

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

VILLAGE OF ORLAND PARK, an Illinois)	
home rule municipal corporation; TOM)	
MCMULLEN, as owner of THE BRASS TAP;)	
GREGORY BUBAN; and DR. JOE SOLEK,)	
)	
Plaintiffs,)	Case No. 20 C _____
)	
v.)	
)	
JAY ROBERT PRITZKER, Governor of the)	
State of Illinois, in his official capacity,)	
)	
Defendant.)	

**VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF AND DECLARATORY
JUDGMENT**

Plaintiffs, the VILLAGE OF ORLAND PARK (“Village”), an Illinois home rule municipal corporation; TOM MCMULLEN, as co-owner of THE BRASS TAP; GREGORY BUBAN; and DR. JOE SOLEK, by and through their attorneys, KLEIN, THORPE AND JENKINS, LTD., and for their Verified Complaint for Injunctive Relief and Declaratory Judgment against GOVERNOR JAY ROBERT PRITZKER (“Governor Pritzker”), in his official capacity, allege and state as follows:

Introduction

1. Over the last several months, the State of Illinois, along with the rest of the United States, has confronted the COVID-19 pandemic.
2. The pandemic has created an unprecedented emergency public health crisis that has left no one untouched and unaffected.
3. The State of Illinois, through Governor Pritzker, has attempted to stem the COVID-19 public health crisis with a series of proclamations and executive orders.

4. The exercise of authority, however well-intentioned, by the Governor, as the elected leader of the state in attempting to protect the public welfare, must be exercised within the confines of constitutional and statutory provisions established by citizens through their elected officials.

5. The plaintiffs in this matter seek judicial assistance to calibrate properly the exercise of authority by the executive branch, the legislature and municipalities to address the multiple challenges posed to the state and its citizens by COVID-19.

Parties

6. The Village is a home rule municipality located in Cook and Will Counties.

7. Tom McMullen, a resident of the State of Illinois, is the co-owner, with his wife, of The Brass Tap, a for-profit restaurant and pub located at 14225 95th Ave. #400, in the Village.

8. Plaintiff Gregory Buban (“Buban”) is a Village resident who lives at 8958 Barleycorn Court, Orland Park, Illinois 60462.

9. Plaintiff, Dr. Joe Solek (“Solek”) is a Village resident who lives at 9722 154th Street, Orland Park, Illinois 60462.

10. Defendant, Jay Robert Pritzker, is the governor of the State of Illinois.

Venue

11. The Village and the individual plaintiffs are residents in the area encompassed by the United States District Court for the Northern District of Illinois, Eastern Division. Many of the acts and omissions and the effects of the acts and omissions giving rise to this case occurred within the area encompassed by the United States District Court for the Northern District of Illinois, Eastern Division. Therefore, venue is proper in the United States District Court for the Northern District of Illinois, Eastern Division, pursuant to 28 U.S.C. § 1391.

Jurisdiction

12. This Court has jurisdiction over the federal claims alleged herein under 28 U.S.C. § 1331.

13. This Court has jurisdiction over the claims alleging violations of Illinois Constitution and Illinois statutes under its supplemental jurisdiction under 28 U.S.C. § 1367(a).

14. This Court has authority to grant the requested injunctive relief under 28 U.S.C. § 1343(3), the requested declaratory relief under 28 U.S.C. §§ 2201 and 2202, the claim for damages under 42 U.S.C. § 1983 and to grant costs, including reasonable attorneys' fees under 42 U.S.C. § 1988 and 28 U.S.C. § 1920.

Facts

A. Constitutional Provisions

15. The Fourteenth Amendment to the United States Constitution provides, in pertinent part, that “nor shall any state deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

16. Article I, § 2 of the 1970 Constitution of the State of Illinois provides, in pertinent part, that “No person shall be deprived of life, liberty or property without due process of law.”

17. Article II, § 1 of the 1970 Constitution of the State of Illinois provides that, “the legislative, executive and judicial branches are separate. No branch shall exercise powers properly belonging to another.”

18. Article V, § 11 of the 1970 Constitution of the State of Illinois provides, in pertinent part, that “The Governor, by Executive Order, may reassign functions among or reorganize executive agencies which are directly responsible to him. If such a reassignment or

reorganization would contravene a statute, the Executive Order shall be delivered to the General Assembly.”

19. Article VI, § 6(h) of the 1970 Constitution of the State of Illinois provides that, “The General Assembly may provide specifically by law for the exclusive exercise by the State of any power or function of a home rule unit other than a taxing power or a power or function specified in subsection (1) of this Section.”

20. Article VI, § 6(i) of the 1970 Constitution of the State of Illinois provides that, “Home rule units may exercise and perform concurrently with the State any power or function of a home rule unit to the extent that the General Assembly by law does not specifically limit the concurrent exercise or specifically declare the State’s exercise to be exclusive.”

B. Statutory Provisions

1. The Illinois Emergency Management Agency Act

21. The Illinois Emergency Management Agency Act (“EMAA”) has as its stated purpose, *inter alia*, insuring that the State of Illinois will be prepared to and will adequately deal with any disasters, preserve the lives and property of the people of the State and protect the public peace, health, and safety in the event of a disaster. 20 ILCS 3305/2(a).

22. The EMAA defines a “disaster” as:

. . . an occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from any natural or technological cause, including but not limited to fire, flood, earthquake, wind, storm, hazardous materials spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, extended periods of severe and inclement weather, drought, infestation, critical shortages of essential fuels and energy, explosion, riot, hostile military or paramilitary action, public health emergencies, or acts of domestic terrorism. 20 ILCS 3305/4.

23. The EMAA sets forth the emergency powers of the Governor at 20 ILCS 3305/7.

24. The Governor may declare the existence of a disaster, as defined in 20 ILCS 3305/4, by a proclamation. 20 ILCS 3305/7(a).

25. Upon the issuing of a disaster proclamation, the Governor shall have and may exercise for a period not to exceed thirty (30) days a number of emergency powers enumerated in the EMAA. 20 ILCS 3305/7(a)(1)-(14).

26. The Governor's emergency powers include:

- (1) To suspend the provisions of any regulatory statute prescribing procedures for conduct of State business, or the orders, rules and regulations of any State agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder or delay necessary action, including emergency purchases, by the Illinois Emergency Management Agency, in coping with the disaster. 20 ILCS 3305/7(a)(1);
- (2) To utilize all available resources of the State government as reasonably necessary to cope with the disaster and of each political subdivision. 20 ILCS 3305/7(a)(2);
- (3) To transfer the direction, personnel or functions of State departments and agencies or units thereof for the purpose of performing or facilitating disaster response and recovery programs. 20 ILCS 3305/7(a)(3);
- (8) To control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein. 20 ILCS 3305/7(a)(8);
- (9) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles. 20 ILCS 3305/7(9);
- (12) Control, restrict, and regulate by rationing, freezing, use of quotas, prohibitions on shipments, price fixing, allocation or other means, the use, sale or distribution of food, feed, fuel, clothing and other commodities, materials, goods, or services; and perform and exercise any other functions, powers, and duties as may be necessary to promote and secure the safety and protection of the civilian population. 20 ILCS 3305/7(12).

27. The EMAA, as worded in 20 ILCS 3305/7, does not include in the Governor's emergency powers the authority to suspend any provisions of the Illinois Constitution of 1970.

