

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

KALAHARI RESORTS, LLC and
KALAHARI RESORTS PA, LLC, d/b/a
Kalahari Resorts & Conventions; and THE
WOODLANDS AT ST. BARNABAS d/b/a
Conley Resort and Golf,

Plaintiffs,

v.

THE HON. THOMAS W. WOLF, in his
official capacity as the Governor of the
Commonwealth of Pennsylvania; and DR.
RACHEL LEVINE, in her official capacity
as the Secretary of the Pennsylvania
Department of Health,

Defendants.

CIVIL ACTION

Case No.: 2:20-cv-1934

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Introduction

1. "There is no evidence that COVID-19 can be spread to humans through the use of recreational waters."

COMMUNITY, WORK & SCHOOL

Considerations for Public Pools, Hot Tubs, and Water Playgrounds During COVID-19

Updated Oct. 29, 2020

Languages Print



On This Page

Promoting behaviors that prevent the spread

Preparing for when someone gets sick

Maintaining healthy environments

Communication resources

Maintaining healthy operations

Other resources

There is no evidence that COVID-19 can be spread to humans through the use of recreational waters. Follow safe swimming practices along with social distancing and everyday preventative actions to protect yourself.

As public aquatic venues open in some areas, CDC offers the following considerations for the safety of those who operate, manage, and use public pools, hot tubs, and water playgrounds.

Public aquatic venues can be operated and managed by:

- City or county governments
• Apartment complexes
• Membership clubs (for example, gyms)
• Schools
• Waterparks
• Homeowners' associations



1 The following screen shot was taken from the CDC website on December 12, 2020 located at https://www.cdc.gov/coronavirus/2019-ncov/community/parks-rec/aquatic-venues.html. (emphasis added).

2. That includes “waterparks.” *Id.*
3. This is a photo of Plaintiff, Kalahari’s, indoor waterpark in the Poconos:²



4. This is a photo of Kalahari following CDC guidelines:³



² The following screen shot was taken from Kalahari’s website on December 12, 2020 located at <http://kalaharimedia.com/gallery-category/poconos-images/#view>.

³ The following screen shot was taken from Kalahari’s website on December 12, 2020 located at <http://kalaharimedia.com/gallery-category/poconos-images/#view>.

5. This is a photo of Plaintiff, St. Barnabas's, "Pirate's Cove:"⁴



6. Despite the fact that the CDC says there is “*no evidence* that COVID-19 can be spread to humans through the use of recreational waters” at waterparks, the Governor of Pennsylvania and Secretary of Health have again ordered Plaintiffs to shut down their indoor waterparks and pool facilities.

7. Defendants’ stated governmental interest is to reduce person-to-person contact as a means to slow and eliminate the spread of COVID-19 infections within the Commonwealth of Pennsylvania.

8. However, Defendants’ Shutdown Orders permit other businesses to continue operations when such businesses have similar, if not greater, person-to-person contact and have significantly higher rates of infection associated with their business operations.

⁴ The following screen shot was taken from Conley’s website on December 12, 2020 located at <https://www.conleyresort.com/pirates-cove/>.

9. Defendants' rationale for permitting other businesses to continue business operations is not the lack of person-to-person contact associated with the other businesses

10. Rather, Defendants' inexplicable position is that other businesses can continue to operate if mitigation efforts are implemented – while at the same time – Defendants shut down Plaintiffs' business operations without consideration of Plaintiffs' demonstrated ability to effectively implement the same mitigation measures.

11. Plaintiffs have successfully implemented, and will continue to successfully implement, the same mitigation measures that Defendants have asked other businesses to implement, in exchange for Defendants permitting them to continue their business operations.

12. Defendants severe treatment of Plaintiffs' business operations, while granting preferential treatment to other businesses, is unsupported in fact and law.

13. Defendants' Shutdown Orders treat Plaintiffs' waterpark business operations differently by requiring them to shut down while other businesses are allowed to continue to operate at 50% capacity or greater.

14. Defendants' Shutdown Orders and actions violate Plaintiffs' equal protection, substantive due process, and procedural due process rights.

Jurisdiction and Venue

15. Plaintiffs bring this action pursuant to 42 U.S.C. §§ 1983 and 1988.

16. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343.

17. This Court has jurisdiction to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202.

18. This Court has personal jurisdiction over the named individual Defendants – who are sued in their official capacities only.

19. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

Parties

20. Plaintiff, The Woodlands at St. Barnabas owns, operates, and does business as Conley Resort and Golf, is a Pennsylvania nonprofit corporation with a principal place of business at 740 Pittsburgh Road, Butler, Butler County, PA 16002 (“St. Barnabas”).

21. Plaintiff, Kalahari Resorts, LLC, is a Delaware limited liability company, with a principal place of business at 250 Kalahari Boulevard, Pocono Manor, Monroe County, PA 18349.

22. Plaintiff, Kalahari Resorts PA, LLC, is a Delaware limited liability company, with a principal place of business at 250 Kalahari Boulevard, Pocono Manor, Monroe County, PA 18349.

23. Plaintiffs, Kalahari Resorts, LLC and Kalahari Resorts PA, LLC, own, operate, and do business as “Kalahari Resorts & Conventions,” located in Monroe County, Pennsylvania, with a principal place of business at 250 Kalahari Boulevard, Pocono Manor, Monroe County, PA 18349 (“Kalahari”).

24. Defendant, The Honorable Thomas W. Wolf, is the Governor of the Commonwealth of Pennsylvania, with a principal office address at the Office of the Governor, 508 Main Capitol Building, Harrisburg, Dauphin County, PA, 17120 (“Governor Wolf”).

25. Defendant, Dr. Rachel Levine, is the Secretary of Health of the Commonwealth of Pennsylvania with a principal office address at Pennsylvania Department of Health, Health and Welfare Building, 8th Floor West, 625 Forster Street, Harrisburg, Dauphin County, PA, 17120 (“Secretary Levine”).

26. Defendants are sued in their official capacities.

Factual Background

A. The December 12th Shutdown Orders.

27. On December 10, 2020, Governor Wolf announced a new shutdown order effective December 12, 2020 at 12:01 a.m. A copy of the order is attached and incorporated by reference as if fully set forth at length herein as Exhibit “A.”

28. On December 10, 2020, Secretary Levine contemporaneously announced a new shutdown order that mirrors Governor Wolf’s order. A copy of the order is attached and incorporated by reference as if fully set forth at length herein as Exhibit “B.”

29. Governor Wolf and Secretary Levine’s orders will be referred to collectively herein as the “Shutdown Orders.”

30. Governor Wolf cited his authority to issue his order pursuant to 35 Pa.C.S. § 7301(a).

31. Governor Wolf also authorized Secretary Levine to institute “general control measures, including, but not limited to, closure, isolation, and quarantine.” *See* Ex. A.

