capriciously and irrationally interfering with, *inter alia*, the right to pursue any “lawful calling, business, or profession [Employee Class Members] may choose” in such a manner that would shock the conscience. *Lowe v. S.E.C.*, 472 U.S. 181, 228 (1985) (citing *Dent v. West Virginia*, 129 U.S. 114, 121-122 (1889)).

97. Indeed, the only individual question appears to be the amount of monetary damage suffered as a result of the COVID-19 Closure Orders – and thus, just compensation owed – which is attributable to each Employee Class Member.

98. Class certification under Fed. R. Civ. P. 23(b)(3) is also appropriate in this action because a class action is superior to other methods for the fair and efficient adjudication of this controversy, in that:

- (a) The critical facts and applicable questions of law are identical across all Employee Class Members, even though the effects of the COVID-19 Closure Order may be small to some members of the Class, and establishing whether Governor Wolf's actions were unconstitutional is complex, such that prosecution of individual actions is impractical and not economically feasible;
- (b) By contrast, the cumulative damages caused by the COVID-19 Closure Orders across all Members of the Employee Class is substantial;
- (c) In the class action device, Frank, Wendy and Employee Class Members would be left without a remedy for the wrongful acts alleged, and Defendants' allegedly unconstitutional actions would be left unchallenged;
- (d) The prosecution of separate lawsuits by individual members of the class would create the risk of inconsistent adjudications with respect to the individual class members, which would establish incompatible standards of conduct for Governor Wolf and Dr. Levine, making concentration of the litigation concerning this matter in this Court desirable; and

- (e) No unusual difficulties are likely to be encountered in the management of this action as a class action.

COUNT I

Schulmerich, and Similarly Situated Business Class Members

v.

Defendants

VIOLATION OF THE TAKINGS CLAUSE—42 U.S.C. §1983

COVID-19 Closure Orders Are an Unconstitutional Regulatory Taking of Schulmerich’s and Business Class Members’ Property Without Just Compensation in Violation of the Fifth Amendment’s Takings Clause As Incorporated under the Fourteenth Amendment

99. Plaintiffs hereby incorporate by reference the preceding paragraphs as though fully set forth herein.

100. The Takings Clause of the Fifth Amendment provides that private property shall not “be taken for public use, without just compensation.” U.S. CONST. AMEND. V.

101. The Takings Clause “is designed not to limit the governmental interference with property rights *per se*, but rather to secure *compensation* in the event of otherwise proper interference amounting to a taking.” *Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528, 536–37 (2005) (quoting *First English Evangelical Lutheran Church of Glendale v. County of Los Angeles*, 482 U.S. 304, 315 (1987) (emphasis in original)).

102. The Takings Clause bars government actors “from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.” *Armstrong v. United States*, 364 U.S. 40, 49 (1960).

103. Governor Wolf, in accordance with the advice of Dr. Levine, issued the COVID-19 Closure Orders as a means of slowing the spread of the novel coronavirus.

104. Governor Wolf and Dr. Levine have acted under color of state law, and the COVID-19 Closure Orders were issued to serve a well-recognized public purpose by a duly elected state official and his designee.

105. The COVID-19 Closure Orders adversely impacted Schulmerich and Business Class Members' use of their Tangible Property and Physical Locations to such an extent that, at least temporarily, the Orders entirely diminished the economically beneficial use of those Properties.

106. During the indefinite period of shutdown, the Orders prohibited *all* economically beneficial and profitable uses of Schulmerich's Tangible Property and Physical Location and that of other Business Class Members; save bare ownership, the entire bundle of property rights was extinguished.

107. Schulmerich and Business Class Members were not permitted to use their Tangible Property or Physical Locations in any fashion to run their businesses; instead, the COVID-19 Closure Orders required Physical Locations housing "non-life sustaining" businesses to remain idle.

108. As a practical matter, the Orders prevented the affected Physical Locations from being leased, subleased, bought, sold or used for other purposes. The Orders also effectively prevented the hiring of workers to use the Tangible Property belonging to Schulmerich and Business Class Members or to assemble and ship goods built from their inventories. Accordingly, the COVID-19 Closure Orders interfered with the ordinary investment expectations of Schulmerich and Business Class Members as property holders.

109. The Supreme Court "recognized that government regulation of private property may, in some instances, be so onerous that its effect is tantamount to a direct appropriation or ouster—and that such 'regulatory takings' may be compensable under the Fifth Amendment." *Lingle*, 544 U.S. at 537

110. “The general rule at least is that while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking.” *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 415–16 (1922).

111. Governor Wolf’s COVID-19 Closure Orders “goes too far” and must “be recognized as a taking.” *See id.*

112. Otherwise, without just compensation guaranteed by the Takings Clause, Schulmerich and all Business Class Members similarly situated will be privately saddled with the cost of paying for government action undertaken for the common good.

113. Schulmerich and Business Class Members have suffered a complete loss of “all economically beneficial uses” of their Property while the COVID-19 Closure Orders remain in effect. This complete loss constitutes a categorical taking, whether it be Schulmerich and Business Class Members’ inability to operate their businesses at their Physical Locations or their inability to exercise any of their other property rights with regard to their Tangible Property. *See Lucas v. S.C. Coastal Council*, 505 U.S. 1003, 1019 (1992).

114. Schulmerich and all Business Class Members who are similarly situated, “h[ave] been called upon to sacrifice all economically beneficial uses [for their Properties] in the name of the common good, that is, to leave [their] propert[ies] economically idle, [they] h[ave] suffered a taking.” *Lucas*, 505 U.S. at 1019.

115. In the alternative, under the framework articulated by the Supreme Court in *Penn Central*, the COVID-19 Closure Orders constitute a taking based upon “the magnitude of [the Orders’] economic impact and the degree to which [the Orders] interfere[] with legitimate property interests.” *Lingle*, 544 U.S. 528 at 540.

116. The Supreme Court’s analysis in *Penn Central* sets forth the framework for assessing whether government action is considered a regulatory taking, identifying “several factors that have particular significance.” *Penn Central Transp. Co. v. New York City*, 438 U.S. 104, 124 (1978).