28. In fact, the EMAA explicitly limits its application by stating "nothing in this Act shall be construed to...limit any home rule unit." 20 ILCS 3305/3(d).

29. The EMAA, as worded, indicates the Governor shall have and may exercise emergency powers for a period not to exceed 30 days upon the proclamation of a disaster. 20 ILCS 3305/7(a).

30. The EMAA, as worded, does not provide for the extension or renewal of the Governor's emergency powers beyond the 30 day period following the proclamation of a disaster. 20 ILCS 3305/7(a).

31. The Office of the Attorney General of the State of Illinois, in July 2001, was asked to address the question of whether the Governor may exercise emergency powers for a period in excess of 30 days after the declaration of a disaster. *Office of the Attorney General of the State of Illinois letter dated July 2, 2001*, attached and referred to as Exhibit A.

32. The Office of the Attorney General of the State of Illinois concluded that, "... the emergency powers granted to the Governor cannot be extended beyond the 30 day period permitted in subsection 7(a) of the Illinois Emergency Management Act without legislative approval." *Id* at p. 6.

33. The Office of the Attorney General of the State of Illinois, in December 2013, was asked to address a question inquiring whether the Illinois State Police Merit Board is required to comply with executive orders issued by the Governor and administrative orders and directives issues by the Governor's Office of Management and Budget that would reduce the amount or limit the use of funds appropriated to the Merit Board. *Office of the Attorney General*

of the State of Illinois letter dated December 23, 2013, attached and referred to as Exhibit B.

34. The December 23, 2013 letter indicated that, “[t]he Constitution provides that ‘[t]he Governor, by Executive Order, may reassign functions among or reorganize agencies which are directly responsible to him.’ *Ill. Const. 1970, art.VIII, § 2(a)*.”

35. The December 23, 2013 letter further states that, “[t]his [Governor use of Executive order to reassign functions or reorganize agencies which are directly responsible to him] is the only reference to executive orders in the constitution and, as a result, the only circumstance in which an executive order clearly carries the force and effect of law.”

36. The December 23, 2013 letter additionally notes that, “. . . the Illinois courts have suggested that an executive order may be a permissible method by which the Governor can execute an existing law, but that an executive order is not a vehicle for establishing a new legal requirement. *Buettrell v. Walker*, 59 Ill.2d 146, 153-54.”

37. The December 23, 2013 also stated that, “Accordingly, the Governor does not have power to legislate by executive order, and, therefore, unless authorized by law, an executive order relating to matters other than executive reorganization can be no more than a policy directive to agencies under the Governor’s control. To conclude otherwise would cede to the Governor legislative powers which he is prohibited from exercising by the separation of powers doctrine.”

2. The Illinois Department Of Public Health Act

38. The Illinois Department of Public Health Act (the “Public Health Act”), authorizes the Illinois State Department of Public Health (“IDPH”) with general supervision of the interests of the health and lives of Illinoisans. 20 ILCS 2305/2(a).

39. The IDPH has supreme authority in matters of quarantine and isolation and it “may declare and enforce quarantine and isolation when none exists, and may modify or relax quarantine and isolation when it has been established.” *Id.*

40. The IDPH may order a person or group of persons to be quarantined or isolated or may order a place to be closed and made off limits to the public to prevent the probable spread of a dangerously contagious or infectious disease until such time as the condition can be corrected or the danger to the public health eliminated or reduced in such a manner that no substantial danger to the public’s health any longer exists. 20 ILCS 2305/2(b).

41. The Public Health Act provides that no person or group of persons may be ordered to be quarantined or isolated and no place may be ordered to be closed and made off limits to the public except with the consent of the person(s) or owner(s) of the place(s) or upon the prior order of a court of competent jurisdiction. 20 ILCS 2305/2(c).

42. The Public Health Act authorizes the IDPH to order the quarantine or isolation of persons or the closure of a place that is made off limits to the public on an immediate basis without prior consent or a court order if the IDPH determines such action is necessary to protect the public from a dangerously contagious or infectious disease. *Id.*

43. If the IDPH issues an immediate order without consent or a court order for quarantine or isolation or the closure of a place to the public, it shall, within 48 hours after issuing the order, obtain the consent of the person(s) quarantined or isolated or the owner of the closed place, or file a petition requesting a court order authorizing the isolation or quarantine or closure. *Id.*

44. If exigent circumstances cause the court system to be unavailable or make it impossible for the IDPH to obtain consent or file a petition within 48 hours after the issuance of

an immediate order, the IDPH must obtain consent or file a petition requesting a court order as soon as reasonably possible. *Id.*

45. To obtain a court order, the IDPH:

. . . by clear and convincing evidence, must prove that the public's health and welfare are significantly endangered by a person or group of persons that has, that is suspected of having, that has been exposed to, or that is reasonably believed to have been exposed to a dangerously contagious or infectious disease . . . or by a place where there is significant amount of activity likely to spread a dangerously contagious or infectious disease. *Id.*

46. The IDPH also must prove that all other reasonable means of correcting the public health problem have been exhausted and no less restrictive alternative exists. *Id.*

47. Persons who are or are about to be isolated or quarantined or owners of places that are or are about to be closed and made off limits to the public shall have the right to counsel. *Id.*

48. Persons who are ordered to be isolated or quarantined or who are owners of places that are or are about to be closed and made off limits to the public shall be given a written notice of such order. *Id.*

49. The written notice shall include the following: (1) notice of the right to counsel; (2) notice that if the person or owner is indigent, the court will appoint counsel for that person or owner; (3) notice of the reason for the order for isolation, quarantine or closure; (4) notice whether the order is an immediate order, and if so, the time frame for the IDPH to seek consent or to file a petition requesting a court order; and (5) notice of the anticipated duration of the isolation, quarantine, or closure. *Id.*

C. The Governor's Proclamations And Executive Orders

1. The March 9th Proclamation

50. On March 9, 2020, Pritzker issued a proclamation declaring a disaster existed in the State of Illinois as of that date (“March 9th Proclamation”). *See State of Illinois Proclamation*, attached and referred to as Exhibit B.

51. Pritzker issued the March 9th Proclamation under the authority set forth in the EMAA at 20 ILCS 3305/7(a). *Id.*

52. Pritzker determined the COVID-19 pandemic to be a “public health emergency” with all 102 counties within Illinois identified as a disaster area. *Id.*

2. The March 20th Executive Order 2020-10

53. On March 20, 2020, Pritzker issued Executive Order 2020-10, “Executive Order In Response to COVID-19” (“EO 2020-10”). *Executive Order In Response To COVID-19*, attached and referred as Exhibit C.