32. Secretary Levine’s order mirrors Governor Wolf’s. *See* Ex. B.

33. Due to the nature of Plaintiffs’ operations, the Shutdown Orders directly impact Plaintiffs under at least the following sections:

- a. Section 1: Definition of “Gatherings and events,”
- b. Section 2: “In-person Dining and Alcohol Sales,”
- c. Section 3: “Indoor Gatherings and Events,”
- d. Section 4: “Outdoor Gatherings and Events,”
- e. Section 5: “Capacity Limits for Businesses,”
- f. Section 6: “Gyms and Fitness Facilities,” and

g. Section 7: “Entertainment Industry.”⁵

34. Below are screen shots of the Shutdown Orders:

“Gatherings and events” mean a temporary grouping of individuals for defined purposes, that takes place over a limited timeframe, such as hours or days. For example, events and gatherings include fairs, festivals, concerts, or shows and groupings that occur within larger, more permanent businesses, such as shows or performances within amusement parks, individual showings of movies on a single screen/auditorium within a multiplex, business meetings or conferences, or each party or reception within a multi-room venue. Classroom instruction by school entities is not a “gathering” or “event” for purposes of this Order. Nor is a meeting of electors, including any preparation, to perform the duties enjoined upon them by the Constitution and the laws of the Commonwealth and of the United States a “gathering” or “event” for purposes of this Order.

Section 2: In-person Dining and Alcohol Sales

- A. All in-person indoor dining at businesses in the retail food services industry, including, but not limited to, bars, restaurants, breweries, wineries, distilleries, social clubs, and private catered events is prohibited.*
- B. Outdoor dining, take-out food service and take-out alcohol sales are permitted and may continue, subject to any limitations or restrictions imposed by Pennsylvania law, or this or any other Order issued by me or by the Secretary of Health.*

Section 3: Indoor Gatherings and Events

- A. Indoor gatherings and events of more than 10 persons are prohibited.*
- B. Churches, synagogues, temples, mosques and other places of congregate worship are specifically excluded from the limitations set forth above during religious services. These institutions are strongly encouraged to enforce physical distancing and other mitigation measures at their gatherings.*

Conventions, retreats, and other gatherings that may be sponsored or held by these religious entities that are not the actual worship service are required to comply with this Order.

Section 4: Outdoor Gatherings and Events

Outdoor gatherings and events of more than 50 persons are prohibited.

Section 5: Capacity Limits for Businesses

All in-person businesses serving the public within a building or defined area may only operate at up to 50% of the maximum capacity stated on the applicable certificate of occupancy, except as limited by existing orders to a smaller capacity limit.

Section 6: Gyms and Fitness Facilities

Indoor operations at gyms and fitness facilities are prohibited. Outdoor operations may continue, but all participants must wear face coverings in accordance with the Secretary of Health’s [Updated Order Requiring Universal Face Coverings](#), including any subsequent amendments, and practice physical distancing requirements.

Section 7: Entertainment Industry

All in-person businesses in the entertainment industry serving the public within a building or indoor defined area, including, but not limited to, theaters, concert venues, museums, movie theaters, arcades, casinos, bowling alleys, private clubs, and all other similar entertainment, recreational or social facilities, are prohibited from operation.

⁵ Plaintiffs dispute that they uniformly fit into any of these above categories, however, they are affected at least by these definitions.

B. CDC Guidelines for Aquatic Venues.

35. The CDC has issued comprehensive guidelines related to COVID-19.

36. Part of those guidelines includes “Consideration for Aquatic Venues.”

37. According to the CDC guidelines, “[t]here is no evidence that COVID-19 can spread to humans through the use of recreational waters.” See <https://www.cdc.gov/coronavirus/2019-ncov/community/parks-rec/aquatic-venues.html>.

38. The CDC expressly includes “waterparks.” *Id.*

39. In addition to Consideration for Aquatic Venues, Plaintiffs’ follow all other CDC guidelines to ensure the safety of their employees and guests when operating their facilities.

40. Plaintiffs’ compliance with CDC guidelines is more thoroughly set forth below.

C. Kalahari Resorts & Conventions.

41. Kalahari’s main offices are located in Wisconsin Dells, Wisconsin.

42. Kalahari is family owned and operates four of the largest indoor waterpark resorts in the United States.

43. Kalahari’s Pennsylvania location is in the Poconos (the “PA Resort”).

44. The PA Resort:

- a. is over 1.4 million square feet,
- b. features 977 guest rooms,
- c. has a 260,000 square foot waterpark,⁶
- d. has a 110,000 square foot outdoor waterpark,
- e. has 14 food and beverage locations,
- f. has a 205,000 square foot meeting space for conventions,
- g. has a spa and fitness center,

⁶ This square footage includes the “back of the house.”

- h. has several stores,
- i. has an arcade,
- j. has a treetop adventure center,
- k. has a 7-D motion theater,
- l. has mini golf courses, and
- m. has an escape room.

45. Kalahari's claims are related to the shutdown of its indoor waterpark at the PA Resort.

46. Kalahari is ready, willing, and able to continue to operate all of its other businesses in compliance with the CDC guidelines, as it has safely done for months.

47. As part of the operations of the indoor waterpark at the PA Resort:

- a. the occupancy is 6,969,
- b. the air circulation recycles multiple times every hour,
- c. guests are required to wear masks, or face shields, as demonstrated by the photos above.⁷

48. Since the initial shutdown in March of 2020 and subsequent reopening, Kalahari has done a tremendous job implementing the COVID-19 guidelines and mitigation measures to make all their properties, including the indoor waterpark at the PA Resort, fully compliant with CDC and Department of Health mitigation recommendations.

49. Kalahari's CDC compliance efforts, include but are not limited to the following:

- a. participated in frequent video calls to discuss operating in a safe manner;
- b. separated HVAC units for each guest room;
- c. discussed safety with other similarly situated companies;

⁷ Guests are not required to wear masks when in the water or an attraction. This exception is consistent with CDC guidelines, which advise not to wear masks in the water because they can be difficult to breathe through when they are wet. See <https://www.cdc.gov/coronavirus/2019-ncov/community/parks-rec/aquatic-venues.html>.

- d. installed hand sanitizer stations and plexiglass barriers;
- e. removed high touch items from guest rooms;
- f. enhanced cleaning protocols;
- g. enforced masks and social distancing;
- h. encouraged handwashing;
- i. required employees to undergo COVID training that included OSHA and CDC requirements;
- j. created family friendly values agreements that require guests to agree to comply with all CDC guidelines;
- k. created a hotline for employees and guests to report non-compliance with COVID safety;
- l. utilized social distance monitors and wellness concierges to enforce CDC requirements;
- m. partnered with Pocono Promise;⁸
- n. installed an employee temperature scanner; and
- o. purchased hospital-grade disinfectant.

50. A comprehensive guide can also be found on Kalahari's website located at: <https://www.kalahariresorts.com/what-we-are-doing-to-ensure-a-safe-getaway/>.

