

**IN THE DISTRICT COURT OF APPEAL, OF FLORIDA  
FIRST DISTRICT**

DANIEL W. UHLFELDER,

Plaintiff-Appellant,

vs.

THE HONORABLE RON DESANTIS,  
in his Official Capacity as Governor  
of the State of Florida,

Defendant-Appellee.

Case No.:1D20-1178

L.T. Case No.: 2020-CA-552

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**APPELLANT'S INITIAL BRIEF**

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On Appeal from the Circuit Court, Second Judicial Circuit,  
In and for Leon County, Florida

/s/ Daniel W. Uhlfelder

Daniel W. Uhlfelder, Esq.

FL Bar No. 0133922

daniel@dwulaw.com (primary)

paralegal@dwulaw.com (secondary)

reception@dwulaw.com (secondary)

DANIEL W. UHLFELDER, P.A.

124 East County Highway 30-A

Santa Rosa Beach, FL 32459

T: (850) 534-0246

F: (850) 534-0985

/s/ Gautier Kitchen

Gautier Kitchen, Esquire

Florida Bar No.: 0689793

THE KITCHEN LAW FIRM  
103 N. Meridian Street  
Tallahassee, Florida 32301  
Telephone: (850) 329-6715  
[gautier@kitchen-law.com](mailto:gautier@kitchen-law.com)  
[josh@kitchen-law.com](mailto:josh@kitchen-law.com)

*/s/ Marie A. Mattox*

Marie A. Mattox [FBN 0739685]  
MARIE A. MATTOX, P. A.  
203 North Gadsden Street  
Tallahassee, FL 32301  
Telephone: (850) 383-4800

Attorneys for Plaintiff-Appellant

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## **PRELIMINARY STATEMENT**

In this initial brief, Appellant/Plaintiff, Daniel W. Uhlfelder will be referred to as “Uhlfelder,” and Appellee/Defendant, The Honorable Ron DeSantis will be referred to as “DeSantis.” The record consists of pages 1 - 898. References to the Record will be identified by letter “R” followed by the page number. For example: (R. 66) refers to the Record at page 66. The Record includes the transcript of proceeding on April 7, 2020 and is identified by reference to the page as a part of the Record.

## **STATEMENT OF THE CASE AND FACTS**

This is an appeal from the Circuit Court's (“trial court”) Final Order Granting DeSantis’ Motion to Dismiss with Prejudice. (R. 850). The case involves Uhlfelder’s request for emergency injunctive relief against DeSantis to compel him to comply with his most basic constitutional duties to protect the health and welfare of Florida’s citizens during the current deadly global pandemic where Florida has now become its epicenter. Uhlfelder specifically prayed for the trial court to issue two preliminary injunctions directing DeSantis to order: (i) a temporary statewide Beach Closure Order and (ii) a statewide Safer-at-Home Order. (R. 10-21).

On April 1, 2020, DeSantis filed his Motion to Dismiss arguing Uhlfelder lacks standing to bring his action, the trial court lacked the authority to grant the requested relief and Uhlfelder failed to satisfy the requirements for injunctive relief. (R. 22-

36). On April 6, 2020, Uhlfelder filed his Memorandum in Opposition to Motion to Dismiss. (R.164-176). On April 7, 2020, the trial court heard argument on DeSantis' Motion to Dismiss and granted the Motion finding it "lacks authority to grant the relief requested due to the separation of powers clause of the Florida Constitution. *See* Art. II, Section 3, Fla. Const." (R. 854-897).

During the hearing, the trial court noted:

THE COURT: All right. Well, on this part of the case, what I would like to observe is I'm not going to reach the standing issue, because, number one, I believe that Mr. Uhlfelder has an understandable concern that he has raised here, and I believe he has pursued this matter in good faith and is seeking what he believes to be an appropriate response to the COVID crisis. We're all dealing with a difficult situation here. We're conducting court in an unusual fashion. I hate the fact that we're not all in one room and I can't look people in the eyes and tell them what I'm thinking and explain it to them, because I think we lose a lot in translation.