54. The intent of EO 2020-10 was to ensure that, “the maximum number of people self-isolate in their places of residence to the maximum extent feasible, while enabling essential services to continue, to slow the spread of COVID-19 to the greatest extent possible.” *Id.*

55. Pursuant to the EMAA at § 7, Pritzker ordered that all individuals currently living within Illinois stay at home or at their place of residence except as allowed in EO 2020-10. *Id.*

56. Pritzker ordered that all businesses and operations in the State, except “essential businesses and operations,” were required to cease all activities within the State except “Minimum Basic Operations,” as defined in EO 2020-10. *Id.*

57. Pritzker ordered that all public and private gatherings of more than ten people throughout the State be prohibited unless for limited purposes permitted by EO 2020-10. *Id.*

58. Pritzker ordered that individuals throughout the State may leave their residences only to perform limited “Essential Activities” that included: (a) to engage in activities or perform tasks essential to individual health and safety, or to the health and safety of family or household members; (b) to obtain necessary services and supplies; (c) to engage in limited outdoor activity in compliance with social distancing requirements as set forth in EO 2020-10; (d) to perform work providing essential products and services at essential businesses and operations; and (e) to take care of others in another household. *Id.*

59. Pritzker defined “essential businesses and operations” in Section 12, subsections (a) through (w) of EO 2020-10.

60. Pritzker directed that EO 2020-10 may be enforced by State and local law enforcement. *Id.*

61. EO 2020-10 did not require that non-essential businesses throughout the State closed to the public individuals be provided the process set forth by 20 ILCS 2305/2(c) of the Public Health Act.

3. The April 1st Proclamation

62. On April 1, 2020, Pritzker issued another Proclamation (“April 1st Proclamation”). *State of Illinois Proclamation dated April 1, 2020* attached and referred to as Exhibit D.

63. In the April 1st Proclamation, Pritzker declared a continuing disaster existed within the State of Illinois and that all counties in the State were a disaster area. *Id.*

64. Pritzker declared the April 1st Proclamation continued his authority to exercise all the emergency powers provided to him by the EMAA at §7, 20 ILCS 3305/7. *Id.*

65. The April 1st Proclamation indicated it was effective immediately and would remain in effect for thirty days. *Id.*

66. The April 1st Proclamation declares a continuing disaster within the State of Illinois and indicates that such declaration continues the Governor's authority to exercise the emergency powers set forth in 20 ILCS 3305/7.

67. The April 1st Proclamation does not indicate Pritzker received the approval of the Legislature prior to declaring he was continuing to exercise the emergency powers set forth in 20 ILCS 3305/7.

4. The April 1st Executive Order 2020-18

68. On April 1, 2020, Pritzker issued Executive Order 2020-18, 'Executive Order In Response To COVID-19' ("EO 2020-18"). *Executive Order In Response To COVID-19*, attached and referred to as Exhibit E.

69. EO 2020-18 states that, "Executive Order 2020-10 is continued and extended in its entirety for the duration of the Gubernatorial Disaster Proclamations, which currently extends through April 30, 2020." *Id.*

70. As a result of EO 2020-18, the stay-at-home restrictions set forth in EO 2020-10 remained in full effect. *Id.*

71. As a result of EO 2020-18, the prohibition on the operation of non-essential businesses and operations remained in full effect. *Id.*

72. As a result of EO 2020-18, enforcement of the provisions of EO 2020-10 by State and local law enforcement continued in effect. *Id.*

73. EO 2020-18 does not indicate Pritzker received Legislative approval prior to extending the stay-at-home provisions pertaining to all persons residing throughout the State.

74. EO 2020-18 does not indicate Pritzker received Legislative approval prior to extending the requirement that all non-essential businesses throughout the State cease all but necessary basic operations.

75. EO 2020-18 does not indicate Pritzker received the Legislative approval to make determinations concerning the isolation and quarantine of persons or the closure to the public of places of business when the IDHR is designated by 20 ILCS 2305/2(a) of the Public Health Act as the supreme authority to order such isolation, quarantine and closure.

76. EO 2020-18 does not require that persons ordered to stay-at-home consent to Pritzker's directive or receive an isolation or quarantine order from a court of competent jurisdiction as provided by 20 ILCS 2305/2(c) of the Public Health Act.

77. EO 2020-18 does not require that owners of non-essential places of business throughout the State and closed to the public give consent to Pritzker's directive or receive an order of closure from a court of competent jurisdiction as provided by 20 ILCS 2305/2(c) of the Public Health Act.

78. EO 2020-18 does not require that persons ordered to stay-at-home receive the written notice of their rights provided by 20 ILCS 2305/2(c) of the Public Health Act.

79. EO 2020-18 does not require that the owners of non-essential places of business throughout the State and closed to the public receive the written notice of their rights provided by 20 ILCS 2305/2(c) of the Public Health Act.

5. The April 30th Proclamation

80. On April 30, 2020, Pritzker issued a "Gubernatorial Disaster Proclamation" ("April 30th Proclamation"). *State of Illinois Gubernatorial Disaster Proclamation*, attached and referred to as Exhibit F.

81. In the April 30th Proclamation, Pritzker enumerated a number of conditions affecting public health circumstances in Illinois as a result of COVID-19. *Id.*

82. Pritzker indicated that these enumerated conditions provided the legal justification under 20 ILCS 3305/7 for the issuance of a new disaster proclamation. *Id.*

83. Pritzker proclaimed a disaster exists within the State of Illinois and he declared all 102 counties in the State as a disaster area. *Id.*

84. Pritzker indicated that the April 30th Proclamation authorized him to exercise all emergency powers provided by 20 ILCS 3305/7. *Id.*

85. Pritzker proclaimed the April 30th Proclamation became effective immediately and it will remain in effect for thirty days. *Id.*

86. The April 30th Proclamation declares a continuing disaster within the State of Illinois and indicates that such declaration continues the Governor's authority to exercise the emergency powers set forth in 20 ILCS 3305/7.

87. The April 30th Proclamation does not indicate Pritzker received the approval of the Legislature prior to declaring he was continuing to exercise the emergency powers set forth in 20 ILCS 3305/7.

6. The April 30th Executive Order 2020-32

88. On April 30, 2020, Pritzker issued Executive Order 2020-32 ("EO 2020-32"). *Executive Order 2020-32*, attached and referred to as Exhibit G.

89. Pritzker stated that, pursuant to the powers vested in the Governor of Illinois by the Illinois Constitution and 20 ILCS 3305/7(1)-(3), 7(8)-(9) and 7(12) and consistent with the powers in public health laws, he ordered, *inter alia*, non-essential retail stores in the State may

re-open for the limited purposes of fulfilling telephone and online orders through pick-up outside the store and delivery. *Id.*

90. Other non-essential businesses and operations throughout the State are required to cease all activities except that businesses may continue operation consisting of employee activities performed at home. *Id.*

91. Essential businesses and operations are defined and described by EO 2020-32 at Section 12, subsections (a) through (w). *Id.*

92. Businesses not specifically addressed by EO 2020-32 should cease activities and reduce to minimum basic operations. *Id.*

93. EO 2020-32 identifies Healthcare and Public Health Operations, Human Services Operations, Essential Governmental Functions, Essential Infrastructure and twenty-three (23) other types of business operations as “essential” and exempt from closure as a “non-essential” business.

94. EO 2020-32 does not set forth any objective criteria used to distinguish “essential” and “non-essential” businesses.

95. For instance, EO 2020-32 identifies a store that sells alcoholic beverages as an essential business without articulating the criteria used to determine that such store is an “essential” business whereas other business operations are “non-essential.”

96. All individuals currently living within the State of Illinois are ordered to stay at home or at their place of residence except as allowed in EO 2020-32. *Id.*

97. All public and private gatherings of more than ten people are prohibited unless exempted by EO 2020-32. *Id.*

98. EO 2020-32 prohibits all travel except essential travel and essential activities as defined in the order. *Id.*

99. EO 2020-32 may be enforced by State and local law enforcement. *Id.*

100. EO 2020-32 does not indicate Pritzker received Legislative approval prior to issuing the stay-at-home order.

101. EO 2020-32 does not indicate that Pritzker received Legislative approval prior to issuing orders regarding non-essential businesses in the State of Illinois.