51. Kalahari also put together its "Commitment to Clean" Program. A copy of some of the documents that encompass this program are attached and incorporated by reference as if fully set forth at length herein as Exhibit "C."

52. To date, based upon information and belief, Defendants have not traced any person-to-person COVID-19 infection to Kalahari's business operation at the PA Resort.

53. Further, the CDC has clearly stated "[t]here is no evidence that COVID-19 can be spread to humans through the use of recreational waters," and based upon information and belief,

⁸ <https://www.poconomountains.com/about-the-pocono-mountains/pocono-promise/#our-promise-to-you>.

Defendants' recent Shutdown Orders were not issued based upon contact tracing or infection data within the Commonwealth to the contrary.

54. Despite Kalahari's comprehensive COVID-19 protocol, the Shutdown Orders once again prevent Kalahari from operating their indoor waterpark at the PA Resort during one of their most profitable times of the year.

55. As a result of the Shutdown Orders Kalahari has:

- a. projected monetary losses well in excess of \$10 million;
- b. cancelled bookings;
- c. suffered damage to its reputation (i.e. by cancelling their guests' bookings with almost no notice); and
- d. been forced to prevent employees from working, which may lead to their eventual termination.

56. Without being allowed to operate until at least January 4, 2021, Kalahari:⁹

- a. will forever lose business during that time period;
- b. will operate at a substantial loss; and
- c. may be forced to lay off employees.

D. St. Barnabas.

57. Like Kalahari, St. Barnabas has an indoor waterpark facility.

58. Due to Defendants' Shutdown Orders, St. Barnabas cannot operate its "Pirate's Cove" indoor waterpark for the same reasons as listed for Kalahari above.

59. St. Barnabas also fully complies with current CDC guidelines regarding COVID-19 protocols.

⁹ Plaintiffs believe that the Shutdown Orders may be extended, further harming their businesses.

60. Despite compliance with CDC guidelines and other mitigation efforts, the Shutdown Orders prevent St. Barnabas from operating Pirate's Cove.

E. Violation of Plaintiffs' Constitutional Rights.

61. The Shutdown Orders arbitrarily affected Plaintiffs' businesses while others are allowed to remain open.

62. Any business that is not considered a "Gym and Fitness Facilit[y]" or an "Entertainment Industry," is allowed to operate at 50% capacity under the Shutdown Orders.

63. Many of the non-Entertainment Industry businesses that have been granted favorable treatment under Defendants' Orders have equal, or greater, person-to-person contact.

64. Defendants' Shutdown Orders permit countless patrons to walk the narrow shopping aisles of retail stores, such as: Walmart, Sam's Club, Home Depot and their local malls, but prohibit any patron from swimming in Plaintiffs' waterparks and pools.

65. Defendants' Shutdown Orders permit families to engage in countless indoor activities, such as: shopping together, attending church together, and going to work together – all of which bring family members into contact with other persons – but Defendants' Orders prohibit the same family members from enjoying time together at Plaintiffs' waterparks.

66. Even restaurants, while heavily restricted, can continue to operate for take-out food service and take-out alcohol sales under the Shutdown Orders.

67. But, Plaintiffs' are prevented from operating due to an arbitrary and unexplained classification created by Governor Wolf and Secretary Levine in the Shutdown Orders.

68. Plaintiffs' businesses have been classified as "Entertainment Industr[ies]," along with "theaters, concert venues, museums, movie theaters, arcades, casinos, bowling alleys, [and] private clubs."

69. In fact, these other businesses are so unlike Kalahari's indoor waterpark that after initially reading the Shutdown Orders, Kalahari felt that its indoor waterpark could be considered a "Business Serving the Public," and asked a Pocono tourism representative to contact Governor Wolf's office for clarification.

70. On December 10, 2020, Governor Wolf's Deputy Chief of Staff, Elena Cross ("Ms. Cross") responded via email definitively stating that Kalahari was considered an "Entertainment Industry" as defined in the Shutdown Orders.

71. In her email, Ms. Cross confirmed that Kalahari was included as "indoor entertainment," and was required to close from December 12, 2020 through January 4, 2021.

72. This disparate treatment of Plaintiffs' businesses is readily apparent because Defendants failed to take into consideration the nature of Plaintiffs' businesses and their comprehensive compliance with CDC guidelines.

73. Notably, the CDC states that "[t]here is no evidence that COVID-19 can be spread to humans through the use of recreational waters."

74. The Shutdown Orders failed, at a minimum, to take CDC guidelines into consideration before preventing Plaintiffs from being able to operate their businesses.

75. Plaintiffs are currently adhering to CDC guidelines regarding COVID-19 in Pennsylvania and other states, and were operating safely in Pennsylvania up until December 12, 2020.

76. This includes all CDC guidelines.

77. Plaintiffs were taking the safety of their guests seriously, but their efforts were usurped by the Shutdown Orders.

78. The Shutdown Orders conflate Plaintiffs' businesses with ones that are not similarly situated and treat Plaintiffs' businesses in a different manner than similarly situated businesses without any rational basis.

79. The Shutdown Orders deprive Plaintiffs of their ability to operate their businesses.

80. The Shutdown Orders failed to provide Plaintiffs with any opportunity to challenge their contents or restrictions.

COUNT I – ALL PLAINTIFFS v. ALL DEFENDANTS
Violation of Equal Protection

81. Plaintiffs incorporate the foregoing paragraphs as though the same were fully set forth at length herein.

82. The Equal Protection Clause requires governments to act in a rational and non-arbitrary fashion.

83. The Equal Protection Clause prevents a particular class of individuals from being denied the ability engage in an activity that other similarly situated individuals are allowed to engage in.

84. Defendants have prevented Plaintiffs from operating their businesses from December 12, 2020 until at least January 4, 2021.

85. Defendants' conduct with regard to the Shutdown Orders violates the Equal Protection Clause of the 14th Amendment to the United States Constitution.

86. Defendants' conduct allows other businesses to operate, but prohibits Plaintiffs from operating.

87. This constitutes disparate treatment.

88. Defendants' Shutdown Orders demonstrate an arbitrary decision making process that allows some businesses to operate, but not others, including Plaintiffs' businesses.

89. Defendants' actions deprive Plaintiffs of their constitutional rights in violation of the Equal Protection Clause.

COUNT II – ALL PLAINTIFFS v. ALL DEFENDANTS
Substantive Due Process

90. Plaintiffs incorporate the foregoing paragraphs as though the same were fully set forth at length herein.

91. Substantive Due Process prevents the government from engaging in conduct that “shocks the conscious” or that interferes with the concept of ordered liberty.

92. The Shutdown Orders issued by Defendants constitute arbitrary, capricious, irrational, and abusive conduct that interferes with Plaintiffs' liberty and property interests protected by the due process clause of the Fourteenth Amendment to the United States Constitution.