Having said that, I have been through everything that was sent to me and I have reviewed memos. And it's one of those cases that you wake up when you -- when your old dog who has to go outside at 2:00 in the morning wakes you up, then you spend the next two and a half hours thinking about the case during the night. But I will tell you this. I've looked at this and I believe that what I'm being asked to do is substitute my judgment for that of the Governor on how to respond to this COVID crisis which has been somewhat of a moving target. There are 599 circuit judges in Florida at last count and I don't think we need to have 599 governors in waiting. I don't know how I can be doing anything but second-guessing what he's done on beach closures and safe-at-home orders. And putting my -- any order I would do on this would be a mere substitution of my preferences for his. And I don't think courts should usurp the authority of the Executive whether we like what the Executive has done or not. Our powers are limited appropriately under the Constitution. I don't envy the Governor for what he's had to deal with. I don't envy the citizens of the state.

of Florida for what they have wrestled with. And I know that there are people that are rather proud of what the Governor is doing and I know that there are people who are scared and concerned. But I will tell you courts are not the place that public policy generally ought to be done, because we're not really equipped for it. I've got me, and my staff is my judicial assistant. We don't get to do independent investigations. We don't get to have a whole lot of input from other folks. We can conduct hearings and we can conduct trials and we're pretty good at that part. But I have looked and I read what you-all did, but I cannot find anything that gives me the authority to substitute my judgment for what the Governor believes to be his exercise of discretion during a state of emergency. So I am going to dismiss and grant the Motion to Dismiss. My intent is to grant that with prejudice so that you can immediately take me to the First District. Because I do think this is a matter of importance, and I think it's a matter of time, and if the First District tells me that I'm wrong and I do have the authority, then I'm glad to address it and go from there.

But I do not believe I have the power, Mr. Uhlfelder, to do what you have asked me to do and I'm sorry that I've got to tell you the answer is no.

MR. UHLFELDER: Well, I appreciate your reading everything and I know it's a difficult decision and we're not -- you know, we're not going to give up, because it's not

THE COURT: And I'm not telling you should. What I'm trying to do is give you the tool to take me up as quick as you can.

MR. UHLFELDER: Okay. Well, we will. I hate, you know -- well ...

THE COURT: And again, there may be some judges who worry about getting reversed. I take great comfort in knowing that there is an appellate court that can tell me if I've got it wrong. And it is my hope that they will address this expeditiously.

THE COURT: Actually I'm granting it as to separation of powers and I'm not reaching the rest of it.

MR. PRIMROSE: Okay. Understood.

THE COURT: It's a very simple and direct order. I don't believe I have the authority to do what they are asking me to do under any circumstance.

MR. UHLFELDER: Well, I appreciate your reading everything and taking it into consideration.

THE COURT: All right. And, Mr. Uhlfelder, I appreciate your concern for the people of the state of Florida.

(R. 891, line 12 – 895, line 24).

Since Uhlfelder's filing of his lawsuit, DeSantis' failure to comply with his constitutional and statutory duties have resulted in Florida becoming the epicenter of COVID-19 as Uhlfelder anticipated many months ago which could have been avoided with minimal judicial intervention.

When Uhlfelder's Complaint was filed on March 20, 2020, there were at least 563 cases of COVID-19 in Florida and at least 10 people had died from COVID-19 in Florida. On March 29, 2020, when Uhlfelder filed his Amended Complaint there were "at least 4,038 cases of COVID-19 in the State of Florida" and "[a]t least 56 people have died from COVID-19 in Florida." (R. 12).

Florida was one of the last states to impose a stay-at-home order which was only issued after Uhlfelder sued DeSantis requesting one, and one of the first to reopen. In late April, 2020, DeSantis launched his Re-Open Florida Task Force. None of the executive committee members were medical doctors or epidemiologists. Instead, it was packed with leaders of the state's largest corporations.



As COVID-19 cases surged through much of the Northeast in April and May, 2020, DeSantis openly declared a premature victory. DeSantis earned praise from President Trump for his response to the pandemic and attacked the media for fearmongering after the state reopened its beaches.

“When you look at some of the most draconian orders that have been issued in some of these states and compare Florida in terms of our hospitalizations ... I mean, you go from D.C., Maryland, New Jersey, New York, Connecticut, Massachusetts, Michigan, Indiana, Ohio, Illinois — you name it — Florida has done better,” DeSantis said from the Oval Office on April 28, 2020 before reopening the state.