102. EO 2020-32 does not indicate that Pritzker received Legislative approval to make determinations concerning the isolation and quarantine of persons when the IDPH is designated by 20 ILCS 2305/2(a) as the “supreme authority” to order such isolation and quarantine.

103. EO 2020-32 does not indicate that Pritzker received Legislative approval to issue closure orders effecting places of business when the IDPH is designated by 20 ILCS 2305/2(a) as the “supreme authority” to effect such closures.

104. EO 2020-32 does not require that persons ordered to stay-at-home by Pritzker consent to the Governor’s directive or receive an order from a court of competent jurisdiction as provided by 20 ILCS 2305/2(c) of the Public Health Act.

105. EO 2020-32 does not require that owners of non-essential businesses closed to the public consent to the Governor’s directive or receive an order from a court of competent jurisdiction as provided by 20 ILCS 2305/2(c) of the Public Health Act.

106. EO 2020-32 does not require that, in the absence of consent, the need for stay-at-home orders and the closing of non-essential businesses to the public be demonstrated to a court

of competent jurisdiction by clear and convincing evidence as provided by 20 ILCS 2305/2(c) of the Public Health Act.

107. EO 2020-32 does not require that persons ordered into isolation receive written notice of their rights as provided by 20 ILCS 2305/2(c) of the Public Health Act.

108. EO 2020-32 does not require that the owners of non-essential businesses closed to the public receive written notice of their rights as provided by 20 ILCS 2305/2(c) of the Public Health Act.

7. The Spring 2020 Legislative Session

109. The Illinois General Assembly stood in recess from March 9, 2020, the date of Governor Pritzker's first Disaster Proclamation, until May 20, 2020.

110. The General Assembly convened on May 20, 2020 and conducted legislative session days on May 20, 2020, May 21, 2020, May 22, 2020, and May 23, 2020.

111. The General Assembly did not act to amend the Illinois Emergency Management Act, the Illinois Department of Public Health Act, or in any way clarify or extend the Governor's powers.

112. The General Assembly was not presented with the Governor's Executive Order 2020-32 for approval, and did not take any action to indicate endorsement of EO 2020-32.

8. The May 29th Proclamation

113. On May 29, 2020, Pritzker issued a "Gubernatorial Disaster Proclamation" ("May 29th Proclamation"). *State of Illinois Gubernatorial Disaster Proclamation*, attached and referred to as Exhibit H.

114. In the May 29th Proclamation, Pritzker enumerated a number of conditions affecting public health circumstances in Illinois as a result of COVID-19. *Id.*

115. Pritzker indicated that these enumerated conditions provided the legal justification under 20 ILCS 3305/7 for the issuance of a new disaster proclamation. *Id.*

116. Pritzker proclaimed a disaster exists within the State of Illinois and he declared all counties in the State as a disaster area. *Id.*

117. Pritzker indicated that the May 29th Proclamation authorized him to exercise all emergency powers provided by 20 ILCS 3305/7. *Id.*

118. Pritzker proclaimed the May 29th Proclamation became effective immediately and it will remain in effect for thirty days. *Id.*

119. The May 29th Proclamation declares a continuing disaster within the State of Illinois and indicates that such declaration continues the Governor's authority to exercise the emergency powers set forth in 20 ILCS 3305/7.

120. The May 29th Proclamation does not indicate Pritzker received the approval of the Legislature prior to declaring he was continuing to exercise the emergency powers set forth in 20 ILCS 3305/7.

9. The May 29th Executive Order 2020-38

121. On April 30, 2020, Pritzker issued Executive Order 2020-38 ("EO 2020-38"). *Executive Order 2020-38*, attached and referred to as Exhibit I.

122. Pritzker stated that, pursuant to the powers vested in the Governor of Illinois by the Illinois Constitution and 20 ILCS 3305/7(1)-(3), 7(8)-(9) and 7(12) and consistent with the powers in public health laws, he ordered, *inter alia*, all businesses must continue to facilitate remote work where possible, ensure social distancing, cap occupancy, provide Personal Protective Equipment (PPE) and follow other restrictions. *Id.*

123. Restaurants and bars must remain closed for all indoor dining, places of public amusement must remain closed, and fitness and exercise facilities must remain closed other than extremely limited operations of one-on-one training sessions. *Id.*

124. All individuals currently living within the State of Illinois are ordered to keep social distance, wear facial coverings in public, and, where possible, are encouraged to stay at home or at their place of residence and conduct their necessary business outside. *Id.*

125. All public and private gatherings of more than ten people are prohibited unless exempted by EO 2020-38. *Id.*

126. EO 2020-38 may be enforced by State and local law enforcement. *Id.*

127. EO 2020-38 does not indicate Pritzker received Legislative approval prior to issuing the order.

128. EO 2020-38 does not indicate that Pritzker received Legislative approval prior to issuing orders regarding closure of certain businesses in the State of Illinois.

129. EO 2020-38 does not indicate that Pritzker received Legislative approval to make determinations concerning the isolation and quarantine of persons when the IDPH is designated by 20 ILCS 2305/2(a) as the “supreme authority” to order such isolation and quarantine.

130. EO 2020-38 does not indicate that Pritzker received Legislative approval to issue closure orders effecting places of business when the IDPH is designated by 20 ILCS 2305/2(a) as the “supreme authority” to effect such closures.

131. EO 2020-38 does not require that persons ordered to isolate by Pritzker consent to the Governor’s directive or receive an order from a court of competent jurisdiction as provided by 20 ILCS 2305/2(c) of the Public Health Act.

132. EO 2020-38 does not require that owners of businesses closed to the public consent to the Governor's directive or receive an order from a court of competent jurisdiction as provided by 20 ILCS 2305/2(c) of the Public Health Act.

133. EO 2020-38 does not require that, in the absence of consent, the need for isolation orders and the closing of certain businesses to the public be demonstrated to a court of competent jurisdiction by clear and convincing evidence as provided by 20 ILCS 2305/2(c) of the Public Health Act.

134. EO 2020-38 does not require that persons ordered into isolation receive written notice of their rights as provided by 20 ILCS 2305/2(c) of the Public Health Act.

135. EO 2020-38 does not require that the owners of businesses closed to the public receive written notice of their rights as provided by 20 ILCS 2305/2(c) of the Public Health Act.

D. The Businesses Affected by the Governor's Proclamations and Executive Orders

136. The Brass Tap is a for-profit restaurant and pub located at 14225 95th Ave., # 400, in the Village.

137. The Brass Tap is co-owned by Tom McMullen, a resident of the State of Illinois.

138. The Brass Tap has been closed for on-premises dining and consumption of alcoholic beverages since March 16, 2020 pursuant to Executive Order 2020-07.

139. The owner of The Brass Tap received no written notice of closure pursuant to EO 2020-07.

140. The owner of The Brass Tap received no written notice of their rights prior to closure as provided by 20 ILCS 2305/2(c).

141. The owner of The Brass Tap did not consent to the closure of his place of business as provided by 20 ILCS 2305/2(c).