93. Defendants' actions constitute official policy, custom, and practice of the Commonwealth of Pennsylvania.

94. Defendants' actions shock the conscience of the citizens of the Commonwealth.

95. Defendants' actions do not comport with the traditional ideas of fair play and decency.

96. Plaintiffs have the right to operate their businesses free from governmental interference, and the Shutdown Orders prevent Plaintiffs from doing so.

COUNT III – ALL PLAINTIFFS v. ALL DEFENDANTS
Procedural Due Process

97. Plaintiffs incorporate the foregoing paragraphs as though the same were fully set forth at length herein.

98. The Fourteenth Amendment to the United States Constitution forbids a state from depriving anyone of life, liberty, or property without due process of law.

99. There is no process administered in Pennsylvania for Plaintiffs to challenge the Shutdown Orders.

100. Defendants did not permit Plaintiffs an opportunity to:

- a. request an exemption to the Shutdown Orders,
- b. have an evaluation by a neutral arbitrator,
- c. present witnesses,
- d. cross examine witnesses, or
- e. appeal.

101. The Shutdown Orders do not provide due process protections.

102. The Shutdown Orders classification of Plaintiffs' as Entertainment Industries constitutes an unexplained inconsistency with CDC guidelines and is arbitrary and capricious.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

1. a Declaratory Judgment that the actions of the Defendants, including, but not limited to their Shutdown Orders, are unlawful and unconstitutional;
2. a declaration that the rights of Plaintiffs have been violated by the actions of the Defendants and that the Defendants are enjoined from engaging in such violations and declaring them to be null and void, *ab initio*;
3. a Temporary Restraining Order to enjoin Defendants from prohibiting Plaintiffs from being able to operate within CDC guidelines through January 4, 2021;
4. a Permanent Injunction to indefinitely bar Defendants from arbitrarily prohibiting Plaintiffs from being able to operate their businesses;
5. an award of costs and expenses, including reasonable attorneys' fees, under 42 U.S.C. §§ 1983 and 1988; and,
6. such other relief as this Court deems appropriate.

Respectfully Submitted,

**DILLON, MCCANDLESS, KING,
COULTER & GRAHAM, LLP**

Dated: December 13, 2020

By: /s/ Thomas W. King, III
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CIVIL COVER SHEET

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

I. (a) PLAINTIFFS

The Woodlands at St. Barnabas, Kalahari Resorts, LLC and Kalahari Resorts PA, LLC

(b) County of Residence of First Listed Plaintiff Butler (EXCEPT IN U.S. PLAINTIFF CASES)

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

Thomas W. King, III, Dillon McCandless, 128 W. Cunningham St., Butler, PA 16001, 724-283-2200

DEFENDANTS

The Hon. Thomas W. Wolf and Dr. Rachel Levine

County of Residence of First Listed Defendant Dauphin (IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

Pennsylvania Attorney General

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

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

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

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 1 1, 2 2, 3 3, 4 4, 5 5, 6 6

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

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes codes like 110 Insurance, 310 Airplane, 365 Personal Injury, etc.

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

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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Fourteenth Amendment to the United States Constitution. Brief description of cause: Violation of Plaintiffs' constitutional rights due to shutdown orders

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE William S. Stickman, IV

DOCKET NUMBER 2:20-cv-00677-WSS

DATE SIGNATURE OF ATTORNEY OF RECORD

12/13/20 /s/ Thomas W. King, III

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

JS 44A REVISED June, 2009
IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA
THIS CASE DESIGNATION SHEET MUST BE COMPLETED

PART A

This case belongs on the (Erie Johnstown Pittsburgh) calendar.

1. **ERIE CALENDAR** - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venang or Warren, OR any plaintiff or defendant resides in one of said counties.
2. **JOHNSTOWN CALENDAR** - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset OR any plaintiff or defendant resides in one of said counties.
3. Complete if on **ERIE CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.
4. Complete if on **JOHNSTOWN CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.

PART B (You are to check ONE of the following)

1. This case is related to Number 2:20-CV-677-WSS . Short Caption County of Butler v. Wolf
2. This case is not related to a pending or terminated case.

DEFINITIONS OF RELATED CASES:

CIVIL: Civil cases are deemed related when a case filed relates to property included in another suit or involves the same issues of fact or it grows out of the same transactions as another suit or involves the validity or infringement of a patent involved in another suit

EMINENT DOMAIN: Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

HABEAS CORPUS & CIVIL RIGHTS: All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

PART C

I. CIVIL CATEGORY (Select the applicable category).

1. Antitrust and Securities Act Cases
2. Labor-Management Relations
3. Habeas corpus
4. Civil Rights
5. Patent, Copyright, and Trademark
6. Eminent Domain
7. All other federal question cases
8. All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest
9. Insurance indemnity, contract and other diversity cases.
10. Government Collection Cases (shall include HEW Student Loans (Education), V A Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. Types), Mortgage Foreclosures, SBA Loans, Civil Penalties and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this Case Designation Sheet are true and correct

Date: 12/13/20

/s/ Thomas W. King, III

ATTORNEY AT LAW

NOTE: ALL SECTIONS OF BOTH FORMS MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF THE GOVERNOR

**ORDER OF
THE GOVERNOR OF THE COMMONWEALTH OF PENNSYLVANIA
DIRECTING LIMITED-TIME MITIGATION**

WHEREAS, the World Health Organization and the Centers for Disease Control and Prevention declared the coronavirus disease 2019 (“COVID-19”) a pandemic; and

WHEREAS, the COVID-19 pandemic has created a national emergency in the United States of America; and

WHEREAS, pursuant to section 7301(a) of the Emergency Management Services Code, 35 Pa. C.S. § 7301(a), I am charged with the responsibility to address dangers facing the Commonwealth of Pennsylvania (“Commonwealth”) that result from disasters; and

WHEREAS, on March 6, 2020, pursuant to section 7301(c) of the Emergency Management Services Code, 35 Pa. C.S. § 7301(c), I proclaimed the existence of a disaster emergency throughout the Commonwealth as a result of COVID-19, and further extended the disaster emergency by Amendment on June 3, 2020, August 31, 2020, and November 24, 2020; and

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

WHEREAS, in addition to my authority, the Secretary of Health may order general control measures, including, but not limited to, closure, isolation, and quarantine; and

WHEREAS, this authority is granted to the Secretary of Health pursuant to Pennsylvania law. See section 5 of the Disease Prevention and Control Law, 35 P.S. § 521.5; sections 2102(a) and 2106 of the Administrative Code of 1929, 71 P.S. §§ 532(a), and 536; and the Department of Health’s regulations at 28 Pa. Code §§ 27.60-27.68 (relating to disease control measures; isolation; quarantine; movement of persons subject to isolation or quarantine; and release from isolation and quarantine). Particularly, the Department of Health has the authority to take any disease control measure appropriate to protect the public from the spread of infectious disease. See 35 P.S. § 521.5; 71 P.S. §§ 532(a), and 1403(a); 28 Pa. Code § 27.60; and