On the other hand, if the regulation “fall[s] short of eliminating all economically beneficial use, a taking nonetheless may have occurred,” *Palazzolo v. Rhode Island*, 533 U.S. [606] at 617, 121 S.Ct. 2448[, 150 L.Ed.2d 592 (2001)], and **the court looks to three factors to guide its inquiry: (1) “[t]he economic impact of the regulation on the claimant,” (2) “the extent to which the regulation has interfered with distinct investment-backed expectations,” and (3) “the character of the governmental action,”** *Penn Cent.*, 438 U.S. at 124, 98 S.Ct. 2646. While these factors provide “important guideposts,” “[t]he Takings Clause requires careful examination and weighing of all the relevant circumstances.” *Palazzolo*, 533 U.S. at 634, 636, 121 S.Ct. 2448 (O'Connor, J., concurring); *see also Tahoe-Sierra*, 535 U.S. at 321, 122 S.Ct. 1465 (whether a taking has occurred “depends upon the particular circumstances of the case”); *Yee v. City of Escondido*, 503 U.S. 519, 523, 112 S.Ct. 1522, 118 L.Ed.2d 153 (1992) (regulatory takings claims “entail[] complex factual assessments”).

Lost Tree Vill. Corp. v. United States, 115 Fed. Cl. 219, 228 (2014) (emphasis added).

117. Since the onset of Governor Wolf’s COVID-19 Closure Orders, Schulmerich and Business Class Members have not been permitted to use their Physical Locations to operate their businesses, nor have then been allowed to use their Tangible Property for any economically profitable use.

118. With less than 24 hours of notice, Governor Wolf ordered Schulmerich and Business Class Members to cease operations at their businesses. This is not nearly enough time to reconfigure an ordinary small business concern to allow for productive use of its assets when denied access to its Physical Location.

119. Schulmerich has ceased manufacturing operations at its Hatfield Facility since the Governor’s Orders classified it as a “non-life sustaining” business. The Governor’s Orders

required all other Members of the Business Class to do the same at their respective Physical Locations.

120. Schulmerich has made efforts to maintain minimal contact with its customers and employees through practices like telecommuting – the only operations permissible for “non-life sustaining” businesses under the Orders.

121. Schulmerich, like all Business Class Members similarly situated, has sat almost entirely idle at the Governor’s direction.

122. The Governors’ COVID-19 Closure Orders “will remain in effect until further notice[,]” and, as a result, Schulmerich – and all Business Class Members similarly situated – are deprived of the value of their Tangible Property and Physical Locations while the Orders are in effect. The Physical Locations of Schulmerich and of other Business Class Members are not usable for any purpose, nor can these affected Physical Locations currently be bought, sold or leased, nor can Schulmerich’s and Business Class Members’ Tangible Property be used to generate income while the Orders are in effect.

123. The COVID-19 Closure Orders have either entirely drained Schulmerich and Business Class Members’ Property of all economic value during their pendency, or have nearly done so; in either event, the diminution of value and government interference caused by these Orders is an unconstitutional taking without just compensation.

COUNT II

Schulmerich, and Similarly Situated Business Class Members

v.

Defendants

SUBSTANTIVE DUE PROCESS—42 U.S.C. §1983

COVID-19 Closure Orders Deprives Schulmerich and Business Class Members of Life, Liberty and/or Property without Due Process of Law in Violation of the Fourteenth Amendment

124. Plaintiffs hereby incorporate by reference the preceding paragraphs as though fully set forth herein.

125. Never in the modern history of the United States – even in war time – has such a large swath of the Pennsylvania economy been idled for so long by a government order.

126. Schulmerich and Business Class Members have a protected liberty interest in their right to live without arbitrary governmental interference, and a protected fundamental property right to use and enjoy land in which they hold a recognized interest (such as fee simple, or as a leasehold). *See MFS, Inc. v. DiLazaro*, 771 F. Supp. 2d 382, 440–41 (E.D. Pa. 2011) (*citing DeBlasio v. Zoning Bd. of Adjustment for Twp. of W. Amwell*, 53 F.3d 592, 600 (3d Cir.1995)); *see also Horne*, 576 U.S. 350, 135 S. Ct. at 2426.

127. The Supreme Court “ha[s] emphasized time and again that “[t]he touchstone of due process is protection of the individual against arbitrary action of government[.]” *Cty. of Sacramento v. Lewis*, 523 U.S. 833, 845 (1998) (quoting *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974)).

128. “[T]he fault [may] lie[] in a denial of fundamental procedural fairness ... or in the exercise of power without any reasonable justification in the service of a legitimate governmental objective[.]” *Id.* at 845-846 (citations omitted).

129. “[S]ubstantive due process’ prevents the government from engaging in conduct that ‘shocks the conscience,’ ... or interferes with rights ‘implicit in the concept of ordered liberty[.]’” *United States v. Salerno*, 481 U.S. 739, 746 (1987) (quoting *Rochin v. California*, 342 U.S. 165, 172 (1952), and *Palko v. Connecticut*, 302 U.S. 319, 325–326 (1937)).

130. “[T]he substantive component of the Due Process Clause is violated by executive action only when it can properly be characterized as arbitrary, or conscience shocking, in a constitutional sense.” *Lewis*, 523 U.S. at 847 (quotations omitted).

131. The COVID-19 Closure Orders enacted by Governor Wolf, upon the advice of Dr. Levine, as set forth above, constitute arbitrary, capricious, irrational and abusive conduct which unlawfully interferes with Schulmerich and Business Class Members’ liberty and property interests protected by the due process clause of the Fourteenth Amendment to the United States Constitution.

132. Defendants have acted under color of state law with the intent to unlawfully deprive the Schulmerich and Business Class Members of their liberty and property without substantive due process in violation of the Fourteenth Amendment to the United States Constitution.

133. Defendants’ actions, including issuance and enforcement of the COVID-19 Closure Orders, constitute the official policy, custom, and practices of the Commonwealth of Pennsylvania.

134. The COVID-19 Closure Orders “impinge[] upon [Schulmerich’s] use and enjoyment of [its] property [in Hatfield]” and separately impinges upon the use of its Tangible Property. *See DeBlasio*, 53 F.3d at 601. The same is true of the other Business Class Members with regard to their Physical Locations and Tangible Property. Therefore, Governor Wolf and

Dr. Levine have violated Schulmerich and other Business Class Members’ substantive due process rights. *See also Nashville, C. & St. L. Ry. v. Walters*, 294 U.S. 405, 415 (1935) (concluding that state’s police power was “subject to the constitutional limitation that it may not be exerted arbitrarily or unreasonably,” and that such was requiring a railroad to bear the expense associated with construction of a public road and moving train tracks accordingly).

135. Governor Wolf and Dr. Levine have arbitrarily, irrationally and capriciously “impinge[d] upon [Schulmerich’s] use and enjoyment of [its] property [in Hatfield]” by, *inter alia*, requiring Schulmerich – and the other Business Class Members – to shutdown indefinitely and to privately bear the burden for such publicly beneficial decisions, which are aimed at slowing the spread of the novel coronavirus. *See DeBlasio*, 53 F.3d at 601.