Buoyed by the low infection rates and encouraged by the White House, the state’s first phase of reopening included restaurants, gyms, barbershops and large spectator sporting events, with reduced capacity. Professional sports leagues, including the NBA and Major League Soccer, announced they would resume their seasons in Florida. The Republican National Convention was moved to Jacksonville from Charlotte, N.C., because there would be fewer restrictions. In late April, DeSantis bragged, “[i]f we can get far enough along, we can watch the new quarterback of the Bucs play.”

On May 20, 2020, in DeSantis’ now famous tirade, blasted reporters for questioning his plan and referring to boogeyman circling the Department of Health

and bragging about Florida's success.

Approximately 500 doctors sent an open letter urging Jacksonville to postpone the convention reduce attendance to which DeSantis responded, "I think we'll be fine by that time." On July 2, 2020 DeSantis was asked if he takes any responsibility for the cases spiking in Florida to which he responded: "Do you give credit for Florida having fewer fatalities per 100,000 than the states you just listed?"

Fast forward to today since the dismissal of this case and DeSantis exercising free reign to decimate Florida, and Florida is now the global epicenter of COVID-19. As of July 13, 2020, Florida has reported a total of approximately 282,435 cases, 18,498 hospitalizations, and 4,277 deaths. On July 12, 2020, Florida shattered the national record with 15,300 new COVID-19 cases in a single day. Today, July 13, 2020, it recorded 12,264 new cases. Since Friday, July 10, 2020, Florida has added approximately 38,000 new cases.

Adding to the trouble, hospitals across the state are running out of beds in the intensive care units, although state officials say there is still plenty of capacity and hospitals have the ability to add surge beds.

If Florida were its own country, it would rank fourth in the world for the most new cases in a day behind the United States, Brazil, and India with its record day on July 12, 2020. The total of number deaths for the past week was 496, for an average of nearly 71 per day setting a one-week record of nearly 500 confirmed coronavirus

deaths.

DeSantis has consistently downplayed the extent of the outbreak, noting that many of the newly infected are younger people who are generally healthier. He has also attributed the extremely high number of cases to an increase in testing. On July 7, 2020, he said Florida had “stabilized where we’re at.” On July 7, 2020, Florida reported 206,447 COVID-19 cases and 3,778 deaths. Since the date DeSantis bragged Florida had stabilized only six days ago, Florida now has 282,435 cases and 4,277 deaths, an increase of 75,988 cases and 499 deaths.

Anthony Fauci said on July 11, 2020 that “[d]espite the guidelines and the recommendations to open up carefully and prudently, some states skipped over those and just opened up too quickly,” and “[c]ertainly Florida ... I think jumped over a couple of checkpoints." DeSantis has said he disagrees without any justification.

Uhlfelder’s claims are not barred by the separation of powers and by reversing the dismissal with prejudice. In fact, the separation of powers mandates judicial intervention to protect the health and welfare of Florida’s citizens from DeSantis’ constitutional abdication of his sworn duties. The preservation of Floridian’s lives is dependent on the judiciary protecting them, because it is clear DeSantis has no interest in protecting their lives during this deadly global pandemic where Florida has now quickly become the epicenter.

## **SUMMARY OF THE ARGUMENT**

Floridians are constitutionally entitled to enjoy life and Florida statutes obligate DeSantis to take basic steps to protect the lives of Floridians. DeSantis' failure to take basic steps in the face of the rapid spread of COVID-19 is needlessly costing thousands, if not hundreds of thousands, of Floridians their lives—a violation of DeSantis's statutory obligations and a violation of Uhlfelder's constitutional right to enjoy life as a Floridian. This forms the basis of Uhlfelder's complaint which should not have been dismissed with prejudice.

## **ARGUMENT**

### **I. UHLFELDER'S CLAIMS ARE NOT BARRED BY THE SEPARATION OF POWERS DOCTRINE.**

#### **A. Standard of Review.**

Questions of constitutional law are reviewed de novo. *Treasure Coast Marina, LC v. City of Fort Pierce*, 219 So. 3d 793, 795, 802 n.13 (Fla. 2017).

#### **B. Argument on the Merits.**

Uhlfelder's claims are not barred by the separation of powers doctrine. DeSantis' contention that the trial court lacks the authority to grant the relief in Uhlfelder's Amended Complaint may have been more persuasive if DeSantis had not completely abdicated his statutorily and constitutionally mandated duties to protect the health and welfare of Florida's citizens or to meet the dangers presented by emergencies.