WHEREAS, following an initial curtailing of COVID-19 spread due to the Commonwealth’s mitigation efforts, a second wave of COVID-19 cases began in the summer months; and

WHEREAS, despite all efforts taken to date, the pandemic continues to spread, and taking action to prevent that spread while continuing to allow for necessary resumption of economic and social activity requires the Commonwealth to take steps to minimize the danger to Pennsylvanians as a result of participating in that activity; and

WHEREAS, further immediate action is required to mitigate the imminent spread of the disease, and associated health hazards presented by COVID-19, and to enforce the protections necessary to support the response of the Commonwealth to the threat of COVID-19; and

WHEREAS, as of December 10, 2020, the Commonwealth has 457,289 positive cases of COVID-19 in all sixty-seven counties and 12,010 deaths from COVID-19; and

WHEREAS, the Commonwealth is now recording daily COVID-19 cases and hospitalizations in greater numbers than at any other time during this pandemic; and

WHEREAS, in addition to my general powers, during a disaster emergency I am authorized specifically to:

- suspend any regulatory statute prescribing the procedures for conduct of Commonwealth business, or the orders, rules or regulations of any Commonwealth agency if strict compliance with the provisions of any statute, order, rule or regulation would in any way prevent, hinder or delay necessary action in coping with the emergency;*
- utilize all resources of the Commonwealth and each political subdivision as reasonably necessary;*
- transfer the direction, personnel, or functions of Commonwealth agencies or units thereof for performing or facilitating emergency services;*
- direct and compel the evacuation of all or part of the population from any stricken or threatened area;*
- control ingress and egress to and from a disaster area and the movement of persons within the area and the occupancy of premises therein;*
- suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles. 35 Pa. C.S. § 7301(f).*

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

Section 1: Definitions

“Extracurricular activities” means voluntary activities sponsored, approved or permitted by a school entity or local education agency or an organization sanctioned by the local education agency other than sports and athletics, and include, but are not limited to, preparation for and involvement in public performances, contests, demonstrations, displays, and club activities. For purposes of this Order, extracurricular activities include activities involving the physical presence of persons from the same state or from other states.

“Gatherings and events” mean a temporary grouping of individuals for defined purposes, that takes place over a limited timeframe, such as hours or days. For example, events and gatherings include fairs, festivals, concerts, or shows and groupings that occur within larger, more permanent businesses, such as shows or performances within amusement parks, individual showings of movies on a single screen/auditorium within a multiplex, business meetings or conferences, or each party or reception within a multi-room venue. Classroom instruction by school entities is not a “gathering” or “event” for purposes of this Order. Nor is a meeting of electors, including any preparation, to perform the duties enjoined upon them by the Constitution and the laws of the Commonwealth and of the United States a “gathering” or “event” for purposes of this Order.

“Interscholastic athletics” means all athletic contests, competitions, scrimmages, or practices conducted between or among school entities.

“Intrascholastic athletics” means all athletic contests, competitions, scrimmages, or practices conducted within a school entity.

“Intrastate and Interstate sports leagues or tournaments” means all organized athletic contests, competitions, scrimmages, or practices regardless of what they are called and shall include, but not be limited to, club, travel, recreational, intermural, and intramural sports, and includes physical presence of persons from the same state or other states.

“School entity” means a public school, school district, charter school, cyber charter school, career and technology center, nonpublic school or private school in this Commonwealth that serves students that are typically in kindergarten through grade 12.

Section 2: In-person Dining and Alcohol Sales

- A. All in-person indoor dining at businesses in the retail food services industry, including, but not limited to, bars, restaurants, breweries, wineries, distilleries, social clubs, and private catered events is prohibited.***
- B. Outdoor dining, take-out food service and take-out alcohol sales are permitted and may continue, subject to any limitations or restrictions imposed by Pennsylvania law, or this or any other Order issued by me or by the Secretary of Health.***

Section 3: Indoor Gatherings and Events

- A. Indoor gatherings and events of more than 10 persons are prohibited.***
- B. Churches, synagogues, temples, mosques and other places of congregate worship are specifically excluded from the limitations set forth above during religious services. These institutions are strongly encouraged to enforce physical distancing and other mitigation measures at their gatherings.***

Conventions, retreats, and other gatherings that may be sponsored or held by these religious entities that are not the actual worship service are required to comply with this Order.

Section 4: Outdoor Gatherings and Events

Outdoor gatherings and events of more than 50 persons are prohibited.

Section 5: Capacity Limits for Businesses

All in-person businesses serving the public within a building or defined area may only operate at up to 50% of the maximum capacity stated on the applicable certificate of occupancy, except as limited by existing orders to a smaller capacity limit.

Section 6: Gyms and Fitness Facilities

Indoor operations at gyms and fitness facilities are prohibited. Outdoor operations may continue, but all participants must wear face coverings in accordance with the Secretary of Health's [Updated Order Requiring Universal Face Coverings](#), including any subsequent amendments, and practice physical distancing requirements.

Section 7: Entertainment Industry

All in-person businesses in the entertainment industry serving the public within a building or indoor defined area, including, but not limited to, theaters, concert venues, museums, movie theaters, arcades, casinos, bowling alleys, private clubs, and all other similar entertainment, recreational or social facilities, are prohibited from operation.

Section 8: Interscholastic Athletics, Intrascholastic Athletics, and Intrastate and Interstate Sports Leagues and Tournaments

Interscholastic athletics, intrascholastic athletics, and intrastate and interstate sports leagues and tournaments are suspended for all sports.

Section 9: Professional and Collegiate Sports

Professional or collegiate sports activities may continue in accordance with guidance from the CDC and the Department of Health, without regard for the limitations set forth in sections 3 and 4 above; however, spectators may not attend such sports activities in person.

Section 10: In-Person Extracurricular Activities

In-person extracurricular activities are suspended. These extracurricular activities may be held virtually.

Section 11: Effect on Existing Orders

This Order suspends and supersedes any provisions of my prior Orders and Advisories that are in conflict with its requirements, including Sections 3, 4, 5, 7 and 9 of my [Order for Mitigation, Enforcement, and Immunity Protections](#), dated November 23, 2020, for the period of time this Order is in effect. Those provisions shall resume effect in their entirety upon this Order's termination. All other provisions of the November 23, 2020 Orders remain in full effect.

Section 12: Authority of Local Departments and Boards of Health

Local governments and authorities may issue rules or orders relating to disease prevention and control which do not conflict with and are no less strict than the provisions of this Order.

Section 13: Effective Date and Duration

This Order shall take effect at 12:01 a.m. on December 12, 2020, and shall remain in effect until 8:00 a.m. on January 4, 2021.



