

IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

IN RE: GOVERNOR TOM WOLF’S :
ORDER OF MARCH 19, 2020 :
CLOSING ALL “NON-ESSENTIAL”:
BUSINESSES : No. 2020
:
PETITION OF: COSTOPOULOS, :
FOSTER & FIELDS, A LAW FIRM :

**PETITIONER’S KING’S BENCH PETITION
FOR EXTRAORDINARY RELIEF
TO DECLARE
UNCONSTITUTIONAL AND ILLEGAL
GOVERNOR WOLF’S MARCH 19, 2020 ORDER
AS IT PERTAINS TO “LEGAL SERVICES”**

AND NOW comes the Petitioner, COSTOPOULOS, FOSTER & FIELDS, a law firm, by and through William C. Costopoulos, Esquire, and respectfully represents as follows in support of this King’s Bench Petition for Extraordinary Relief:

THE PARTIES

1. Petitioner, COSTOPOULOS, FOSTER & FIELDS, is a Pennsylvania law firm and, more specially, a partnership consisting of William C. Costopoulos, Esquire, David J. Foster, Esquire, and Leslie M. Fields, Esquire, and has its law office located at 831 Market Street, Lemoyne, Pennsylvania 17043. The firm’s legal work is evenly divided between criminal defense and personal

injury/wrongful death/civil rights.

2. Respondent, Honorable Tom Wolf, is Governor of the Commonwealth of Pennsylvania with a main office located at 225 Main Capitol Building, Harrisburg, Pennsylvania 17120.

JURISDICTION

3. Your Honorable Court has jurisdiction over this King's Bench Petition pursuant to the powers set forth at Article V, Section 2 of the Pennsylvania Constitution (giving the Supreme Court "the supreme judicial power of the Commonwealth"); the Constitution's Article V, Section 10(a) (allowing the Supreme Court to exercise supervisory authority over all the courts), and 42 Pa.C.A. § 502 (providing the Supreme Court has "power generally to minister justice to all persons and to exercise the powers of the court, as fully and amply, to all intents and purposes, as the justices of the Court of King's Bench, Common Pleas and Exchequer, at Westminster, or any of them"); and they are implemented under Pa.R.A.P. 3309.

This Court's King's Bench jurisdiction and its extraordinary jurisdiction, while similar, are not the same for "extraordinary jurisdiction" enables this Court to assume plenary jurisdiction over a matter pending before any court at any stage, while its King's Bench jurisdiction allows the Court to exercise power of general

superintendency over inferior tribunals *even when no matter is pending before a lower court*. *In re Dauphin County Fourth Investigating Grand Jury*, 943 A.2d 929, 933, n. 3 (Pa. 2007).

This Court, in considering whether to assume its plenary jurisdiction, should consider the immediacy and public importance of the issues raised. *See, e.g., Stilp v. Commonwealth*, 905 A.2d 918, 924 (Pa. 2006) (assuming plenary jurisdiction over constitutional challenge to legislation that tied salaries of state officials to those of federal officials).

ISSUE TO BE REVIEWED

4. Here, at issue is whether the Governor has the power, authority and/or jurisdiction to close indefinitely law offices and preventing attorneys and their staffs from providing essential legal services to Pennsylvania citizens. Petitioner respectfully seeks immediate review of the Governor's Order of March 19, 2020 declaring "legal services" non-essential, closing down law offices, and interfering with the state and federal constitutional rights of Pennsylvania citizens to counsel and due process of law. In the interim, it respectfully asks that the Court issue a temporary restraining order or preliminary injunction blocking the Order as to closure of law offices which are essential to providing "legal services" until it may consider the issue on the merits.

BACKGROUND ALLEGATIONS

5. The Commonwealth of Pennsylvania, like the entire Nation and indeed the world community, is suffering from the pandemic known as the Corona Virus - COVID 19 and Petitioner is cognizant of the seriousness of this pandemic.

6. On March 16, 2020, this Honorable Court, in recognition of the pandemic, issued a *per curiam* Order declaring a statewide judicial emergency until April 14, 2020 “to safeguard the health and safety of court personnel, court users, and members of the public[.]”

7. On March 18, 2020, the Court issued another Order directing that all Pennsylvania courts be “generally CLOSED TO THE PUBLIC, beginning at close of business on March 19, 2020, and lasting through at least April 3, 2020, subject to the General and Specific Directives and Exceptions listed below.”

The exceptions include the following:

INTERMEDIATE COURTS: Election matters; Children’s Fast-Track Matters, and Matters credibly labeled as emergency filings;

COURTS OF COMMON PLEAS: Emergency bail review and habeas corpus hearings; bench warrant hearings, temporary protection from abuse hearings, emergency petitions for child custody; civil mental health reviews; emergency equity civil matters; “Any pleading or motion relating to public health concerns

and involving immediate and irreparable”

MAGISTERIAL AND OTHER MINOR COURTS: bail hearings; criminal case filings; preliminary hearings for the incarcerated; issuance of search warrants; emergency protection from abuse petitions.