142. The owner of The Brass Tap received no closure order from a court of competent jurisdiction prior to its March 16, 2020 closure as provided by 20 ILCS 2305/2(c).

143. At no time since March 16, 2020, has the owner of The Brass Tap received a written notice of closure.

144. At no time since March 16, 2020, as the owner of The Brass Tap received a written notice of his rights.

145. At no time since March 16, 2020 has the owner of The Brass Tap consented to closing his place of business.

146. At no time since March 16, 2020 has the owner of The Brass Tap received a closure order from a court of competent jurisdiction.

147. The Brass Tap has suffered a catastrophic loss of income due to its inability to provide on-site food and beverage service.

148. The owner estimates that The Brass Tap has lost approximately 85% of its business while being confined to curbside and delivery service, and even with outdoor dining permissible after May 29, 2020 has only been able to recover approximately 60% of its previous business. In addition, The Brass Tap had to throw out approximately \$1,000 to \$1,500 of spoiled food and drink.

149. The Brass Tap employed fourteen (14) individuals as of March 16, 2020. Ten (10) of these employees were furloughed as a result of Pritzker's executive orders.

E. The Individual Plaintiffs Affected By The Governor's Proclamations And Executive Orders

150. Gregory Buban ("Buban") is a Village resident who lives at 8958 Barleycorn Court, Orland Park, Illinois 60462.

151. Buban has been isolated at his residence since the issuance of EO 2020-10.

152. At no time since March 20, 2020 and through the release of EO 2020-10, EO 2020-18, EO 2020-32, and EO 2020-38 has Buban received a written notice from the State of Illinois indicating that he was required by the State to isolate at home pursuant to State orders.

153. At no point since March 20, 2020 and through the release of EO 2020-10, EO 2020-18, EO 2020-32, and EO 2020-38 has Buban received written notice of his rights regarding being ordered to isolate as provided by 20 ILCS 2305/2(c).

154. At no point since March 20, 2020 and through the release of EO 2020-10, EO 2020-18, EO 2020-32, and EO 2020-38 has Buban given his consent to being ordered to isolate as provided by 20 ILCS 2305/2(c).

155. At no time since March 20, 2020 and through the release of EO 2020-10, EO 2020-18, EO 2020-32, and EO 2020-38 has Buban received a closure order from a court of competent jurisdiction as provided by 20 ILCS 2305/2(c).

156. At no time since March 20, 2020 and through the release of EO 2020-10, EO 2020-18, EO 2020-32, and EO 2020-38 has Buban received any written communications from the IDPH as provided by 20 ILCS 2305/2(c).

157. As a result of the orders set forth in EO 2020-10, EO 2020-18, EO 2020-32, and EO 2020-38, Buban has been unable to exercise his liberty to visit with members of his immediate family who live in a neighboring municipality.

158. As a result of the stay-at-home orders set forth in EO 2020-10, EO 2020-18, EO 2020-32, and EO 2020-38, Buban has been unable to exercise his liberty to engage in daily activities outside of his 8958 Barleycorn Court, Orland Park, Illinois 60462 residence which make his daily life meaningful and fulfilling.

159. Dr. Joe Solek (“Solek”) is a Village resident who lives at 9722 154th Street, Orland Park, Illinois 60462.

160. Solek has been isolated at his residence since the issuance of EO 2020-10.

161. At no time since March 20, 2020 and through the release of EO 2020-10, EO 2020-18, EO 2020-32, and 2020-38 has Solek received a written notice from the State of Illinois indicating that he was required by the State to isolate at home pursuant to State orders.

162. At no point since March 20, 2020 and through the release of EO 2020-10, EO 2020-18, EO 2020-32, and EO 2020-38 has Solek received written notice of his rights regarding being ordered to isolate as provided by 20 ILCS 2305/2(c).

163. At no point since March 20, 2020 and through the release of EO 2020-10, EO 2020-18, EO 2020-32, and EO 2020-38 has Solek given his consent to being ordered to isolate as provided by 20 ILCS 2305/2(c).

164. At no time since March 20, 2020 and through the release of EO 2020-10, EO 2020-18, EO 2020-32, and EO 2020-38 has Solek received a closure order from a court of competent jurisdiction as provided by 20 ILCS 2305/2(c).

165. At no time since March 20, 2020 and through the release of EO 2020-10, EO 2020-18, EO 2020-32, and EO 2020-38 has Solek received any written communications from the IDPH as provided by 20 ILCS 2305/2(c).

166. As a result of the orders set forth in EO 2020-10, EO 2020-18, EO 2020-32, and EO 2020-38, Solek has been unable to exercise his liberty to visit with members of his family who live in a neighboring municipality.

167. As a result of the stay-at-home orders set forth in EO 2020-10, EO 2020-18, EO 2020-32, and EO 2020-38, Solek has been unable to exercise his liberty to visit with friends who live in a neighboring municipality.

168. As a result of the stay-at-home orders set forth in EO 2020-10, EO 2020-18, EO 2020-32, and EO 2020-38, Solek has been unable to exercise his liberty to engage in daily activities outside of his 97232 154th Street, Orland Park, Illinois 60462 residence which make his daily life meaningful and fulfilling, including participation in a cardiovascular workout exercise program recommended to him by his cardiologist.

COUNT I
VIOLATION OF FOURTEENTH AMENDMENT PROCEDURAL DUE PROCESS
(Solek and Buban (the “Individual Residents”))

1-168. The Plaintiffs incorporate the allegations in Paragraphs 1-153 as if set forth fully in this Count I.

169. The Fourteenth Amendment to the U.S. Constitution guarantees that no state shall deprive any person of life, liberty, or property, without due process of law.

170. The Illinois Department of Public Health Act (the “Public Health Act”) provides that no person or group of people may be quarantined or isolated and no place may be ordered to be closed and made off limits to the public except with the consent of the person or owner of the place or upon prior order of a court of competent jurisdiction. 20 ILCS 2305/2.

171. Under the Public Health Act, the IDPH may order persons quarantined or isolated or a place closed on an immediate basis without prior consent or a court order if the IDPH determines immediate action must be taken to protect the public from a dangerous or infectious disease.

172. However, if the IDPH makes such a determination, it must – within 48 hours – obtain consent from the persons or owners or file a petition seeking a court order authorizing the quarantine, isolation or closure.

173. In order to obtain such a court order, the IDPH must prove by clear and convincing evidence that public health is significantly endangered without the quarantine, isolation or closure.

174. The IDPH also must prove that all other reasonable means of correcting the problem have been exhausted and no less restrictive alternative means exists.

175. The Governor, through his Executive Orders, ordered the quarantine and isolation of residents without providing the required procedural due process.

176. The issuance of the Executive Orders was a state action by the Governor.

177. The Governor has failed to follow the procedures set forth in the Public Health Act, has failed to obtain the required court order, and has failed to prove by clear and convincing evidence that public health is significantly endangered without the quarantine or isolation.

178. Moreover, the Governor has failed to establish that all other reasonable means of correcting the problem have been exhausted, and that no less restrictive alternative means exist.

179. In fact, means less restrictive than a state-wide order can be implemented and still protect public health.

180. The Governor's failure to provide due process to the Individual Residents is a violation of the rights guaranteed by the Fourteenth Amendment.