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

Tom Wolf
TOM WOLF
Governor



Order of the Secretary of the Pennsylvania Department of Health Directing Limited-Time Targeted Mitigation

The 2019 novel coronavirus (COVID-19) is a contagious disease that is spreading rapidly from person to person in the world, the United States, and this Commonwealth. COVID-19 can be transmitted from any person who is infected, even if they have no symptoms. Additionally, exposure is possible by touching a surface or object that has the virus on it and then touching one's mouth, nose, or eyes. Symptoms of COVID-19 may include fever or chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, or diarrhea. Older adults and people who have serious chronic medical conditions are at a higher risk for serious illness. Illness in children and young adults has become more common as the face of the pandemic continues to change. After a brief respite in the summer months, case counts and the number of hospitalizations have been rising throughout the Commonwealth, its surrounding states, and the world. There have been 457,289 cases and 12,010 deaths in this Commonwealth caused by the still present and ongoing pandemic.

Despite the efforts taken to date, the virus continues to spread, and taking action to prevent that spread while continuing to allow for necessary resumption of economic and social activity requires the Commonwealth to take steps to minimize the danger to Pennsylvanians as a result of participating in that activity. In response to these concerns, on November 23, 2020, the Governor and I issued new Orders intended to slow the spread of the disease. These Orders include the *Governor of the Commonwealth of Pennsylvania's [Order for Mitigation, Enforcement and Immunity Protections](#)*, my [Order for Mitigation and Enforcement](#), the Governor's [Order Directing Public School Entities in Counties with Substantial Community Transmission to Attest to Health and Safety Protocols](#), and my [Order](#) of the same name. The Governor and I also each issued a *Limited-Time Stay At Home Limited-Time Advisory*. These Orders and Advisories were followed by an updated travel mitigation order issued by each of us on November 25, 2020. *See Amended Order Of The Governor Of The Commonwealth Of Pennsylvania Directing Travel Mitigation, as amended*. I also issued an [Updated Order Requiring Universal Face Coverings](#), dated November 17, 2020. All of these new mitigation orders were issued because of the continuing increase in the number of COVID-19 cases, the increase in hospitalizations that is beginning to make it difficult for hospitals to provide care to persons who need it, increases in the number of cases in long-term care facilities, and increases in deaths Commonwealth-wide. Despite these efforts, the case numbers and number of deaths continue to rise, and the Commonwealth has seen record high case counts since the end of November.

COVID-19 is a threat to the public's health, for which the Secretary of Health may order general control measures, including, but not limited to, closure, isolation, and quarantine. This authority is granted to the Secretary of Health pursuant to Pennsylvania law. *See* section 5 of the Disease Prevention and Control Law, 35 P.S. § 521.5; sections 2102(a) and 2106 of the Administrative Code of 1929, 71 P.S. §§ 532(a), and 536; and the Department of Health's regulations at 28 Pa. Code §§ 27.60-27.68 (relating to disease control measures; isolation; quarantine; movement of persons subject to isolation or quarantine; and release from isolation and quarantine). Particularly, the Department of Health has the authority to take any disease control measure appropriate to protect the public from the spread of infectious disease. *See* 35 P.S. § 521.5; 71 P.S. §§ 532(a), and 1403(a); 28 Pa. Code § 27.60.



Under circumstances where physical distancing, mask wearing and quarantine are the first line of defense against the disease's spread, and where large and small gatherings are spreading disease,¹ the experiences of the Commonwealth, and its and the country's health experts and recommendations of the Centers for Disease Control and Prevention (CDC) regarding travel and gatherings with persons not habitually together lead me to issue this Order as further protection against the spread of disease.

Accordingly, on this day, December 10, 2020, to prevent and control the spread of disease, I hereby order:

¹ Christie Aschwanden, "How 'Superspreading' Events Drive Most COVID-19 Spread," *Scientific American*, <https://www.scientificamerican.com/article/how-superspreading-events-drive-most-covid-19-spread1/> (June 23, 2020); Carl Zimmer, "One Meeting in Boston Seeded Tens of Thousands of Infections, Study Finds," *New York Times*, <https://www.nytimes.com/2020/08/26/health/covid-19-superspreaders-boston.html> (Aug. 26, 2020); Jacqueline Howard, *et al.*, "Covid-19 superspreading event in Boston may have led to 20,000 cases, researcher says," *CNN*, <https://www.cnn.com/2020/08/25/health/covid-19-superspreading-boston-study/index.html> (Aug. 25, 2020); Travis Anderson, "7 coronavirus-related deaths now connected to Maine wedding," *The Boston Globe*, <https://www.bostonglobe.com/2020/09/15/nation/coronavirus-death-toll-linked-maine-wedding-grows-five/>; Lea Hamner, *et al.*, "High SARS-CoV-2 Attack Rate Following Exposure at a Choir Practice—Skagit County, Washington, March 2020," *CDC*, <https://www.cdc.gov/mmwr/volumes/69/wr/mm6919e6.htm> (May 15, 2020); "A Funeral is Thought to Have Sparked a COVID-19 Outbreak in Albany, Ga. – and Led to Many More Funerals," *Washington Post*, https://www.washingtonpost.com/politics/a-funeral-sparked-a-covid-19-outbreak--and-led-to-many-more-funerals/2020/04/03/546fa0cc-74e6-11ea-87da-77a8136c1a6d_story.html (April 4, 2020); Laxminarayan, *et al.*, "Epidemiology and transmission dynamics of COVID-19 in two Indian states," *Science*, <https://science.sciencemag.org/content/early/2020/09/29/science.abd7672> (September 30, 2020). Fisher KA, Tenforde MW, Feldstein LR, *et al.* Community and Close Contact Exposures Associated with COVID-19 Among Symptomatic Adults ≥18 Years in 11 Outpatient Health Care Facilities — United States, July 2020. *MMWR Morb Mortal Wkly Rep* 2020;69:1258–1264. DOI: <http://dx.doi.org/10.15585/mmwr.mm6936a5><https://www.cdc.gov/mmwr/volumes/69/wr/mm6936a5.htm>; Hutchins HJ, Wolff B, Leeb R, *et al.* COVID-19 Mitigation Behaviors by Age Group — United States, April–June 2020. *MMWR Morb Mortal Wkly Rep* 2020;69:1584–1590. DOI: <http://dx.doi.org/10.15585/mmwr.mm6943e4>; Kanu FA, Smith EE, Offutt-Powell T, *et al.* Declines in SARS-CoV-2 Transmission, Hospitalizations, and Mortality After Implementation of Mitigation Measures – Delaware, March–June 2020. *MMWR Morb Mortal Wkly Rep* 2020;69:1691–1694. DOI: https://www.cdc.gov/mmwr/volumes/69/wr/mm6945e1.htm?s_cid=mm6945e1_w; Mahale P, Rothfuss C, Bly S, *et al.* Multiple COVID-19 Outbreaks Linked to a Wedding Reception in Rural Maine – August 7–September 14, 2020. *MMWR Morb Mortal Wkly Rep* 2020;69:1686–1690. DOI: https://www.cdc.gov/mmwr/volumes/69/wr/mm6945a5.htm?s_cid=mm6945a5_w; Honein MA, Christie A, *et al.* Summary of Guidance for Public Health Strategies to Address High Levels of Community Transmission of SARS-CoV-2 and Related Deaths, December 2020. *MMWR Morb Mortal Wkly Early Release* December 4, 2020/69. DOI: https://www.cdc.gov/mmwr/volumes/69/wr/mm6949e2.htm?s_cid=mm6949e2_w.