8. Pennsylvania citizens enjoy the right to counsel and the right to due process of law, among other important constitutional rights, pursuant to Article I, Sections 6, 8, 9, 10, 13 and 14 of the Pennsylvania Constitution and the Fourth, Fifth, Sixth and Fourteenth Amendments to the United States Constitution. *See, e.g., Commonwealth v. Hess*, 617 A.2d 307 (Pa.1992) (importance of right to counsel and to counsel of one’s choosing).

9. The Governor’s Order, by closing down accessible law offices that are needed to render legal services, violates the aforementioned constitutional rights of citizens because it precludes them from effectively exercising those rights.

10. For example, in the criminal defense field, a defendant is charged with criminal homicide. Her family, friends and/or agents have to meet and consult with lawyers, physically in a law office setting; legal pleadings, memoranda, etc. have to be researched, written, prepared and filed; the attorneys have to prepare for court proceedings, such as any bail matters, preliminary hearings, etc. to address the very exceptions the Court has set forth in its March 18th Order.

In domestic law, an ex-wife refuses to turn over the children to the ex-husband and an emergency order is sought. How does the ex-husband meet with and consult counsel if the office is closed?

Consider wills/estates trusts. A senior citizen suffers from the Corona virus and is admitted to ICU in a hospital. A living will and power of attorney have to be drafted. Is the family prevented from meeting their attorney at their law office to prepare these documents? And there are more examples.

11. Indeed, this Honorable Court, by making specific “essential” exceptions to its emergency orders, foresaw the need for certain legal matters to continue notwithstanding the pandemic emergency. But for attorneys, including Petitioner, to represent citizens in these excepted legal matters, their physical offices must be accessible to continue to provide “legal services” not remotely, from home or from some other location, but in their respective law offices. Otherwise, these citizen-clients are deprived of their state and federal constitutional rights as a result of the Governor’s broad, sweeping but illegal and unconstitutional order.

12. Finally, this Honorable Court alone, under its Article V, Section 10 powers of the Pennsylvania Constitution, has the prerogative of supervising Pennsylvania lawyers and all ancillary matters pertaining to them – it has the exclusive authority to regulate the practice of law. Neither the Executive nor the

Legislative Branches of state government may intrude in that sphere. *See, e.g., Gmerek v. PA State Ethics Commission*, 807 A.2d 812 (Pa. 2002) (orders and opinions of divided Court affirming order of PA Commonwealth Court striking down law requiring lawyers to register as lobbyists).

13. Petitioner is filing separately an emergency petition for a temporary restraining order (TRO) or preliminary injunction. The Governor's Order went into effect at 8 p.m. on Thursday, March 19, 2020 after being issued, via videotape from his private home in Mount Wolf, York County, around 5 p.m. – less than 3 hours' notice was given. And the Governor has declared that active enforcement of the order will commence at 12:01 a.m. on Saturday, March 21, 2020 by local and state law enforcement agents with possible penalties for violators to include citation, fines/costs, and even imprisonment.

CONCLUSION

WHEREFORE, Petitioner, COSTOPOULOS, FOSTER & FIELDS, for the foregoing reasons, respectfully requests that Your Honorable Court exercise its King's Bench Powers and/or powers of extraordinary jurisdiction; declare ILLEGAL and UNCONSTITUTIONAL the Governor's March 19th Order insofar as it pertains to "legal services" provided by attorneys at their law offices across the Commonwealth of Pennsylvania; declare "law services" as essential for

Pennsylvania citizens at least as to the exceptions set forth in this Court's order of March 18th; and direct such other relief as may be deemed warranted under the circumstances.

RESPECTFULLY SUBMITTED:



William C. Costopoulos, Esquire
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ATTORNEY FOR PETITIONER

DATED: March 20, 2020.

VERIFICATION

I, Petitioner, William C. Costopoulos, Esquire, do hereby verify that the averments of fact made in the foregoing document are true and correct to the best of my personal knowledge and/or information and belief. I understand that false statements made herein are subject to the penalties at 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

By:



William C. Costopoulos, Esquire

DATED: March 20, 2020.

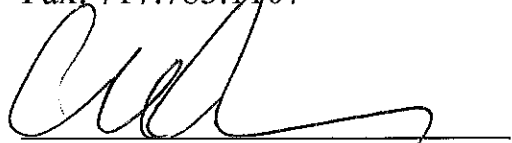
CERTIFICATE OF SERVICE

I, William C. Costopoulos, Esquire, attorney for Petitioner, do hereby certify that a true and correct copy of this PETITION was served upon the Respondent, Governor Tom Wolfe, and the Attorney General of Pennsylvania via FACSIMILE today; an attempt will also be made to send it via email today and hard copies will be placed in the United States Mail, first-class postage prepaid today and addressed as follows:

Hon. Tom Wolf
Governor of Pennsylvania
225 Main Capitol Building
Harrisburg, PA 17120
Fax: 717.772.8284

Hon. Joshua Shapiro
Attorney General of Pennsylvania
1600 Strawberry Square
Harrisburg, PA 17120
Fax: 717.783.1107

By:




William C. Costopoulos, Esquire

DATED: March 20, 2020.

CERTIFICATE OF COMPLIANCE

I, William C. Costopoulos, Esquire, attorney for Petitioner, do hereby certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

By:


William C. Costopoulos, Esquire