136. Governor Wolf and Dr. Levine implemented the COVID-19 Closure Orders for the purpose of preserving public health, safety and welfare. The implementation of these Orders, however, caused Schulmerich, its employees and those similarly situated substantial economic harm which they are being asked to privately bear for a manifest public benefit. This is also the case for the other Business Class Members and their corresponding Employee Class Members.

137. The Governor’s behavior “‘shocks the conscience’ and violates the ‘decencies of civilized conduct.’” *See Lewis*, 523 U.S. 833, 846–47 (citations omitted). “[I]t d[oes] not comport with traditional ideas of fair play and decency” and therefore violates substantive due process. *Breithaupt v. Abram*, 352 U.S. 432, 435 (1957).

138. Defendants’ intentional, willful and wanton conduct ‘shocks the conscience’ of all citizens, who fear unchecked government intrusion for arbitrary and capricious ends – even if such ends are not ill intentioned.

139. In depriving Schulmerich and other Business Class Members of their liberty and property interests without due process of law, the Defendants have acted intentionally, willfully, wantonly, and with callous and reckless disregard for Plaintiffs' constitutional rights.

140. As a direct and proximate result of the COVID-19 Closure Orders, Schulmerich and other Business Class Members have and will continue to sustain monetary damages including loss in the value of the Tangible Property and Physical Locations, lost revenues, profits, expenses, attorneys' fees, and other costs incurred.

COUNT III

Carballo, Helverson and Similarly Situated Employee Class Members

v.

Defendants

SUBSTANTIVE DUE PROCESS—42 U.S.C. §1983

COVID-19 Closure Order Deprives Frank, Wendy and Employee Class Members of Life, Liberty and/or Property without Due Process of Law in Violation of the Fourteenth Amendment

141. Plaintiffs hereby incorporate by reference the preceding paragraphs as though fully set forth herein.

142. Never in the modern history of the United States – even in war time – has such a large number of Pennsylvanians been ordered not to work for so long by a government order.

143. Frank, Wendy and other Employee Class Members have a protected liberty interest in their right to pursue any “lawful calling, business, or profession [they] may choose” free from arbitrary government interference and deprivation. *Lowe v. S.E.C.*, 472 U.S. 181, 228 (1985) (citing *Dent v. West Virginia*, 129 U.S. 114, 121-122 (1889)).

144. The COVID-19 Closure Orders instructed all “non-life sustaining” businesses in Pennsylvania to shutdown indefinitely, without providing a mechanism to alleviate the economic harm to countless Employee Class Members – like Frank and Wendy – who were displaced as a result.

145. “[S]ubstantive due process’ prevents the government from engaging in conduct that ‘shocks the conscience,’ ... or interferes with rights ‘implicit in the concept of ordered liberty[.]’” *Salerno*, 481 U.S. at 746 (quoting *Rochin*, 342 U.S. at 172, and *Palko*, 302 U.S. at 325–326).

146. The COVID-19 Closure Orders, therefore, violate Due Process by “interfere[ing] with rights ‘implicit in the concept of ordered liberty[.]’” *Id.*

147. Governor Wolf’s Orders interfere with the rights of Frank, Wendy and all those workers similarly situated who are Employee Class Members by arbitrarily forcing these individuals to shoulder the financial burden for Executive Orders aimed at benefiting the public across the entire Commonwealth.

148. The forced shutdown of all “non-life sustaining” businesses caused Frank and Wendy to lose their jobs, their livelihood, and their reputations in the community. The same is true of other Employee Class Members.

149. The Governor’s COVID-19 Closure Orders, not only deprived Frank and Wendy of their profession – their ability to earn a living – the Orders simultaneously demanded that these workers subsidize the public health, safety and welfare of the Commonwealth. The same is true of other Employee Class Members.

150. The Due Process Clause of the Fourteenth Amendment prohibits Governor Wolf and Dr. Levine from demanding this hefty cost be paid by Frank, Wendy and other Employee Class Members; it is intended to protect individuals from this manner of arbitrary and irrational government interference.

151. “[T]he substantive component of the Due Process Clause is violated by executive action only when it can properly be characterized as arbitrary, or conscience shocking, in a constitutional sense.” *Lewis*, 523 U.S. at 847 (quotations omitted).

152. This interference by the COVID-19 Closure Orders “‘shocks the conscience’ and violates the ‘decencies of civilized conduct.’” *See Lewis*, 523 U.S. 833, 846–47 (citations omitted).

153. Allowing workers like Wendy, Frank and other Employee Class Members to personally bear the cost of Governor Wolf’s COVID-19 Closure Orders “d[oes] not comport with traditional ideas of fair play and decency” and therefore violates substantive due process. *Breithaupt*, 352 U.S. at 435.

154. Defendants’ intentional, willful and wanton conduct ‘shocks the conscience’ of all citizens, who fear unchecked government intrusion for arbitrary and capricious ends – even if such ends are not ill intentioned.

155. In depriving the workers like Wendy, Frank and other Employee Class Members of their protected liberty interests without due process of law, the Defendants have acted intentionally, willfully, wantonly, and with callous and reckless disregard for the constitutional rights Employee Class Members.

156. As a direct and proximate result of the COVID-19 Closure Orders, Frank, Wendy and other Employee Class Members have and shall continue to sustain monetary damages including loss in the value of their livelihoods, attorneys’ fees, and other costs incurred.

COUNT IV

Schulmerich, and Similarly Situated Business Class Members

v.

Defendants

PROCEDURAL DUE PROCESS—42 U.S.C. §1983

COVID-19 Closure Order Deprives Schulmerich and Business Class Members of Life, Liberty and/or Property without Due Process of Law in Violation of the Fourteenth Amendment

157. Plaintiffs hereby incorporate by reference the preceding paragraphs as though fully set forth herein.

158. Schulmerich and Business Class Members have a protected fundamental property right to use and enjoy land in which they hold a recognized interest (such as fee simple, or as a leasehold). *See MFS*, 771 F. Supp. 2d at 440–41 (*citing DeBlasio*, 53 F.3d at 600); *see also Horne*, 576 U.S. 350, 135 S. Ct. at 2426.

159. Under the Fourteenth Amendment, government actors must provide adequate due process procedures before or after divesting citizens of fundamental rights, which includes the property rights linked to the Physical Locations of Schulmerich and Business Class Members. *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 432-33 (1982); *Vitek v. Jones*, 445 U.S. 480, 495-96 (1980); *Tillman v. Lebanon County Correctional Facility*, 221 F.3d 410, 421 (3rd Cir. 2000).