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“Gatherings and events” mean a temporary grouping of individuals for defined purposes, that takes place over a limited timeframe, such as hours or days. For example, events and gatherings include fairs, festivals, concerts, or shows and groupings that occur within larger, more permanent businesses, such as shows or performances within amusement parks, individual showings of movies on a single screen/auditorium within a multiplex, business meetings or conferences, or each party or reception within a multi-room venue. Classroom instruction by school entities is not a “gathering” or “event” for purposes of this Order. Nor is a meeting of electors, including any preparation, to perform the duties enjoined upon them by the Constitution and the laws of the Commonwealth and of the United States a “gathering” or “event” for purposes of this Order.

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Section 2: In-person Dining and Alcohol Sales

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- A. Indoor gatherings and events of more than 10 persons are prohibited.
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Professional or collegiate sports activities may continue in accordance with guidance from the CDC and the Department of Health, without regard for the limitations set forth in sections 3 and 4 above; however, spectators may not attend such sports activities in person.

Section 10: In-Person Extracurricular Activities

In-person extracurricular activities are suspended. These extracurricular activities may be held virtually.

Section 11: Effect on Existing Orders

This Order suspends and supersedes any provisions of my prior Orders and Advisories that are in conflict with its requirements, including Sections 3, 4, 5, 7 and 9 of my [Order for Mitigation and Enforcement](#), dated November 23, 2020, for the period of time this Order is in effect. Those provisions shall resume effect in their entirety upon this Order's termination. All other provisions of the November 23, 2020 Orders remain in full effect.

Section 12: Authority of Local Departments and Boards of Health

Local governments and authorities may issue rules or orders relating to disease prevention and control, which do not conflict with and are no less strict than the provisions of this Order.

Section 13: Effective Date and Duration

This Order shall take effect at 12:01 a.m. on December 12, 2020, and shall remain in effect until 8:00 a.m. on January 4, 2021.

A handwritten signature in black ink, appearing to read 'RL 12/13/20 MD'. The signature is written in a cursive style.

Rachel Levine, MD
Secretary of Health



Kalahari Commitment to Clean Re-Opening Manual

RESORT- WIDE WELLNESS INITIATIVES

- We ask that all guests respect a proper physical distance staying 6-feet from anyone not in your group
- Sanitizer stations are located throughout the resort. Maps will be available to locate the nearest sanitizer station
- Signage will be hung, reinforcing proper hygiene
- We currently use Hospital-grade disinfectant is used resort-wide when sanitizing.
- We have implemented a Wellness Concierge. This person will communicate safety initiatives and monitor our new health standards
- Masks or Shields are mandatory for all associates. Protective screens are in place in those areas where it is necessary for an example the Front Desk, Coffee Shops, Retail Stores and Snack Shops.

ADDITIONAL RESORT-WIDE PROTOCOLS

- Common-area cleaners will wear gloves
- Continued deep-cleaning of high touch point surfaces including: faucets, trash-receptacles, vending machines, elevators, buttons, keypads, luggage carts, stair handrails, gym equipment, statues, and counters
- Each department will document cleaning procedures, products, and schedules
- All interior doors that are able, will be propped open. When doors can't be propped open, sanitation wipes will be readily available
- We are adding a Step Pull door system to some doors to minimize high touch point contact.
- To minimize guest and associate contact, bell, valet and luggage storage will be closed. We ask that all guests store luggage in their vehicles. Our Shuttle Service will be limited.
- As always, First Aid Responders are on property to assist with anything related to safety and wellness

CHECK IN & GUEST SERVICES WELLNESS INITIATIVES

- All touch point areas, including credit card machines and kiosks, will be sanitized after each transaction
- All key cards and waterpark wristbands will be sanitized prior to being presented
- Information in the key card packet containing maps, coupons and activities will be sent via text
- Front Desk Agents will be staggered providing physical distance between each guest
- Remote check in stations will be utilized to provide additional space when needed
- We ask that only one family member checks in at the front desk

GUEST ROOMS & SUITES WELLNESS INITIATIVES

- In effort to not enter an occupied guest room, traditional stay over service will no longer be available. However, we will gladly deliver any additional amenity requests
- Should you need a change of linens or towels, rooms will be equipped with large bags to exchange items outside of the door
- High touch items have been removed, including: tissue box covers, informational binder, coffee makers, newspapers, menus and pens
- Maps, in-room dining menus, and other paper products will be provided via text message

ADDITIONAL ROOM & SUITE PROTOCOLS

- Housekeepers team members will be required to wear gloves and housekeeping carts will be sanitized daily
- We currently use Hospital-grade disinfectant is used resort-wide when sanitizing.

WATERPARKS WELLNESS INITIATIVES

- Physical distancing initiatives will be implemented for safe queueing for ride and attractions.
- The CDC states, "There is no evidence that COVID-19 can be spread to humans through the use of pools and hot tubs. Proper operation, maintenance, and disinfection (e.g., with chlorine and bromine) of pools and hot tubs should remove or inactivate the virus that causes COVID-19"
- EPA approved chemicals are used and safety protocols meet or exceed industry standards
- Chairs and loungers will be sanitized frequently
- Some of the chairs and loungers will be removed to aid in physical distancing

ADDITIONAL WATERPARK PROTOCOLS

- Rafts cannot be shared with persons not in your family group.
- Lifeguard stations will be sanitized during rotation
- Each guard will be assigned their own rescue tube
- Rafts and Body Boards will be sanitized frequently
- Cabanas and Bungalows will be thoroughly sanitized between guests
- Towels will be self service

CONVENTION CENTER WELLNESS INITIATIVES

- Continental buffets and coffee breaks will focus on house-packaged, single use or refillable options
- We are reconfiguring meeting room layouts to accommodate physical distancing best practices
- Hybrid meeting offerings available

BANQUET SERVICE PROTOCOLS

- Additional plated, box and single service meal options will be added to our convention offerings.
- Condiments will be single use or sanitized frequently
- We have discontinued self-serve options such as buffets or salad bars temporarily
- Single use paper menus will be provided or viewable from your personal device

MEETING ROOMS PROTOCOLS

- Meeting rooms will be sanitized frequently
- All AV equipment will be sanitized between use, including: microphones, podiums and light switches
- High touch items such as pens, paper and mints have been removed or are single use

FOOD & BEVERAGE OPERATIONS WELLNESS INITIATIVES

- Restaurant occupancy will be dictated by local governance
- Pens and check presenters will be sanitized after each use
- Mint and toothpick offerings have been removed
- Single use condiments will be utilized whenever possible
- Single use paper menus will be provided at each sit down restaurant