The Florida Constitution under Basic Rights section states that “[a]ll natural

persons...have inalienable rights, among which *are the right to enjoy and defend life and liberty*[.] [emphasis added]” Art. I, §2, Fla. Const. This case focuses on Floridian’s constitutional rights to enjoy life and Desantis’ failure to protect and preserve the inalienable right to enjoy and defend life and liberty during a deadly global pandemic. DeSantis’ constitutional failure has been on full display for the entire world to see the past couple months as Florida has become the global epicenter of this deadly pandemic. It is part of Floridian’s Declaration of Rights and recognition of the inalienable right of all natural persons the right to enjoy and defend life and liberty, and to pursue happiness. When a branch of government violates these rights, another branch must step in.

The State of Florida is obligated to ensure the health and safety of its citizens. *Burnsed v. Seaboard Coastline R. Co.*, 290 So. 2d 13, 18 (Fla. 1974) (“Police Power is the sovereign right of the state to enact laws for the protection of lives, health, morals, comfort and general welfare.”). The Florida Supreme Court held in *Browning* that “[t]he state’s interest in the preservation of life generally is considered the most significant state interest.” *In re Guardianship of Browning*, 568 So. 2d 4, 14 (Fla. 1990); *see also Burton v. State*, 49 So. 3d 263, 266 (Fla. 1st DCA 2010) (holding that the State’s interest in the preservation of life is “compelling”).

Article IV, §1 of the Florida Constitution states that “[t]he governor shall take care that the laws be faithfully executed.” DeSantis has failed to do so which is a

constitutional violation mandating judicial intervention. He is provided the “supreme executive power...and take care that the laws be faithfully executed.” He has failed in this regard for which the courts must act.

As DeSantis notes in his Motion to Dismiss, §252.36(1)(a), Fla. Stat. (2019) states that the “Governor is responsible for meeting the dangers presented to this state and its people by emergencies.” (R. 33). While Chapter 252 contemplates discretionary executive action, this discretion is predicated on the affirmative obligation created by the plain language of §252.36(1)(a) that the Governor will meet the dangers presented to the State and its people by an emergency pursuant to his constitutional obligation. Furthermore, §252.36,1(a), provides that "the Governor is responsible for meeting the dangers presented to the State and its people by emergency," and then further it says, "the Governor will meet the dangers presented to the state of Florida and its people by emergency." This is mandatory not discretionary. Uhlfelder made sufficient allegations to defeat a motion to dismiss or should have been given leave to amend as requested.

Likewise, the Florida Constitution creates the fundamental basic right that all Floridians have the right to “enjoy...life[,]” and that the State of Florida is obligated to protect the lives, health, and welfare of its citizens. Art. I, §2, Fla. Const. The citizens of the State of Florida including Uhlfelder should expect their government to take basic action to combat the spread of a deadly pandemic disease rather than

let it spread and turn the State into the global epicenter as DeSantis has done. DeSantis' inaction in the face of the spread of this disease is nothing short of a violation of this statutory and constitutional obligation. In failing to take the basic precautionary measures outlined in Uhlfelder's Amended Complaint, DeSantis violated his statutory and constitutional obligations which is being proven every single day. Uhlfelder's complaint should not have been dismissed with prejudice. He clearly made sufficient allegations to withstand a motion to dismiss.

DeSantis' emphasis on the discretionary powers under Chapter 252 is wrong. DeSantis states in his Motion to Dismiss "[t]o be sure, Plaintiff may believe a variety of alternative actions are superior to those of the Governor." (R. 31). Uhlfelder's Amended Complaint does not focus on his beliefs at all. Rather, it is focused on DeSantis' egregious abdication of his constitutional and statutory responsibility to take affirmative steps to protect the health, life and safety of Floridians including Uhlfelder in the face of COVID-19's deadly spread. *See* Uhlfelder's hearing Exs. 2, 18-22, 24-27, 31, 33. (R. 177, 179-182) submitted as part of the record:

2. Open letter to Governor Ron DeSantis entitled "Healthcare Workers Urge Gov. DeSantis to Mitigate Spread of COVID-19" (R. 190-233);
18. University of California San Francisco article, published March 14, 2020 (R. 338-347);