160. A claim involving procedural due process is evaluated by weighing “the private interest affected by the governmental action and the value of additional procedural safeguards” against “the fiscal and administrative burdens that additional procedures would impose on the government.” *Rogin v. Bensalem Township*, 616 F.2d 680, 694 (3rd Cir. 1980).

161. In conducting this procedural due process evaluation, this court should consider whether the following have been provided Schulmerich and other Business Class Members: (1) notice; (2) a neutral arbiter; (3) an opportunity to make an oral presentation; (4) a means of presenting evidence; (5) an opportunity to cross-examine witnesses and respond to evidence; (6) the right to representation by counsel; and (7) a decision based on the record complete with reasoning for the result. *Id.*

162. The exigent nature of the circumstances surrounding the COVID-19 pandemic likely justify the need for quick action; however, the current exigencies do not allow Governor Wolf and Dr. Levine to permanently disregard the guaranteed safeguards of Due Process – especially when the fundament property rights of Business Class Members are at stake.

163. The COVID-19 Closure Orders do not provide *any* procedural Due Process protections for Schulmerich and other Business Class Members who have been forced to standby as they have been divested of their Tangible Property and Physical Locations.

164. The Governor has not created a meaningful mechanism to challenge his determinations as to whether a particular business ought to be permitted to operate their Physical Location – not prior to the deprivation, nor after (or during) the deprivation.

165. Instead, Governor Wolf has authorized Schulmerich and Members of the Business Class to request an exemption to his Closure Orders through a waiver form submitted online to the Pennsylvania Department of Community Development via electronic mail.

166. This mechanism is a wholly inadequate and does not satisfy the *Rogin* Due Process factors, especially the process required for deprivations of a fundamental right.

167. Governor Wolf has not delineated any standards or criterion by which waiver requests will be evaluated.

168. The waiver procedures provide no record of the materials submitted or used to evaluate the request for a waiver; once the waiver has been submitted online, no proof exists that the request was made.

169. Furthermore, Governor Wolf offers no mechanism to appeal a denial of a waiver request. After Business Class Members receive a denial, they are left with no recourse. The taking of their Physical Location and Tangible Property remains in effect until Governor Wolf lifts the Closure Orders, and no other accountability exists.

170. These lack of procedural safeguards – at any point – as it relates to the Property targeted by the COVID-19 Closure Orders deprives Schulmerich and all Business Class Members, who are similarly, of their fundamental property rights, without due process of law, based solely on the unappealable determination of Governor Wolf and Dr. Levine.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs demand judgment in their favor, against Defendants jointly and severally, and seek relief for:

(1) Compensatory damages adequate to satisfy Schulmerich and Business Class Members in the amount owed as just compensation for the regulatory taking of their Physical Location and Tangible Property;

(2) Compensatory damages adequate to satisfy Frank, Wendy and Employee Class Members in the amount owed for Defendants' violations of the Due Process Clause of the Fourteenth Amendment;

(3) Compensatory damages adequate to satisfy Schulmerich and Business Class Members in the amount owed for Defendants' violations of the Due Process Clause of the Fourteenth Amendment;

(4) Punitive damages;

(5) A declaratory judgment that issuance and enforcement of the COVID-19 Closure Orders is an unconstitutional taking without just compensation, under the Fifth and Fourteenth Amendment;

(6) A permanent injunction to prohibit Defendants from enforcing the COVID-19 Closure Orders unless, and until, a mechanism is established to provide (a) just compensation for affected businesses and (b) appellate review of Governor Wolf's classifications determining whether individual businesses are "life sustaining";

(7) An award of costs and expenses, including reasonable attorneys' fees under 42 U.S.C. § 1988; and

(8) Such other and further relief as this Court deems appropriate.

GOLDSTEIN LAW PARTNERS, LLC

By: /s/

Jonathan S. Goldstein, Esquire (201627)

Shawn M. Rodgers, Esquire (307598)

11 Church Road

Hatfield, PA 19440

Phone: 610.949.0444

Fax: 610.296.7730

Email: jgoldstein@goldsteinlp.com

Email: srodgers@goldsteinlp.com

Counsel for Plaintiffs

JURY DEMAND

Plaintiffs demand a jury trial on all counts contained in the Complaint.

GOLDSTEIN LAW PARTNERS, LLC

By: /s/

Jonathan S. Goldstein, Esquire (201627)

Shawn M. Rodgers, Esquire (307598)

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Email: srodgers@goldsteinlp.com

Counsel for Plaintiffs

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Schulmerich Bells, LLC; Frank Carballo;
and Wendy Helverson

(b) County of Residence of First Listed Plaintiff Bucks County

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Jonathan S. Goldstein; Shawn M. Rodgers; Goldstein Law Partners,
LLC; 11 Church Road, Suite 1A; Hatfield, PA 19440; 610.949.0444;
jgoldstein@goldsteinlp.com; srodgers@goldsteinlp.com

DEFENDANTS

THOMAS W. WOLF, in his official capacity as Governor of the
Commonwealth of Pennsylvania; RACHEL LEVINE, MD, in her official
capacity as Secretary of the Pennsylvania Department of Health
Dauphin

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Address: 508 Main Capitol Building; Harrisburg, PA 17120
Office of Attorney General; Litigation Section; 15th Floor,
Strawbery Square; Harrisburg, PA 17120

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. §§ 1983 and 1988, 28 U.S.C. §§ 2201-2202, and U.S. CONST. AMEND. V, XIV

Brief description of cause:

Claim that Governor's Orders violated Takings Clause and Due Process Clause of U.S. Constitution.

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
Unspecified / Unknown

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE
March 26, 2020

SIGNATURE OF ATTORNEY OF RECORD
/s/Shawn M. Rodgers

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket. **PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.



ORDER OF

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

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

WHEREAS, as of March 6, 2020, I proclaimed the existence of a disaster emergency throughout the Commonwealth pursuant to 35 Pa. C.S. § 7301(c); and

WHEREAS, I am charged with the responsibility to address dangers facing the Commonwealth of Pennsylvania that result from disasters. 35 Pa. C.S. § 7301(a); and

WHEREAS, in addition to general powers, during a disaster emergency I am authorized specifically to control ingress and egress to and from a disaster area and the movement of persons within it and the occupancy of premises therein; and suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, and combustibles. 35 Pa. C.S. § 7301(f); and

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

WHEREAS, in addition to my authority, my Secretary of Health has the authority to determine and employ the most efficient and practical means for the prevention and suppression of disease. 71 P.S. § 532(a), 71 P.S. 1403(a); and

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

NOW THEREFORE, pursuant to the authority vested in me and my Administration by the laws of the Commonwealth of Pennsylvania, I do hereby ORDER and PROCLAIM as follows:

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

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

No person or entity shall operate a place of business in the Commonwealth that is not a life sustaining business regardless of whether the business is open to members of the public. This prohibition does not apply to virtual or telework operations (e.g., work from home), so long as social distancing and other mitigation measures are followed in such operations.

