

**IN THE SUPREME COURT OF FLORIDA**

**WILLIAM S. ABRAMSON,  
PETITIONER,**

**CASE NO. 20SC-\_\_\_\_\_**

**v.**

**RONALD D. DESANTIS,  
as Governor of the State of Florida,  
RESPONDENT.**

**PETITION FOR WRIT OF QUO WARRANTO**

Petitioner, William S. Abramson, a resident, citizen, registered voter, taxpayer, and former employee of Cucina Cabana, a restaurant located in North Palm Beach, Florida, files this petition to challenge Ronald D. Desantis' (Respondent) authority to issue and enforce Executive Orders 20-111, 20-212, dated April 29, 2020. (Exhibit A) Petitioner asserts that the issuance of these executive orders are in violation of the United States Constitution, the Florida Constitution, as well as Florida Statute 252, the cited authority to issue the above listed executive orders.

**BASIS FOR INVOKING JURISDICTION**

Article V, section 3(b)(8) of the Florida Constitution grants the Florida Supreme Court jurisdiction to issue writs of quo warranto to state officers and agencies. Respondent is a state officer pursuant to art V, sec 3(b)(8). *See Whiley v. Scott, 79 So. 3d 702, 705 (Fla 2011)*. Quo warranto is the "proper means for inquiring into whether a particular individual has improperly exercised a power or right derived from the State." *Whiley v. Scott, 79 So. 3d 707*. Since quo warranto may be used to enforce a public right, standing to seek such a remedy is endowed to

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citizens and taxpayers. Petitioner, William S. Abramson, resides in the State of Florida, is a citizen and taxpayer. Through this instant petition, William S. Abramson, moves this Court to strike and render null and void the above listed executive orders as a violation of the Florida Constitution, as well as the improper exercise of his rights as Governor enumerated in Florida Statute 252. *See Lerman v. Scott, 793 So. 3d (Fla 2016)*

The issue before this Court is whether Respondent has the legal authority to issue the above listed executive orders. This Court has the authority to strike and render null and void the above listed executive orders. Through this petitioner, William S. Abramson seeks such action.

#### **STATEMENT OF THE CASE**

On April 29, 2020, Respondent issued Executive Orders 20-111, 112, extending the previous order, issuing a “three phase plan” to address the current “crisis.” Respondent cited Article IV, section 1(a), and Florida Statute 252 as legal authority to support the issuance of Executive Orders 20-111, 20-112. Under the facts of the current situation, no such authority exists. Article IV section 1(a), merely lists the generic powers held by Respondent as Florida’s chief executive. None of the powers listed in Article IV, section 1(a) gives Respondent the implicit authority to issue the above listed executive orders. If Respondent had the power to issue the above listed executive orders based on Article IV, section 1(a), he would not have cited Florida Statute 252. Respondent issued the above listed executive orders on the alleged authority granted him pursuant to Florida Statute 252.

Respondent’s reliance on Florida Statute 252 is entirely misplaced. Florida Statute 252 , otherwise known as “The State Emergency Management Act” (hereinafter referred to as “The Act”) was enacted in 1974 and amended several times. Florida Statute 252.311, specifically

addresses the legislative intent of “The Act.” Florida Statute 252.311(a), states “The Legislature finds and declares that the state is vulnerable to a wide range of emergencies, including natural, technological, and manmade disasters, all of which threaten the life, health, and safety of its people; damage and destroy property; disrupt services and everyday business and recreational activities, and impede economic growth and development.” Florida Statute 252.311(b) expresses the legislative intent to reduce the state’s vulnerability “of the people to and property of this state, to prepare for efficient evacuation and shelter of threatened or affected persons; to provide for the rapid and orderly provision of relief to persons and for restoration of services and property; and to provide for the coordination of activities related to emergency preparedness, response, and recovery among . . . .” Florida Statute 252.311(3) reflects the legislative intent to promote preparedness for such emergencies. Florida Statute 252.311 was enacted in 1993. No legislative history exists for this statute. Its a well known and accepted fact that Florida was not prepared for Hurricane Andrew, which occurred in August, 1992. The entire purpose of this statute is to facilitate the **opening of the State, not closing it.**

Florida Statute 252.34(8) defines “Natural emergency” as “an emergency caused by a natural event, including, but not limited to: a **hurricane, a storm, a flood, severe wave action, a drought, or an earthquake.**” The current “emergency” is neither listed nor contemplated.

There can be little doubt as the accuracy of this assertion since the Legislature nor the Division has taken any action whatsoever to prepare for the current situation. SARS and H1N1 have come and gone. If this statute was intended to cover the current situation, an emergency plan would have been developed. No such plan exists. The only conclusion is that this statute was never meant to apply to the current situation. Petitioner does not assert that every Governor, legislator,

and employee of the Division , since 1993, is an abject failure. Quite the contrary. Florida's response to hurricanes since Andrew has been exemplary. Florida Statute 252 simply does not authorize Respondent to issue Executive Order 20-111 and 20-112, as well as the previous order under the facts of the current situation.