19. WUSF News article published March 25, 2020, labeled: “Public Health Expert To DeSantis: Florida Needs Statewide Stay-At-Home Order” (R. 348-353);
20. Pensacola News Journal opinion article, published March 27, 2020, labeled: “Florida needs stay-at-home order before it's too late” (R. 354-362);
21. Miami Herald article, last updated on March 28, 2020, labeled: “Florida breaks past 4,000 confirmed coronavirus cases. 840 more reported in one day” (R. 363-376);
22. Business Insider article, published March 31, 2020, labeled: “The top infectious disease expert in the US says we're seeing 'glimmers' that social distancing is helping, but says a turnaround is yet to come” (R. 377-384);
24. CNN article, last updated April 1, 2020, labeled: “Social distancing appears to be slowing the spread of coronavirus in some areas but crisis won't end soon, officials say” (R. 385-389);
25. NBC Miami article, last updated on April 1, 2020, labeled: “Spring Breakers May Have Taken Coronavirus From South Florida Across US: Data Firm” (R. 588-592);
26. Politico opinion article, published April 1, 2020, labeled: “Coronavirus vs. Governors: Ranking the Best and Worst State Leaders” (R. 593-613);
27. Washington Post article, published April 1, 2020, labeled: “Social distancing works. The earlier the better, California and Washington data show.” (R. 614-635); and
28. Washington Post opinion article, published April 1, 2020, labeled: “We must hold politicians responsible for deaths they could have prevented” (R. 636-643).

According to one article, Desantis’ delay in taking steps to save lives, steps that are patently obvious – is reckless in the extreme and morally indefensible. (R.



638). DeSantis has the discretion to act or abstain, but he does not have the discretion to violate Florida Statutes or the constitutional rights of Floridians. *City of Freeport v. Beach Cmty. Bank*, 108 So. 3d 684, 687 (Fla. 1st DCA 2013) (internal citation omitted) (holding that the judiciary may not second guess the police power decisions of coordinate branches of government “absent a violation of constitutional or statutory rights.”).

The task before the trial court thus fits squarely within the judiciary’s defined roles and should not have been dismissed with prejudice, that is: (i) to ascertain whether another branch of government has violated the constitutional rights of Floridians, and in the event that there is such a violation (ii) to grant the relief requested as necessary to remedy that violation. *See* § 20.02, Fla. Stat. (2019) (“[t]he judicial branch has the purpose of determining the constitutional propriety of the policies and programs and of adjudicating any conflicts arising from the interpretation or application of the laws.”). In this case, the trial court deprived Uhlfelder of his constitutional and statutory right to seek his relief against DeSantis by dismissing his case with prejudice.

The subsequent remedial measures taken by DeSantis since the filing of Uhlfelder’s lawsuit and attempts to advance this litigation must also be noted to support reversal. For weeks, DeSantis steadfastly refused to issue a statewide Safer-at-Home Order. *See* Uhlfelder’s Hearing Exs. 20 and 31. (R. 354-362; R. 396-402).

However, after Uhlfelder filed his Amended Complaint on March 29, 2020, served discovery, noticed DeSantis for deposition and scheduled a hearing with the Court for the afternoon of April 1, 2020, DeSantis finally issued Executive Order 20-91 on April 1, 2020, issuing a statewide Safer-at-Home Order—one of the remedies requested in Uhlfelder’s Amended Complaint. Curiously, the Executive Order 20-91 was issued merely hours before the Case Management Conference on the case at bar.

DeSantis’ own conduct not only reflects the obvious need for the relief requested in the Amended Complaint, it evinces a concern that the judiciary will—rightly—act to protect the constitutional rights of Floridians because the executive has failed to do so. How many more lives or how many other people have become ill or died because DeSantis has failed to act? In fact, while DeSantis took certain actions shortly after Uhlfelder his suit and before the trial court’s first hearing, after dismissal with prejudice of the case, DeSantis has backtracked completely on those measures. Obviously, one of the only reasons DeSantis has engaged in any basic safety measures was because of the short-lived lawsuit in this matter. Since the lawsuit was dismissed, DeSantis has reverted to his complete disregard for the lives of his constituents. Judicial intervention must be taken to save more Floridians from dying and becoming sick because it is clear DeSantis has no regard for their safety.