Life sustaining businesses may remain open, but they must follow, at a minimum, the social distancing practices and other mitigation measures defined by the Centers for Disease Control to protect workers and patrons. A list of life sustaining businesses that may remain open is attached to and incorporated into this Order.

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

Section 2: Prohibition on Dine-In Facilities including Restaurants and Bars

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

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

Section 3: Effective Date and Duration

This order is effective immediately and will remain in effect until further notice.



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

Tom Wolf
TOM WOLF
Governor

Industry	Sector	Subsector	Industry Group	May Continue Physical Operations	Notes
Natural Resources and Mining	Agriculture, Forestry, Fishing, and Hunting	Crop Production	Oilseed and Grain Farming	Yes	
			Vegetable and Melon Farming	Yes	
			Fruit and Tree Nut Farming	Yes	
			Greenhouse, Nursery, and Floriculture Production	Yes	
			Other Crop Farming	Yes	
		Animal Production	Cattle Ranching and Farming	Yes	
			Hog and Pig Farming	Yes	
			Poultry and Egg Production	Yes	
			Sheep and Goat Farming	Yes	
			Animal Aquaculture	Yes	
			Other Animal Production	Yes	
		Forestry and Logging	Timber Tract Operations	Yes	
			Forest Nurseries and Local Gathering of Forest Products	Yes	
			Logging	Yes	
		Fishing, Hunting, and Trapping	Fishing	Yes	
			Hunting and Trapping	Yes	
		Support Activites for Agriculture & Forestry	Support Activities for Crop Production	Yes	
			Support Activities for Animal Production	Yes	
			Support Activities for Forestry	Yes	
	Mining, Quarrying, and Oil and Gas Extraction	Oil and Gas Extraction		Yes	
		Mining	Coal Mining	Yes	
			Metal Ore Mining	Yes	
			Nonmetallic Mineral Mining and Quarrying	Yes	
		Support Activites for Mining		Yes	
Construction	Construction	Construction of Buildings	Residential Building Construction	No	Except emergency repairs permitted
			Nonresidential Building Construction	No	Except emergency repairs and construction of health care facilities permitted
		Heavy and Civil Engineering Construction	Utility Subsystem Construction	No	Except emergency repairs permitted
			Land Subdivision	No	
			Highway, Street, and Bridge Construction	No	Except emergency repairs permitted
			Other Heavy and Civil Engineering Construction	No	Except emergency repairs permitted
		Specialty Trade Contractors	Foundation, Structure, and Building Exterior Contractors	No	Except emergency repairs permitted
			Building Equipment Contractors	No	Except emergency repairs permitted
			Building Finishing Contractors	No	Except emergency repairs permitted
			Other Specialty Trade Contractors	No	Except emergency repairs permitted
Manufacturing	Manufacturing	Food Manufacturing	Animal Food Manufacturing	Yes	
			Grain and Oilseed Milling	Yes	
			Sugar and Confectionery Product Manufacturing	Yes	
			Fruit and Vegetable Preserving and Specialty Food Manufacturing	Yes	
			Dairy Product Manufacturing	Yes	
			Animal Slaughtering and Processing	Yes	
			Seafood Product Preparation and Packaging	Yes	
			Bakeries and Tortilla Manufacturing	Yes	
		Beverage and Tobacco Product Manufacturing	Other Food Manufacturing	Yes	
			Beverage Manufacturing	Yes	
		Textile Mills	Tobacco Manufacturing	No	
			Fiber, Yarn, and Thread Mills	No	
			Fabric Mills	No	
		Textile Product Mills	Textile and Fabric Finishing and Fabric Coating Mills	No	
			Textile Furnishing Mills	No	
		Apparel Manufacturing	Other Textile Product Mills	No	
			Apparel Knitting Mills	No	
			Cut and Sew Apparel Manufacturing	No	
		Leather & Allied Product Manufacturing	Apparel Accessories and Other Apparel Manufacturing	No	
			Leather and Hide Tanning and Finishing	No	
			Footwear Manufacturing	No	
		Wood Product Manufacturing	Other Leather and Allied Product Manufacturing	No	
			Sawmills and Wood Preservation	Yes	
			Veneer, Plywood, and Engineered Wood Product Manufacturing	Yes	
		Paper Manufacturing	Other Wood Product Manufacturing	Yes	
			Pulp, Paper, and Paperboard Mills	Yes	
		Chemical Manufacturing	Converted Paper Product Manufacturing	Yes	
			Printing & Related Support Activities	Yes	
			Petroleum & Coal Products Manufacturing	Yes	
			Basic Chemical Manufacturing	Yes	
			Resin, Synthetic Rubber, and Artificial Synthetic Fibers and Filaments Manufacturing	Yes	
			Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing	Yes	
			Pharmaceutical and Medicine Manufacturing	Yes	
			Paint, Coating, and Adhesive Manufacturing	No	
			Soap, Cleaning Compound, and Toilet Preparation Manufacturing	Yes	
			Other Chemical Product and Preparation Manufacturing	Yes	