181. The Individual Residents have suffered and will continue to suffer damages as a result of this violation of their due process rights.

WHEREFORE, the Plaintiffs hereby pray this Court enter an Order declaring the Governor has violated the procedural due process rights guaranteed by the Fourteenth Amendment, declaring such Executive Orders issued by the Governor void, and for such further relief deemed fair and just.

COUNT II

VIOLATION OF FOURTEENTH AMENDMENT PROCEDURAL DUE PROCESS

(The Brass Tap)

1-181. The Plaintiffs incorporate the allegations in Paragraphs 1-181 as if set forth fully in this Count II.

182. The Fourteenth Amendment to the U.S. Constitution guarantees that no state shall deprive any person of life, liberty, or property, without due process of law.

183. The Illinois Department of Public Health Act (the “Public Health Act”) provides that no person or group of people may be quarantined or isolated and no place may be ordered to be closed and made off limits to the public except with the consent of the person or owner of the place or upon prior order of a court of competent jurisdiction. 20 ILCS 2305/2.

184. Under the Public Health Act, the IDPH may order persons quarantined or isolated or a place closed on an immediate basis without prior consent or a court order if the IDPH determines immediate action must be taken to protect the public from a dangerous or infectious disease.

185. However, if the IDPH makes such a determination, it must – within 48 hours – obtain consent from the persons or owners or file a petition seeking a court order authorizing the quarantine, isolation or closure.

186. In order to obtain such a court order, the IDPH must prove by clear and convincing evidence that public health is significantly endangered without the quarantine, isolation or closure.

187. The IDPH also must prove that all other reasonable means of correcting the problem have been exhausted and no less restrictive alternative means exists.

188. The Governor, through his Executive Orders, has ordered the closure of certain businesses and the severe limitation of other businesses without providing the required procedural due process.

189. The issuance of the Executive Orders was a state action by the Governor.

190. The Governor failed to follow the procedures set forth in the Public Health Act, has failed to obtain the required court order, and has failed to prove by clear and convincing evidence that public health is significantly endangered without the closures.

191. Moreover, the Governor has failed to establish that all other reasonable means of correcting the problem have been exhausted, and that no less restrictive alternative means exist.

192. In fact, means less restrictive than a closure of businesses can be implemented and still protect public health, as evidenced by the social distancing and safety measures utilized by certain operational businesses.

193. The Governor's Executive Orders closing certain businesses statewide fails to take into consideration local circumstances, thereby demonstrating said Orders are categorically not reasonably tailored to any public health interest.

194. The Governor's failure to provide due process to The Brass Tap is a violation of the rights guaranteed by the Fourteenth Amendment.

195. The Brass Tap has suffered and will continue to suffer damages as a result of this violation of their due process rights.

WHEREFORE, the Plaintiffs hereby pray this Court enter an Order declaring the Governor has violated the procedural due process rights guaranteed by the Fourteenth Amendment, declaring such Executive Orders issued by the Governor void, and for such further relief deemed fair and just.

COUNT III

VIOLATION OF FOURTEENTH AMENDMENT SUBSTANTIVE DUE PROCESS **(Individual Residents)**

1-181. The Plaintiffs incorporate the allegations in Paragraphs 1-181 as if set forth fully in this Count III.

196. The Fourteenth Amendment to the U.S. Constitution guarantees that no state shall deprive any person of life, liberty, or property, without due process of law.

197. The Individual Residents have a fundamental right and property interest to live and work in the State of Illinois.

198. The issuance of the Executive Orders was a state action by the Governor.

199. The Governor's Executive Orders force individuals to stay at home, and force certain businesses to remain closed and others to operate under significant restrictions, and therefore by extension limit an individuals' ability to work.

200. The blanket state-wide application of the Governor's Executive Orders is an arbitrary, unreasonable and capricious deprivation of the Individual Residents' fundamental rights and property interests.

201. The Governor's broad Executive Orders that apply state-wide with no recognition of individualized local concerns are neither narrowly tailored nor the least restrictive means to protect public health.

202. In fact, means less restrictive than a state-wide order and closure of businesses can be implemented and still protect public health.

203. The Governor's actions are arbitrary and irrational, and do not allow for the consideration of individual circumstances.

204. As such, the Governor's actions violate the substantive due process rights of the Individual Residents.

205. The Individual Residents have suffered and will continue to suffer damages as a result of this violation of their due process rights.

WHEREFORE, the Plaintiffs hereby pray this Court enter an Order declaring the Governor has violated the substantive due process rights guaranteed by the Fourteenth Amendment, declaring such Executive Orders issued by the Governor void, and for such further relief deemed fair and just.

COUNT IV

VIOLATION OF FOURTEENTH AMENDMENT EQUAL PROTECTION
(Brass Tap)

1-181. The Plaintiffs incorporate the allegations in Paragraphs 1-181 as if set forth fully in this Count IV.

206. The Fourteenth Amendment to the U.S. Constitution guarantees that no state shall deny people equal protection of its laws, and that states must treat an individual in the same manner as others in similar conditions and circumstances.

207. The Governor's Executive Orders categorize certain businesses as subject to complete closure, others as able to operate with significant restrictions, and others as able to operate virtually unchanged.

208. In closing certain businesses without recourse, the Governor has taken away their property rights by forcing them to remain closed to the public.

209. The same social distancing and public health measures being applied to certain operational businesses can be equally applied to closed businesses, yet the Governor unilaterally determined which business can remain open, and which must remain closed.

210. Moreover, this unilateral determination is applied state-wide, failing to take into consideration local situations, circumstances, and impacts.

211. As such, the blanket categorization of certain businesses bears no rational relationship to any public health interest.

212. For example, a grocery store, deemed "essential" can have hundreds of people on its premises, practicing social distancing and wearing masks, but a local restaurant cannot have eleven individuals on its premises taking the same measures, despite the square footage of the restaurant and/or other available public health modifications.

213. The blanket distinction between businesses is arbitrary and unreasonable, and bears no rational relationship to any public health interest, and is therefore a violation of non-essential businesses' equal protection rights.

214. As a result of the Governor's actions, businesses, including The Brass Tap, have suffered and will continue to suffer damages.

WHEREFORE, the Plaintiffs hereby pray this Court enter an Order declaring the Governor has violated the equal protection rights guaranteed by the Fourteenth Amendment,

declaring such Executive Orders issued by the Governor void, and for such further relief deemed fair and just.

COUNT V

VIOLATION OF ILLINOIS CONSTITUTION DUE PROCESS
(Individual Residents)

1-181. The Plaintiffs incorporate the allegations in Paragraphs 1-181 as if set forth fully in this Count V.

215. Article I, Section 2 of the Illinois Constitution provides that no person shall be deprived of life, liberty, or property without due process of law.

216. The Illinois Department of Public Health Act (the “Public Health Act”) provides that no person or group of people may be quarantined or isolated and no place may be ordered to be closed and made off limits to the public except with the consent of the person or owner of the place or upon prior order of a court of competent jurisdiction. 20 ILCS 2305/2.

217. Under the Public Health Act, the IDPH may order persons quarantined or isolated or a place closed on an immediate basis without prior consent or a court order if the IDPH determines immediate action must be taken to protect the public from a dangerous or infectious disease.

218. However, if the IDPH makes such a determination, it must – within 48 hours – obtain consent from the persons or owners or file a petition seeking a court order authorizing the quarantine, isolation or closure.