On March 20, 2020, when Uhlfelder sued Florida Governor DeSantis there

were a total of 563 COVID-19 Florida cases and 10 deaths. At the time of the Amended Complaint on March 29, 2020, there were at least 4,038 cases of COVID-19 in the State of Florida” and that “[a]t least 56 people have died from COVID-19 in Florida.” ¶11, Amended Complaint. (R. 12). As of today, and since the lawsuit was dismissed and DeSantis has reverted back to his derelict ways, Florida is now the global epicenter of COVID-19, and has reported a total of approximately 270,000 cases with a total of approximately 4,241 deaths. The total number of deaths for the past week was 496 which is almost as much as total number of all cases when Uhlfelder first sued DeSantis.

On July 12, 2020, the State reported 15,300 COVID-19 positive cases, which is the highest total of any state since the start of the pandemic. At that rate, a Floridian was testing positive every five and a half seconds.

Uhlfelder alleged that if DeSantis “fails to issue a statewide Beach Closure Order....more Floridians, indeed, potentially vastly more Floridians...will become sick, spread the disease and die.” ¶34, Amended Complaint. (R. 16). These allegations must be taken as true for purposes of a motion to dismiss and should have resulted in denial of the motion to dismiss. Ten days later, on the date of the hearing, there were over 14,000 cases and almost 283 deaths and climbing in Florida. That was an increase in about 10,000 cases and 230 deaths in 10 days. COVID-19 is continuing to spread in Florida and kill more Floridians. In fact, as early as March,

2020, a leading US epidemiologist had warned Florida could become the next virus hotspot. (R. 453).

On March 30, 2020, Uhlfelder requested a two-hour hearing on his emergency injunction and the Court scheduled a Case Management Conference for April 1, 2020 at 3:15 EDT. At that point in time, the lawsuit had been pending for ten days without a hearing and the need for emergency relief was getting more critical every hour as DeSantis continued to resist the pleas of Uhlfelder, public health experts and others for days.

Even as late as Tuesday evening on March 31, 2020, DeSantis said at a news conference that he had no plans to issue a statewide stay at home order because the White House had not told him to do so. Fred Barbash and Alex Horton, *Florida Governor issues coronavirus stay-at-home order after heavy criticism*, WASH. POST, Apr. 1, 2020, <https://www.washingtonpost.com/nation/2020/04/01/coronavirus-florida-desantis>. For this, he won praise from the President. *Id.*

During his March 31, 2020 evening news conference DeSantis reiterated the ineffectiveness of any such statewide stay at home order:

DeSantis again pleaded powerlessness at his news conference and wondered how useful orders would be anyway. For example, he said he had closed some beaches at the request of local officials and people were gathering on them anyway. “I was flying out of Miami yesterday,” he said, “looking at beaches with signs saying they were closed. “Were there people out there? Damn right there were,” he continued. “It’s really up to the locals to deal

with them one way or the other. “ ... It’s just unfortunate,” he said, “but no matter what you do you’re going to have a class of folks who are going to do whatever the hell they want to.”

He also suggested Floridians didn’t need public health mandates because most were doing the right thing without them, in part because there just wasn’t much to do. “Everything’s pretty much closed,” he said. “It’s not like there’s anything to do.” *Id.*

Therefore, Uhlfelder served DeSantis with a Notice of Deposition to take place on April 22, 2020 as it was clear from DeSantis’ nonchalant statements, he had no intention of taking the necessary actions requested. Uhlfelder had previously served DeSantis with a request for production that same day.

On the morning of March 30, 2020, Uhlfelder requested a two-hour hearing on my emergency injunction and the Court scheduled a Case Management Conference for April 1, 2020 at 3:15 EDT. Shortly before the April 1, 2020 Case Management Conference DeSantis finally issued a Safer-At-Home Order and later sought to prevent the taking of his deposition. At that time, thirty-seven states had already adopted statewide orders for people to stay at home.

However, he later than overrode the local stay at home orders if they were stricter than his with Executive Order 20-92. (R. 336-337). According to the Tampa Bay Times article, last updated April 3, 2020, titled Ron DeSantis quietly signed second executive order targeting local coronavirus restrictions:

The discreet circumstances under which the second order materialized has

only added to the confusion. DeSantis signed it Wednesday at 6:36 p.m. — just five hours after he issued his statewide stay-at-home order. Unlike that first action — which DeSantis unveiled at a well-attended press conference that aired on the state’s cable channel and was sent out in a news release from his office — there was no announcement about the signing of the second order or a subsequent news release.