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

Industry	Sector	Subsector	Industry Group	May Continue Physical Operations	Notes
Trade, Transportation, & Utilities	Wholesale Trade	Merchant Wholesalers, Durable Goods	Motor Vehicle and Motor Vehicle Parts and Supplies Merchant Wholesalers	Yes	
			Furniture and Home Furnishing Merchant Wholesalers	No	
			Lumber and Other Construction Materials Merchant Wholesalers	Yes	
			Professional and Commercial Equipment and Supplies Merchant Wholesalers	Yes	
			Metal and Mineral (except Petroleum) Merchant Wholesalers	Yes	
			Electrical and Electronic Goods Merchant Wholesalers	Yes	
			Hardware, and Plumbing and Heating Equipment and Supplies Merchant Wholesalers	Yes	
			Machinery, Equipment, and Supplies Merchant Wholesalers	Yes	
		Merchant Wholesalers, Nondurable Goods	Miscellaneous Durable Goods Merchant Wholesalers	Yes	
			Paper and Product Merchant Whoelsalers	Yes	
			Drugs and Druggists' Sundries Merchant Wholesalers	Yes	
			Apparel, Piece Goods, and Notions Merchant Wholesalers	No	
			Grocery and Related Product Wholesalers	Yes	
			Farm Product Raw Material Merchant Wholesalers	Yes	
			Chemical and Allied Products Merchant Wholesalers	Yes	
			Petroleum and Petroleum Products Merchant Wholesalers	Yes	
			Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers	Yes	
			Miscellaneous Nondurable Goods Merchant Wholesalers	No	
		Wholesale Electronic Markets and Agents & Brokers		No	
	Retail Trade	Motor Vehicle & Parts Dealers	Automobile Dealers	No	
			Other Motor Vehicle Dealers	No	
			Automotive Parts, Accessories, and Tire Stores	Yes	
		Furniture & Home Furnishing Stores	Furniture Stores	No	
			Home Furnishings Stores	No	
		Electronics & Appliance Stores		No	
		Building Material, Garden Equipment, & Supplies Dealers	Building Material and Supplies Dealers	Yes	
			Lawn and Garden Equipment and Supplies Stores	No	
		Food & Beverage Stores	Grocery Stores	Yes	
			Specialty Food Stores	Yes	
			Beer, Wine, and Liquor Stores	No	Except beer distributors permitted
		Health & Personal Care Stores		No	Except pharmacies permitted
		Gasoline Stations		Yes	
		Clothing & Clothing Accessories Stores	Clothing Stores	No	Except uniforms and accessories/supplies for public safety and health care professionals
			Shoe Stores	No	
			Jewelry, Luggage, and Leather Goods Stores	No	
		Sporting Goods, Hobby, Book, & Music Stores	Sporting Goods, Hobby, and Musical Instrument Stores	No	Except that firearms dealers may operate physical businesses on a limited basis to complete only the portions of a sale/transfer that must be conducted in-person under the law, subject to the following restrictions: 1) all such sale/transfers will be conducted by individual appointment during limited hours only so as to minimize social interactions and congregating of persons; 2) the dealer will comply with social distancing, sanitization of applicable area between appointments, and other mitigation measures to protect its employees and the public.
			Book, Periodical, and Music Stores	No	
		General Merchandise Stores	Department Stores	No	
			Other General Merchandise Stores	Yes	
		Miscellaneous Store Retailers	Florists	No	
			Office Supplies, Stationery, and Gift Stores	No	
			Used Merchandise Stores	No	
			Other Miscellaneous Store Retailers	No	Except pet supplies stores permitted
		Nonstore Retailers	Electronic Shopping and Mail-Order Houses	Yes	
			Vending Machine Operators	No	
			Direct Selling Establishments	No	Except fuel sellers and bottled water sellers permitted
	Transportation and Warehousing	Air Transportation	Scheduled Air Transportation	Yes	
			Nonscheduled Air Transportation	Yes	
		Rail Transportation		Yes	
		Water Transportation	Deep Sea, Coastal, and Great Lakes Water Transportation	Yes	
			Inland Water Transportation	Yes	
		Truck Transportation	General Freight Trucking	Yes	
			Specialized Freight Trucking	Yes	
		Transit and Ground Passenger Transportation	Urban Transit Systems	Yes	
			Interurban and Rural Bus Transportation	Yes	
			Taxi and Limousine Service	Yes	
			School and Employee Bus Transportation	Yes	
			Charter Bus Industry	No	
			Other Transit and Ground Passenger Transportation	Yes	
		Pipeline Transportation	Pipeline Transportation of Crude Oail	Yes	
			Pipeline Transportation of Natural Gas	Yes	
			Other Pipeline Transportation	Yes	
		Scenic and Sightseeing Transportation	Scenic and Sightseeing Transportation, Land	No	
			Scenic and Sightseeing Transportation, Water	No	
			Scenic and Sightseeing Transportation, Other	No	
		Support Activities for Transportation	Support Activities for Air Transportation	Yes	
			Support Activities for Rail Transportation	Yes	
			Support Activities for Water Transportation	Yes	
			Support Activites for Road Transportation	Yes	
			Freight Transportation Arrangement	Yes	
			Other Support Activities for Transportation	Yes	
		Postal Service		Yes	
		Couriers and Messengers	Couriers	Yes	
			Local Messengers and Local Delivery	Yes	
		Warehousing and Storage		Yes	
	Utilities	Utilities	Electric Power Generation, Transmission, and Distribution	Yes	
			Natural Gas Distribution	Yes	
			Water, Sewage and Other Systems	Yes	