219. In order to obtain such a court order, the IDPH must prove by clear and convincing evidence that public health is significantly endangered without the quarantine, isolation or closure.

220. The IDPH also must prove that all other reasonable means of correcting the problem have been exhausted and no less restrictive alternative means exists.

221. The Governor, through his Executive Orders, has ordered the quarantine and isolation of residents without providing the required procedural due process.

222. The issuance of the Executive Orders was a state action by the Governor.

223. The Governor has failed to follow the procedures set forth in the Public Health Act, has failed to obtain the required court order, and has failed to prove by clear and convincing evidence that public health is significantly endangered without the quarantine or isolation.

224. Moreover, the Governor has failed to establish that all other reasonable means of correcting the problem have been exhausted, and that no less restrictive alternative means exist.

225. In fact, means less restrictive than a state-wide order can be implemented and still protect public health.

226. The Governor's failure to provide due process to the Individual Residents is a violation of the rights guaranteed by the Illinois Constitution.

227. The Individual Residents have suffered and will continue to suffer damages as a result of this violation of their due process rights.

WHEREFORE, the Plaintiffs hereby pray this Court enter an Order declaring the Governor has violated the procedural due process rights guaranteed by Article I, Section 2 of the Illinois Constitution, declaring such Executive Orders issued by the Governor void, and for such further relief deemed fair and just.

COUNT VI

VIOLATION OF ILLINOIS CONSTITUTION DUE PROCESS

(The Brass Tap)

1-181. The Plaintiffs incorporate the allegations in Paragraphs 1-181 as if set forth fully in this Count VI.

228. Article I, Section 2 of the Illinois Constitution provides that no person shall be deprived of life, liberty, or property without due process of law.

229. The Illinois Department of Public Health Act (the “Public Health Act”) provides that no person or group of people may be quarantined or isolated and no place may be ordered to be closed and made off limits to the public except with the consent of the person or owner of the place or upon prior order of a court of competent jurisdiction. 20 ILCS 2305/2.

230. Under the Public Health Act, the IDPH may order persons quarantined or isolated or a place closed on an immediate basis without prior consent or a court order if the IDPH determines immediate action must be taken to protect the public from a dangerous or infectious disease.

231. However, if the IDPH makes such a determination, it must – within 48 hours – obtain consent from the persons or owners or file a petition seeking a court order authorizing the quarantine, isolation or closure.

232. In order to obtain such a court order, the IDPH must prove by clear and convincing evidence that public health is significantly endangered without the quarantine, isolation or closure.

233. The IDPH also must prove that all other reasonable means of correcting the problem have been exhausted and no less restrictive alternative means exists.

234. The Governor, through his Executive Orders, has ordered the closure of certain businesses and the severe limitation of other essential businesses without providing the required procedural due process.

235. The issuance of the Executive Orders was a state action by the Governor.

236. The Governor has failed to follow the procedures set forth in the Public Health Act, has failed to obtain the required court order, and has failed to prove by clear and convincing evidence that public health is significantly endangered without the closures.

237. Moreover, the Governor has failed to establish that all other reasonable means of correcting the problem have been exhausted, and that no less restrictive alternative means exist.

238. In fact, means less restrictive than a closure of businesses can be implemented and still protect public health, as evidenced by the social distancing and safety measures utilized by certain operational businesses.

239. The Governor's Executive Orders closing certain businesses statewide fails to take into consideration local circumstances, thereby demonstrating said Orders are categorically not reasonably tailored to any public health interest.

240. The Governor's failure to provide due process to The Brass Tap is a violation of the rights guaranteed by the Illinois Constitution.

241. The Brass Tap has suffered and will continue to suffer damages as a result of this violation of their due process rights.

WHEREFORE, the Plaintiffs hereby pray this Court enter an Order declaring the Governor has violated the procedural due process rights guaranteed Article I, Section 2 of the Illinois Constitution, declaring such Executive Orders issued by the Governor void, and for such further relief deemed fair and just.

COUNT VII

VIOLATION OF ARTICLE V, SECTION 11 OF THE ILLINOIS CONSTITUTION

1-181. The Plaintiffs incorporate the allegations in Paragraphs 1-181 as if set forth fully in this Count VII.

242. Article V, Section 11 of the Illinois Constitution provides that, “[t]he Governor, by Executive Order, may reassign or reorganize executive agencies which are directly responsible to him. If such a reassignment or reorganization would contravene a statute, the Executive Order shall be delivered to the General Assembly.”

243. The Governor’s Executive Orders, through their unilateral determination of those businesses which are “essential” and “non-essential” and the closure of “non-essential” businesses, and then the subsequent lifting of restrictions on only certain businesses, but requiring other businesses to remain closed, circumvents the Public Health Act which vests supreme authority with the IDPH to make such determinations.

244. Given the fact that the Executive Orders contravene the provisions of the Public Health Act, pursuant to Article V, Section 11 of the Illinois Constitution, the Governor is required to deliver the Executive Order to the General Assembly for consideration.

245. The Governor has failed to deliver his Executive Orders to the General Assembly for consideration in compliance with Article V, Section 11 of the Illinois Constitution.

246. As such, the Governor’s Executive Orders have no legal effect, as they violate the plain language of Article V, Section 11 of the Illinois Constitution.

WHEREFORE, the Plaintiffs hereby pray this Court enter an Order declaring the Governor has violated Article V, Section 11 of the Illinois Constitution, declaring such Executive Orders issued by the Governor void, and for such further relief deemed fair and just.

COUNT VIII

VIOLATION OF ARTICLE VII, SECTION 6 OF THE ILLINOIS CONSTITUTION

1-181. The Plaintiffs incorporate the allegations in Paragraphs 1-181 as if set forth fully in this Count VIII.

247. The Village is a home-rule municipality pursuant to Article V, Section 11 of the Illinois Constitution.

248. Article VII, Section 6(h) provides that, “[t]he General Assembly may provide specifically by law for the exclusive exercise by the State of any power or function of a home rule unit other than a taxing power or a function specified in subsection (1) of this Section.”

249. Article VII, Section 6(i) provides that, “[h]ome rule units may exercise and perform concurrently with the State any power or function of a home rule unit to the extent that the General Assembly by law does not specifically limit the concurrent exercise or specifically declare the State’s exercise to be exclusive.”

250. The Governor’s Executive Orders have unconstitutionally usurped the Village’s home-rule authority to regulate and control businesses within its jurisdiction when only the General Assembly can do so.

251. Moreover, Section 3(d) of the EMAA, 20 ILCS 3305/3(d) expressly states that nothing contained in the EMAA shall be construed to limit any home rule unit.

252. Article VII, Section 6(a) of the Illinois Constitution provides a home-rule municipality with the authority to “exercise and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of public health, safety, morals and welfare; to license; to tax; and to incur debt.”

253. Pursuant to its Constitutional home-rule authority, the Village has prepared a reopening plan for its businesses, tailored to regulate for the protection of public health, safety, morals and welfare (the “Village Reopening Plan”). A copy of the Village Reopening Plan is attached hereto as Exhibit J and made a part hereof.

254. One of the key features of the Village Reopening Plan is an intention to use a fourteen (14) day phase period, as recommended by the CDC and as espoused by other states with reopening plans.