Instead, it was quietly added to the governor’s website just after the state reported the 100th coronavirus-related death in Florida. (R. 712-722).

“The turnabout from Florida’s governor was especially stark. DeSantis had previously allowed spring break vacationers to socialize on Florida's beaches, where they likely spread the virus. Florida, of course, also has one of the nation’s largest populations of people over 65, who are especially threatened by the virus.” David Leonhardt, *Florida, Finally: The state will go on lockdown, far too late.*, N.Y. TIMES, Apr. 2, 2020, <https://www.nytimes.com/2020/04/02/opinion/coronavirus-desantis-trump.html>.

The citizens of the State of Florida have the right to expect their government to take basic action to combat the spread of pandemic disease. DeSantis’ inaction in the face of the spread of this disease is nothing short of a violation of this statutory and constitutional obligation. The only real measures he has taken to protect Floridians was during the short window this lawsuit was pending in some minimal effort to save face. In failing to take the basic precautionary measures outlined in Uhlfelder’s Amended Complaint and as proven by his post-dismissal conduct, DeSantis violated his statutory and constitutional obligations. For the foregoing

reasons, the trial court's dismissal should be reversed as the trial court not only has the authority to grant the relief requested but must grant it. The lives of Floridians, including Uhlfelder, depend upon it.

### **CONCLUSION**

DeSantis' failure to act is a flagrant violation of his basic constitutional obligations to keep Floridians safe, including Uhlfelder. In his Amended Complaint, Uhlfelder seeks remedies that will decrease the spread of COVID-19—and consequently—Uhlfelder's risk of contraction of it. His allegations were sufficient to withstand a motion to dismiss and should not have been dismissed with prejudice.

Considering DeSantis' intransigence with regard to the life and health of Floridians that has only been exacerbated since dismissal of the case and lack of judicial oversight, Uhlfelder requests this Court exercise its authority in protecting the constitutional rights of Floridians by reversing the trial court's dismissal with prejudice. DeSantis has certain constitutional and statutory obligations which he cannot ignore, and, when he does, the judiciary is responsible for addressing those violations. Otherwise, Florida is no longer a democracy but at the mercy of an Executive with unlimited powers during one of the most dangerous times in history. Clearly, this is not the law of Florida. The health and safety of all Floridians depend on the judicial branch to protect them from an Executive who has put their lives in harm's way.

Dated this 13th day of July, 2020.

/s/ Daniel W. Uhlfelder

Daniel W. Uhlfelder, Esq.

FL Bar No. 0133922

daniel@dwulaw.com (primary)

paralegal@dwulaw.com (secondary)

reception@dwulaw.com (secondary)

DANIEL W. UHLFELDER, P.A.

124 East County Highway 30-A

Santa Rosa Beach, FL 32459

T: (850) 534-0246

F: (850) 534-0985

/s/ Gautier Kitchen

Gautier Kitchen, Esquire

Florida Bar No.: 0689793

THE KITCHEN LAW FIRM

103 N. Meridian Street

Tallahassee, Florida 32301

Telephone: (850) 329-6715

gautier@kitchen-law.com

josh@kitchen-law.com

/s/ Marie A. Mattox

Marie A. Mattox [FBN 0739685]

MARIE A. MATTOX, P. A.

203 North Gadsden Street

Tallahassee, FL 32301

Telephone: (850) 383-4800

Attorneys for Plaintiff-Appellant

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via the Florida Courts E-filing Portal to: **Nicholas A. Primrose, Deputy General Counsel**, Executive Office of the Governor, The Capitol, PL-05, Tallahassee, Florida 32399-0001 [Primary e-mail:



Nicholas.Primrose@eog.myflorida.com; Secondary e-mail address:  
Erin.Kraeft@eog.myflorida.com] on this 13th day of July, 2020.

/s/ Daniel W. Uhlfelder  
DANIEL W. UHLFELDER, ESQ.

**CERTIFICATE OF COMPLIANCE**

I hereby certify that this Initial Brief complies with the font requirements of  
Fla. R. App. P. 9.100.

/s/ Daniel W. Uhlfelder  
DANIEL W. UHLFELDER, ESQ.