Industry	Sector	Subsector	Industry Group	May Continue Physical Operations	Notes
Information	Information	Publishing Industries (except Internet)	Newspaper, Periodical, Book, and Directory Publishers	Yes	
			Software Publishers	No	
		Motion Picture and Sound Recording Industries	Motion Picture and Video Industries	No	
			Sound Recording Industries	No	
		Broadcasting (except Internet)	Radio and Television Broadcasting	Yes	
			Cable and Other Subscription Programming	Yes	
		Telecommunications	Wired Telecommunications Carriers	Yes	
			Wireless Telecommunications Carriers (except Satellite)	Yes	
			Telecommunications Resellers	Yes	Except retailers selling devices at physical locations not permitted
			Satellite Telecommunications	Yes	
			Cable and Other Program Distribution	Yes	
			Other Telecommunications	Yes	
		Data Processing, Hosting, and Related Services		Yes	
		Other Information Services		Yes	
Financial Activities	Finance and Insurance	Monetary Authorities - Central Bank		Yes	
		Credit Intermediation and Related Activities	Depository Credit Intermediation	Yes	This category includes consumer banks and credit unions using drive-through, ATM, and limited lobby services.
			Nondepository Credit Intermediation	Yes	
			Activities Related to Credit Intermediation	Yes	
		Securities, Commodity Contracts, and Other Financial Investments and Related Activities	Securities and Commodity Contracts Intermediation and Brokerage	No	Except for financial services under CISA advisory is permitted
			Securities and Commodity Exchanges	No	Except for financial services under CISA advisory is permitted
			Other Financial Investment Activities	No	Except for financial services under CISA advisory is permitted
		Insurance Carriers and Related Activities	Insurance Carriers	Yes	
			Agencies, Brokerages, and Other Insurance Related Activities	Yes	In-person sales/brokerage are prohibited.
		Funds, Trusts, and Other Financial Activities	Insurance and Employee Benefit Funds	Yes	
			Other Investment Pools and Funds	No	
	Real Estate and Rental and Leasing	Real Estate	Lessors of Real Estate	No	
			Offices of Real Estate Agents and Brokers	No	
			Activities Related to Real Estate	No	
		Rental and Leasing Services	Automotive Equipment Rental and Leasing	Yes	
			Consumer Goods Rental	Yes	
			General Rental Centers	Yes	
			Commercial and Industrial Machinery and Equipment Rental and Leasing	Yes	
			Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	No	
Professional and Business Services	Professional, Scientific, and Technical Services	Legal Services		No	Except as required to allow attorneys to participate in court functions deemed essential by a president judge per the Pennsylvania Supreme Court's order of March 18, 2020, or similar federal court directive, and lawyers may access their offices to effectuate such functions and directives.
		Accounting, Tax Preparation, Bookkeeping, and Payroll Services		Yes	
		Architectural, Engineering, and Related Services		No	
		Specialized Design Services		No	
		Computer Systems Design and Related Services		No	
		Management, Scientific, and Technical Consulting Services		No	
		Scientific Research and Development Services		Yes	
		Advertising and Related Services		No	
		Other Professional, Scientific, and Technical Services		No	
	Administration and Support and Waste Management and Remediation Services	Administrative and Support Services	Office Administrative Services	No	
			Facilities Support Services	Yes	
			Employment Services	No	
			Business Support Services	No	
			Travel Arrangement and Reservation Services	No	
			Investigation and Security Services	Yes	
			Services to Building and Dwellings	Yes	This category includes janitorial, pest control, and landscaping services.
			Other Support Services	No	
		Waste Management and Remediation Services	Waste Collection	Yes	
			Waste Treatment and Disposal	Yes	
			Remediation and Other Waste Management Services	Yes	
Education and Health Services	Educational Services	Elementary and Secondary Schools		No	Refer to Pennsylvania Department of Education guidance at education.pa.gov/COVID19
		Junior Colleges		No	Refer to Pennsylvania Department of Education guidance at education.pa.gov/COVID19
		Colleges, Universities, and Professional Schools		No	Refer to Pennsylvania Department of Education guidance at education.pa.gov/COVID19
		Business Schools and Computer and Management Training		No	Refer to Pennsylvania Department of Education guidance at education.pa.gov/COVID19
		Technical and Trade Schools		No	Refer to Pennsylvania Department of Education guidance at education.pa.gov/COVID19
		Other Schools and Instruction		No	Refer to Pennsylvania Department of Education guidance at education.pa.gov/COVID19
		Education Support Services		No	Refer to Pennsylvania Department of Education guidance at education.pa.gov/COVID19
	Ambulatory Health Care Services	Offices of Physicians	Offices of Physicians	Yes	Elective procedures prohibited
			Offices of Dentists	Yes	Elective procedures prohibited
			Offices of Other Health Practitioners	Yes	Elective procedures prohibited
			Outpatient Care Centers	Yes	Elective procedures prohibited
			Medical and Diagnostic Laboratories	Yes	Elective procedures prohibited
			Home Health Care Services	Yes	Elective procedures prohibited
			Other Ambulatory Health Care Services	Yes	Elective procedures prohibited
		General Medical and Surgical Hospitals	General Medical and Surgical Hospitals	Yes	Elective procedures prohibited
			Psychiatric and Substance Abuse Hospitals	Yes	Elective procedures prohibited

Industry	Sector	Subsector	Industry Group	May Continue Physical Operations	Notes
	Health Care and Social Assistance	Hospitals	Specialty (except Psychiatric and Substance Abuse) Hospitals	Yes	Elective procedures prohibited
				Yes	
		Nursing and Residential Care Facilities	Nursing Care Facilities	Yes	
			Residential Facilities for Individuals with an Intellectual Disability, Mental Health or Substance Abuse Treatment	Yes	
			Community Care Facilities for the Elderly	Yes	
			Other Residential Care Facilities	Yes	
		Social Assistance	Individual and Family Services	Yes	
			Community Food and Housing, and Emergency and Other Relief Services	Yes	
			Vocational Rehabilitation Services	Yes	
			Child Day Care Services	No	Refer to Stay at Home Guidance

Industry	Sector	Subsector	Industry Group	May Continue Physical Operations	Notes
Leisure and Hospitality	Arts, Entertainment, and Recreation	Performing Arts, Spectator Sports, and Related Industries	Performing Arts Companies	No	
			Spectator Sports	No	
			Promoters of Performing Arts, Sports, and Similar Events	No	
			Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures	No	
			Independent Artists, Writers, and Performers	No	
		Museums, Historical Sites, and Similar Institutions		No	
		Amusement, Gambling, and Recreation Industries	Amusement Parks and Arcades	No	
			Gambling Industries	No	
			Other Amusement and Recreation Industries	No	
	Accommodation and Food Services	Accommodation	Traveler Accommodation	Yes	This category includes hotels and motels.
			RV (Recreational Vehicle) Parks and Recreational Camps	Yes	Residential only permitted
			Rooming and Boarding Houses	Yes	
		Food Services and Drinking Places	Full-Service Restaurants	Yes	Takeout only permitted
			Limited-Service Eating Places	Yes	Takeout only permitted
			Special Food Services	No	
			Drinking Places (Alcoholic Beverages)	No	Takeout and delivery permitted
Other Services (Except Public Administration)	Other Services (except Public Administration)	Repair and Maintenance	Automotive Repair and Maintenance	Yes	
			Electronic and Precision Equipment Repair and Maintenance	Yes	
			Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance	Yes	
			Personal and Household Goods Repair and Maintenance	Yes	Including motorcycle and bicycle repair (but sales not permitted).
		Personal and Laundry Services	Personal Care Services	No	This category includes barbershops, nail salons, beauty salons, gyms (including yoga, barre and spin facilities).
			Death Care Services	Yes	
			Drycleaning and Laundry Services	Yes	
			Other Personal Services	No	
		Religious, Grantmaking, Civic, Professional, and Similar Organizations	Religious Organizations	Yes	
			Grantmaking and Giving Services	Yes	
			Social Advocacy Organizations	Yes	
			Civic and Social Organizations	No	
		Private Households	Business, Professional, Labor, Political, and Similar Organizations	No	
				Yes	



Order of the Secretary of the Pennsylvania Department of Health Regarding the Closure of All Businesses That Are Not Life Sustaining

To protect the public from the spread of Coronavirus (COVID-19), it is necessary that no person or entity shall operate a place of business that is not a life sustaining business regardless of whether the business is open to members of the public. Therefore, under the authority granted to me by law, I hereby order:

- 1) No person or entity shall operate a place of business that is not a life sustaining business regardless of whether the business is open to members of the public. This prohibition does not apply to virtual or telework operations (e.g., work from home). Life sustaining businesses may remain open, but they must employ social distancing practices and other mitigation measures defined by the Centers for Disease Control to protect their workers and patrons. A list of life sustaining businesses that may remain open is attached to and incorporated into this Order.