ADDITIONAL FOOD & BEVERAGE PROTOCOLS

- All Chefs are Servsafe certified
- Server stations will be sanitized after every use
- Room service carts will be sanitized after each use
- Food preparation and food handling meet and exceed all state requirements

ARCADE & ADVENTURE PARKS WELLNESS INITIATIVES

- Physical distancing initiatives will be implemented for safe queueing for ride and attractions

- Arcade games will be sanitized frequently
- Sanitation wipes will be readily available
- Rides and attractions will be sanitized after each use

SPA KALAHARI & SALON WELLNESS INITIATIVES

- All treatment room will be cleaned and sanitized after each guest
- Signage will be displayed outside the treatment room once sanitized
- All coffee and water stations will be discontinued

RETAIL OUTLETS WELLNESS INITIATIVES

- Changing rooms will be disinfected after each guest use.
- Physical Distancing markers will indicate a 6 foot distance in some locations
- All high touch points will be disinfected frequently
- Shields have been placed over the checkout desk to ensure proper physical distancing

ASSOCIATE RESPONSIBILITY WELLNESS INITIATIVES

- Temperature checks will be required for any associate coming on property. Any associates with a temperature higher than 100.4 will not be permitted on property.
- Associates will be required to complete wellness and safety training prior to returning to work. Training will include OSHA and CDC requirements
- All shared equipment, including radios, phones, computers, payment terminals, kitchen equipment and time clocks, will be sanitized after every use

ADDITIONAL ASSOCIATE PROTOCOLS

- Hand sanitizer stations will be at all time clocks, break rooms and other intersections
- All state and federal guidelines regarding gloves and face masks for associates will be followed
- When possible, all training and on boarding will be given virtually
- All associates are required to stay home if they are feeling ill
- Associates with exposure or symptoms of COVID-19 will be required to stay home and follow isolation protocol

As more information becomes available, we will continue to make adjustments to support the safety and well-being of guests and associates. From our family ownership to all of our team members across the country, we take pride in the role we are playing to ensure the wellness of those we serve. We are looking forward to serving you and your family soon.

THE Kalahari®

COMMITMENT TO CLEAN

Kalahari Resorts takes a multi-faceted approach to protecting our resort, convention center, dining, and spa guests. This is our Kalahari Commitment to Clean and to you.

The University of Kalahari will administer mandatory Covid -19 awareness training. This course will educate all associates on the signs and symptoms of the virus, personal protective equipment, and their responsibilities to our guests and team mates. In addition, each individual department will give specialized on the job training that outlines new and updated requirements to keep our guests healthy.

All high touch points in common areas will be sanitized several times throughout the day. Our specialty task force teams will thoroughly disinfect the resort common areas, restrooms and locker rooms, luggage carts, Waterpark, Tom Foolerys and game rooms, restaurants, food courts, and Spa Kalahari, on the overnight shift with hospital grade disinfectant in high pressure continuous sprayers. We have implemented wellness and sanitation electronic checklists in each department ensuring that touchpoints are disinfected multiple times daily. The checklist ensures that associate wellness checks are conducted according to standard operating procedure. The wellness and sanitation checklists will be audited in each department by the Wellness Ambassador who has been trained in the severity of this initiative.

To maintain physical distance guidelines, we no longer offer daily stay over service. Should a guest request new linens or towels, we ask them to utilize the provided bags and exchange items outside of their room without contact.

Our Wellness Concierge will be enforcing 6 feet physical distancing and all safety best practices. If at any time a guest feels we're not fulfilling our promise, we ask them to text CLEAN and a member of leadership will address their concern immediately.

We have removed all unnecessary touch points from guest rooms to provide our most hygienic room to date. This includes the coffee maker, ice bucket, alarm clock, Kleenex box cover, all menus and books, as well as bed spreads. The remote control has been disinfected twice and placed in safety sealed plastic. The sofa sleeper bed will be prepared fresh for each guest.

All of our towels and linens are cleaned with UV treated water to kill 99.9% of viruses and bacteria. Kalahari believes in using the newest and best technology when it comes to cleaning guest laundry. All of our resorts use the patented OMNI System using EPA-approved technology that has been proven to destroy all other coronaviruses, such as SARS. The CDC states, "Products with the EPA-approved emerging viral pathogens claims are recommended for use against SARS-CoV-2 (COVID-19)". Additionally, World Health Organization attests to the fact, "UV and ozone are the 'best available technology' to meet the world's most demanding public health issues." The coronaviruses are RNA viruses, which are susceptible (deactivated and cannot reproduce) to the UV light process. OMNI Systems kill RNA coronaviruses, the Kalahari Resorts has invested in the best available laundry technology to keep guests and associates safe.

THANK YOU FOR ALLOWING US THE OPPORTUNITY TO SERVE YOUR FAMILY. WE'RE HAPPY YOU'RE HERE!



Kalahari[®]
RESORTS &
CONVENTIONS

C

Certificate of wellness and sanitation training. All associates are part of the solution to create a safe place to work and play.

L

Leave only what matters. We have removed all non-essential items from the guest rooms, meeting spaces and dining areas to minimize associate contact and the exchange of items.

E

EPA approved hospital-grade disinfectant used in all guest rooms and throughout the entire resort. The high-touch areas are continually sanitized and disinfected.

A

All in this together. If at anytime you feel we're not fulfilling our Commitment to Clean, text us. A member of leadership will respond immediately.

N

Now, let's have some fun! From our delicious restaurants, to the Waterpark, Adventure Parks and back - we've removed the worry and replaced it with confidence. Thank you for allowing us the opportunity.



Kalahari
RESORTS &
CONVENTIONS

IT'S IN THE DETAILS

SO WHEN IT'S TIME TO REST EASY – YOU CAN

GO CASHLESS

If you would like to go cashless, we're here to help! Add funds to your room key, a Kalahari gift card or your wristband. Plus we accept all major credit cards and mobile payments.



DEEP-CLEANING

EPA approved hospital grade disinfectant in high pressure continuous sprayers will be deployed by our specialty task force teams. Continued deep-cleaning of high touch point surfaces including: faucets, trash-receptacles, vending machines, elevators, buttons, keypads, luggage carts, stair handrails, gym equipment, statues, and counters.



PROTECTIVE EQUIPMENT

Associates will wear masks and gloves and follow the strictest of guidelines for handwashing.



DINING

Single use condiments and paper menus will be utilized whenever possible.



WATERPARK

Lifeguard stations, rafts and cabanas will be sanitized frequently. Towels will be self service.



HYGIENE

Signage will be hung, reinforcing proper hygiene for guests and associates.



GUEST ROOMS

Traditional stay over service will be suspended. However, happy to deliver any amenity requests.



TEMPERATURE CHECKS

Temperature checks will be required for any associate coming on property. Any associate with a temp will not be permitted on property.



Exhibit C

THE KALAHARI COMMITMENT TO CLEAN