Pursuant to Florida Statute 252.35 "Emergency management powers; Division of Emergency Management" lists the powers, obligations, and responsibilities of the Division of Emergency Management( ("The Division"), a state agency which is under the purview of the executive branch of the State of Florida. Respondent bears ultimate responsibility for the Division. Florida Statute 252.35(1), requires the Division to maintain "a comprehensive statewide program of emergency management." Florida Statute 252.35(2)(a), requires the plan be coordinated with the Federal Government. Florida Statute 252.35(3) requires a "post disaster response and recovery component." Florida Statute 252.35(8) requires that "The complete state comprehensive emergency plan shall be submitted to the President of the Senate, the Speaker of the House of Representatives, and the Governor on February 1 of every even-numbered years. In essence, if an emergency were to occur, a plan must already be in place. No such plan addressing the current "emergency" exists. A cursory review of Executive Orders 20-211 and 20-212 reflect the failure to address the current situation in the state's emergency management plan. Therefore, Respondent and every elected official have failed the people of the State of Florida or the statute was never intended to apply to the current situation. No other conclusion can be reached.

Further support for this conclusion comes from the following subsections of Florida Statute 252.35 that further address the Division's responsibilities to do the following:

- 8(3)(e)(1) requires emergency management drills, tests, or exercises of whatever nature.
- 8(3)(e)(2) requires warning signals for tests and drills, attacks, or other imminent emergencies or threats.
- 8(h) Anticipate trends and promote innovations that will enhance the emergency management systems.
- 8(j) create an outreach program on disaster preparedness and readiness to individuals who have limited English skills.
- 8(n) Implement training programs to improve the ability of the state and local emergency management personnel to prepare and implement emergency.
- 8(q) Prepare, in advance whenever possible, such executive orders, proclamations, and rules for issuance by the Governor as are necessary or appropriate for coping with emergencies and disasters.
- 8(t) Maintain an inventory list of generators owned by the state ....  
(No reference to ventilators or PPE's is mentioned).
- 8(w) Report biennially to the President of the Senate, the Speaker of the House of Representatives, and the Governor, no later than February 1 of every odd-numbered year, the status of emergency management capabilities of the state and its political subdivisions.

Neither Respondent nor The Division can possibly claim that they contemplated the current situation when discharging their duties and responsibilities under Florida Statute 252.35 because there has been no compliance whatsoever with the above listed portions of Florida Statute 252. The only conclusion is that the current situation was neither contemplated nor covered under "The Act."

Further support for this assertion can be found in the failure to comply with Florida Statute 252.359(1)(2). These statutes require the Division to establish a statewide system to

facilitate the transport and distribution of essential items. Essential items are defined as “goods that are consumed or used as a direct result of a declared emergency. No such action has been taken with regard to ventilators or PPE’s.

Finally, if Florida Statute 252 was contemplated as giving Respondent authority to act in the current situation, Respondent has totally and completely failed to comply with the requirements of Florida Statute 252.36(3). Specifically, Respondent’s executive orders fail to include any of the following:

- 3(a) Activate the emergency mitigation, response, and recovery aspects of state . . . emergency management plan.
- 3(c) Identify whether the state of emergency is due to a minor, major, or Catastrophic disaster.

Neither the constitution nor Florida Statute 252 authorizes Respondent to issue Executive Orders 20-211 and 20-212.

Even a cursory review of the remaining parts of Florida Statute 252 lend support to this Petition.

### **RELIEF SOUGHT**

Therefore, Petitioner requests that this Court declare null and void Executive Orders 20-211 and 20-212. Florida Statute 252 does not authorize or even remotely contemplate Respondent’s exercise of authority in this manner. In the absence of authority under Florida Statute 252, Respondent’s orders must be stricken as null and void. Petitioner cannot remotely contemplate a matter that has ever been presented to this Court with greater significance. Petitioner implores this Court to require Respondent to respond immediately. Respondent has

taken great pains to issue the above executive orders. Respondent cannot possible claim he needs time to justify his actions.

### CONCLUSION

Petitioner does not seek to embarrass nor subject any government official to ridicule. The sole purpose of this Petition is to restore the rights of all Floridians to live in liberty and exercise their rights as a free people, to freely assemble, and benefit from their industry. Petitioner is not unmindful of the pressure and responsibility of being Respondent. However, the rule of law must prevail. The Executive Orders have no basis in law. Respondent's unilateral and arbitrary nature determining what is "essential" and what isn't is a dangerous precedent. **Florida Statute 252 was designed to facilitate the opening of the state, not closing it** Businesses are free to remain closed or require social distancing. Local school boards are vested with the authority to continue "distance learning." Major league sports can play in empty stadiums. Citizens are free to remain in their homes. If we allow Respondent to, in essence, make things up as he goes along, we have tyranny. In the words of Benjamin Franklin *"Any society that will give up a little liberty to gain a little security will deserve neither and lose both."*

Respectfully Submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
William S. Abramson  
Petitioner  
1204 S. Lake Drive, Apt 10  
Lantana, FL 33462  
(561)714-8625  
billabramson1776@gmail.com

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via email ([governorron.desantis@eog.myflorida.com](mailto:governorron.desantis@eog.myflorida.com)) and US Mail to Ronald D. Desantis, Executive Office of the Governor, 400 S. Monroe Street, Room 209, Tallahassee, Florida 32399; this 5th day of May, 2020

\_\_\_\_\_/s/\_\_\_\_\_  
William S. Abramson  
Petitioner  
1204 South Lake Drive, Apt 10  
Lantana, FL 33462  
(561)714-8625  
billabramson1776@gmail.com