255. The Restore Illinois Plan announced by Governor Pritzker sets forth a twenty-eight (28) day period between each phase of the plan.

256. The Restore Illinois Plan’s phasing usurps the Village’s home rule authority to set its own policy for local affairs.

257. The Village sent its reopening plan to the Governor, but given the Governor’s public statements regarding repercussions that could be imposed on local governments such as the Village for exercising their home-rule authority, the Village has not yet implemented the Village Reopening Plan.

258. The Governor’s actions and Executive Orders clearly violate the powers conveyed to the Village pursuant to Article VII, Section 6 of the Illinois Constitution.

WHEREFORE, the Plaintiffs hereby pray this Court enter an Order declaring the Governor has violated Article VII, Section 6 of the Illinois Constitution, declaring such Executive Orders issued by the Governor void, and for such further relief deemed fair and just.

COUNT IX

VIOLATION OF ARTICLE II, SECTION I OF THE ILLINOIS CONSTITUTION

1-181. The Plaintiffs incorporate the allegations in Paragraphs 1-181 as if set forth fully in this Count IX.

259. Article II, Section 1 of the Illinois Constitution outlines the fundamental democratic principle of separation of powers.

260. Specifically, Article II, Section 1 of the Illinois Constitution states “the legislative, executive and judicial branches are separate. No branch shall exercise powers properly belonging to another.”

261. As outlined above, Article V, Section 11 of the Illinois Constitution requires consideration by the General Assembly of the Governor’s Executive Orders that contravene the Public Health Act.

262. Moreover, pursuant to the Public Health Act, a court order is required to close businesses or order quarantine or isolation of persons after 48 hours.

263. Therefore, the Governor’s Executive Orders have usurped the powers and functions of both the legislative and judicial branches in violation of Article II, Section 1 of the Illinois Constitution.

WHEREFORE, the Plaintiffs hereby pray this Court enter an Order declaring the Governor has violated Article II, Section 1 of the Illinois Constitution, declaring such Executive Orders issued by the Governor void, and for such further relief deemed fair and just.

COUNT X

**DECLARATORY JUDGMENT THAT THE EXECUTIVE ORDERS IMPOSE A
PROHIBITED UNFUNDED MANDATE ON LOCAL MUNICIPALITIES**

1-181. The Plaintiffs incorporate the allegations in Paragraphs 1-181 as if set forth fully in this Count X.

264. Section 17 of the Governor's March 20, 2020 Executive Order, EO 2020-32 and EO 2020-38 provides that local law enforcement may assume enforcement actions of Executive order provisions.

265. This directive imposes additional responsibilities on the Village's police department and its officers without funding to meet these further obligations.

266. As such, the Court should declare the March 20, 2020 Executive Order, EO 2020-32 and EO 2020-38 as a prohibited unfunded mandate insofar as the Governor, lacking authority, requires the Village police department to undertake additional law enforcement operations without allocating to Orland Park the monies to do so.

267. An actual case or controversy exists between the Village and the Governor with regard to the enforcement of the Executive Orders.

WHEREFORE, the Plaintiffs hereby pray this Court enter an Order declaring the Governor has improperly imposed an unfunded mandate on the Village, declaring such Executive Orders issued by the Governor void, and for such further relief deemed fair and just.

COUNT XI

VIOLATION OF THE PUBLIC HEALTH ACT

1-181. The Plaintiffs incorporate the allegations in Paragraphs 1-181 as if set forth fully in this Count XI.

268. In issuing his Executive Orders, the Governor relies on the provisions of the EMAA.

269. However, in implementing the Executive Orders, the Governor has used the EMAA in conflict with the Public Health Act, and therefore run afoul of the specific safeguards for individuals and businesses contained therein.

270. For example, under the Public Health Act, the IDPH may order persons quarantined or isolated or a place closed on an immediate basis without prior consent or a court order if the IDPH determines immediate action must be taken to protect the public from a dangerous or infectious disease.

271. However, if the IDPH makes such a determination, it must – within 48 hours – obtain consent from the persons or owners or file a petition seeking a court order authorizing the quarantine, isolation or closure.

272. In order to obtain such a court order, the IDPH must prove by clear and convincing evidence that public health is significantly endangered without the quarantine, isolation or closure.

273. The IDPH also must prove that all other reasonable means of correcting the problem have been exhausted and no less restrictive alternative means exists.

274. These procedural safeguards were put in place to protect individuals and businesses, and by extension local municipalities, during public health emergencies.

275. By violating these provisions of the Public Health Act, the Village has been damaged in that businesses have been forced to remain closed, and individuals have been forced to remain off of work, thereby drastically reducing revenues used to provide vital public services to the community.

276. The Governor's actions in issuing and enforcing the Executive Orders are in clear violation of the Public Health Act and Illinois law.

WHEREFORE, the Plaintiffs hereby pray this Court enter an Order declaring the Governor has violated the Illinois Public Health Act, declaring such Executive Orders issued by the Governor void, and for such further relief deemed fair and just.

Respectfully submitted,

/s/ Lance C. Malina

Lance C. Malina (lcmalina@ktjlaw.com) (ARDC #6201555)
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Chicago, Illinois 60606
(312) 984-6400

VERIFICATION

I, Dr. Joe Solek, am a Plaintiff in this action. I have read the foregoing Verified Complaint and I am familiar with its contents. I declare under penalty of perjury under the laws of the United States that all of the factual statements about which I am familiar contained in the foregoing Verified Complaint are true and accurate to the best of my belief and are based upon personal knowledge, except where expressly indicated otherwise.

Executed June 16, 2020.

A handwritten signature in cursive script that reads "Dr. Joe Solek". The signature is written in black ink and is positioned above a horizontal line.

DR. JOE SOLEK

Resident of the Village of Orland Park, Illinois

VERIFICATION

I, Keith Pekau, am the Mayor of the Village of Orland Park, Illinois, a Plaintiff in this action. I have read the foregoing Verified Complaint and I am familiar with its contents. I declare under penalty of perjury under the laws of the United States that all of the factual statements about which I am familiar contained in the foregoing Verified Complaint are true and accurate to the best of my belief and are based upon personal knowledge, except where expressly indicated otherwise.

Executed June 16, 2020.



KEITH PEKAU
Mayor of the Village of Orland Park, Illinois

VERIFICATION

I, Tom McMullen, am a Plaintiff in this action. I have read the foregoing Verified Complaint and I am familiar with its contents. I declare under penalty of perjury under the laws of the United States that all of the factual statements about which I am familiar contained in the foregoing Verified Complaint are true and accurate to the best of my belief and are based upon personal knowledge, except where expressly indicated otherwise.

Executed June 16, 2020.

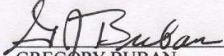
A handwritten signature in black ink, appearing to read "Tom McMullen", written over a horizontal line.

TOM MCMULLEN
Co-Owner of The Brass Tap

VERIFICATION

I, Gregory Buban, am a Plaintiff in this action. I have read the foregoing Verified Complaint and I am familiar with its contents. I declare under penalty of perjury under the laws of the United States that all of the factual statements about which I am familiar contained in the foregoing Verified Complaint are true and accurate to the best of my belief and are based upon personal knowledge, except where expressly indicated otherwise.

Executed June 16, 2020.



GREGORY BUBAN
Resident of the Village of Orland Park, Illinois