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

- 2) All restaurants and bars are ordered to close their dine-in facilities to help stop the spread of COVID-19. Businesses that offer carry-out, delivery, and drive-through food and beverage service may continue, so long as social distancing and other mitigation measures are employed to protect workers and patrons.

Enforcement actions will be taken against businesses that are out of compliance effective March 19, 2020, at 8 p.m.

COVID-19 is a contagious disease that is rapidly spreading from person-to-person. People infected are capable of exposing others to COVID-19 even if their symptoms are mild, such as a cough. Additionally, exposure is possible by touching a surface or object that has the virus on it and then touching one's mouth, nose, or eyes. Spread by persons who are asymptomatic has not been ruled out.

Multiple areas of the United States are experiencing "community spread" of COVID-19, which means that the illness is being transmitted through unknown sources, not from known areas of infection. Mass gatherings increase the risk of transmission and community spread. Case counts of COVID-19 are rapidly increasing in the urban areas of the Commonwealth and especially our eastern counties, and cases are beginning to appear in other counties suggesting that community spread is occurring.

Symptoms of COVID-19 may include fever, cough, and shortness of breath. Older adults and people who have serious chronic medical conditions are at a higher risk for serious illness. Early symptoms may also include chills, body aches, sore throat, headache, diarrhea, nausea/vomiting, and runny nose.

On March 6, 2020, the Governor issued a Proclamation of Disaster Emergency due to the emergence of COVID-19 in the United States and the Commonwealth of Pennsylvania. Since the Commonwealth of Pennsylvania confirmed its first case of COVID-19, positive cases have continued to rise. As of March 19, 2020, the Commonwealth of Pennsylvania has 185 positive cases.

Non-life sustaining businesses present the opportunity for unnecessary gatherings, personal contact and interaction that will increase the risk of transmission and the risk of community spread of COVID-19.

COVID-19 is a threat to the public's health, for which the Secretary of Health may order general control measures, including, but not limited to, closure, isolation, and quarantine. This authority is granted to the Secretary of Health pursuant to Pennsylvania law. *See* Section 5 of the Disease Prevention and Control Law, 35 P.S. §§ 521.1; 521.5, sections 2102(a) and 2106 of the Administrative Code of 1929, 71 P.S. § 532(a) and 536 and the Department of Health's (Department) regulations found at 28 Pa. Code §§ 27.60-27.68 (relating to disease control measures; isolation; quarantine; movement of persons subject to isolation or quarantine; and release from isolation and quarantine). Particularly, the Department has the authority to take any disease control measure appropriate to protect the public from the spread of infectious disease. *See* 35 P.S. §§ 521.5; 71 P.S. § 532(a), and 1402(a); 28 Pa. Code § 28.60. The Department determines that the appropriate disease control measure based upon COVID-19, the manner of its spread in the Commonwealth and in the world, and its danger to Pennsylvanians, is the closure of non-life sustaining businesses as outlined in this order to prevent and control the spread of disease.

Accordingly, the closure of non-life sustaining businesses is necessary to protect the public's health. This Order shall take effect immediately and remain in full force and effect until further notice.

A handwritten signature in black ink, appearing to read 'Q22 MD', is positioned above a horizontal line.

Rachel Levine, MD
Secretary of Health

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Schulmerich Bells, LLC, et al.	:	CIVIL ACTION
	:	
v.	:	
THOMAS W. WOLF, in his official capacity as	:	
Governor of the Commonwealth of Pennsylvania, et al.	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

March 26, 2020	Shawn M. Rodgers; Jonathan S. Goldstein	Schulmerich Bells, LLC, et al.
Date	Attorney-at-law	Attorney for
610.949.0444	610.296.7730	jgoldstein@goldsteinlp.com srodgers@goldsteinlp.com
Telephone	FAX Number	E-Mail Address

**Civil Justice Expense and Delay Reduction Plan
Section 1:03 - Assignment to a Management Track**

- (a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.
- (b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.
- (c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.
- (d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.
- (e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

**SPECIAL MANAGEMENT CASE ASSIGNMENTS
(See §1.02 (e) Management Track Definitions of the
Civil Justice Expense and Delay Reduction Plan)**

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: Schulmerich Bells, LLC, Wendy Helverson and Frank Carbalpo; 11 Church Road; Hatfield, PA 19440Address of Defendant: Governor Wolf and Secretary Levine; 508 Main Capitol Building; Harrisburg, PA 17120Place of Accident, Incident or Transaction: Hatfield, Bucks County, Pennsylvania**RELATED CASE, IF ANY:**

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|-----------------------------|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☐ is not related to any case now pending or within one year previously terminated action in this court except as noted above.DATE: _____ Must sign here _____
Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)**CIVIL: (Place a ✓ in one category only)****A. Federal Question Cases:**

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | 1. Indemnity Contract, Marine Contract, and All Other Contracts |
| <input type="checkbox"/> | 2. FELA |
| <input type="checkbox"/> | 3. Jones Act-Personal Injury |
| <input type="checkbox"/> | 4. Antitrust |
| <input type="checkbox"/> | 5. Patent |
| <input type="checkbox"/> | 6. Labor-Management Relations |
| <input checked="" type="checkbox"/> | 7. Civil Rights |
| <input type="checkbox"/> | 8. Habeas Corpus |
| <input type="checkbox"/> | 9. Securities Act(s) Cases |
| <input type="checkbox"/> | 10. Social Security Review Cases |
| <input type="checkbox"/> | 11. All other Federal Question Cases |
- (Please specify): Due Process Clause and Takings Clause under 5th and 4th Amendments

B. Diversity Jurisdiction Cases:

- | | |
|--------------------------|--|
| <input type="checkbox"/> | 1. Insurance Contract and Other Contracts |
| <input type="checkbox"/> | 2. Airplane Personal Injury |
| <input type="checkbox"/> | 3. Assault, Defamation |
| <input type="checkbox"/> | 4. Marine Personal Injury |
| <input type="checkbox"/> | 5. Motor Vehicle Personal Injury |
| <input type="checkbox"/> | 6. Other Personal Injury (Please specify): _____ |
| <input type="checkbox"/> | 7. Products Liability |
| <input type="checkbox"/> | 8. Products Liability – Asbestos |
| <input type="checkbox"/> | 9. All other Diversity Cases |
- (Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Shawn M. Rodgers, counsel of record or pro se plaintiff, do hereby certify:☐ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:☒ Relief other than monetary damages is sought.DATE: March 26, 2020 /s/ Shawn M. Rodgers 307598
Sign here if applicable Attorney I.D. # (if applicable)
Attorney-at-Law / Pro Se Plaintiff

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Claims Pennsylvania's Closure of Businesses in Response to COVID-19 Is Unconstitutional](#)
