

No. _____

In The

SUPREME COURT OF THE UNITED STATES

GREGG R. ZEGARELLI, ESQ., PERSONALLY; GREGG R. ZEGARELLI, ESQ. AS
OFFICER OF THE COURT OF THE UNITED STATES OF AMERICA;
GREGG ZEGARELLI, ESQ. AS OFFICER OF THE COURT OF THE
COMMONWEALTH OF PENNSYLVANIA,

Plaintiffs,

vs.

THOMAS W. WOLF; THE HONORABLE THOMAS W. WOLF,
GOVERNOR OF THE COMMONWEALTH OF PENNSYLVANIA,

Defendants.

MOTION FOR LEAVE TO FILE BILL OF COMPLAINT

Gregg R. Zegarelli, Esq.*

TECHNOLOGY & ENTREPRENEURIAL
VENTURES LAW GROUP PC
2585 Washington Road, Suite 134
Summerfield Commons Office Park
Pittsburgh, PA 15241 USA
v. 412.833.0600
f. 412.833.0601

April 3, 2020

**Counsel of Record*

Plaintiffs respectfully move this Court for leave to file the attached Bill of Complaint.

Respectfully submitted,

s/Gregg Zegarelli

Gregg R. Zegarelli, Esq.

Counsel of Record, for Plaintiffs

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**Counsel of Record*

BILL OF COMPLAINT

Gregg R. Zegarelli, as Officer of the Court of the United States of America, as officer of the Court of the Commonwealth of Pennsylvania, and for himself, brings this action as follows:

NATURE OF THE ACTION

1. Thomas W. Wolf, as Governor of the Commonwealth of Pennsylvania, in his capacity of Governor, and in exceeding that capacity, personally, under designation of purported authority, has issued an Order to use his Executive Branch Officers (Commonwealth State Police) to arrest or otherwise incriminate Judicial Branch Officers (Attorneys) for the innocent practice of law, thereby depriving the People of their well-settled right of counsel, and impinging the People's right to knowledge of the law that constrains their life, liberty and their pursuit of happiness within our American Constitutional Republic.

2. The circumstances of COVID-19 have caused, and continue to cause—and that or similar circumstances are likely to cause in the future—action by the respective Executive Branches of the several states, curtailing the freedoms of the People, within the framework of a "police state" being a "*country in which the activities of the people are strictly controlled by the government with the help of a police force.*" See, *Merriam-Webster Dictionary*, "police state".

3. As licensed attorneys and Officers of the Court, we duly respectfully concede that the Executive Branch has, and should have, extreme power in emergencies and war. It is a principle of judicial restraint not to interfere with such actions for the greater good of the People, but the Executive Branch's direct attack upon the Officers of the Judicial Branch, being both the Officers of the Federal Courts and Officers of the State Courts, with the threat of incriminating attorneys for the innocent practice of law, is a *per se* usurpation of power, and a repugnant violation of well-settled principles of "separations of powers."

JURISDICTION

4. This Court has non-exclusive original subject matter jurisdiction over this action pursuant to Article III, Section 2 of the United States Constitution and Title 28 of the United States Code, section 1251(2), and pendent jurisdiction. This is a controversy between the Officers of the Court of the Federal Judiciary of the United States and

the Commonwealth of Pennsylvania by Executive Order of its Governor.¹

PARTIES

5. The undersigned is a duly appointed Officer of the Court, in both state and federal courts. This Court can take judicial notice that the undersigned is admitted to practice law before the Supreme Court of the Commonwealth of Pennsylvania, ID No. 52717.² The undersigned is admitted to practice before the Supreme Court of the United States of America.

6. The defendant is the Governor of the Commonwealth of Pennsylvania, in this matter both as defendant personally and in such capacity.

7. The undersigned is a duly appointed Officer of the Court, in both state and federal courts. The undersigned has standing for the injury upon himself for the immediate threat of incrimination for the innocent practice of law, and also has standing and capacity for the respective Courts of which the undersigned is a duly appointed officer.

FACTUAL ALLEGATIONS

8. This Court can take judicial notice that the undersigned has active pending litigation in the courts of the Commonwealth of Pennsylvania and the courts of the United States of America.

9. Regarding the fulfillment of the undersigned's duties as an Officer of the Court, for both this Supreme Court and the Commonwealth of Pennsylvania, the undersigned requires the ability to provide unfettered legal advice without threat of incrimination by Executive Order.

10. Thomas W. Wolf, Governor of the Commonwealth of Pennsylvania issued Executive Order, 20200319 TWW COVID 19 (the "**Order**").

11. In its first iteration, the Executive Order commanded a cease and desist upon the practice of law by ordering the practice of law only with virtual technologies. In its revised form, the Order maintained the virtual-only constraint, but conformed itself to the Commonwealth of

¹ The Pennsylvania Office of Attorney General is an office of the Executive Branch and is therefore a defendant by implication.

² The undersigned is also admitted to practice law, being currently inactive, in the State of Illinois, and in Washington, D.C.

Pennsylvania closure orders. *See, Commonwealth of Pennsylvania Supreme Court, In Re General Statewide Judicial Emergency*, Judicial Administrative Docket Nos. 531 and 532. The Executive Order commanding the cease and desist on the practice of law, in all or in part as the case may be, remains effective.

12. The Order purports to have legal effect upon the practice of law, regarding matters of federal and state law, impinging the unfettered right to provide and to receive legal counsel. The Order places attorneys and citizens in immediate jeopardy of threat of arrest or other incrimination for the guaranteed unfettered right to receive legal counsel, and is thereby *per se* illegal.

13. The undersigned issued the communications set forth in Exhibit 1 and Exhibit 2, attached hereto, and incorporated herein. Exhibit 1 is the undersigned “Letter of Defiance” and Exhibit 2 is the undersigned’s “Cease and Desist” upon Gov. Wolf.

14. Notwithstanding due warnings, Gov. Wolf has chosen to disregard and to ignore the communications, thereby making this action necessary. Accordingly, the matter is ripe and judiciable.

15. Gov. Wolf’s affront to the Commonwealth of Pennsylvania Constitution, Article V, is open, notorious and wanton, and violates, *per se*, the express principle set forth by the Supreme Court of Pennsylvania; to wit:

Pursuant to our constitutional authority, this Court adopted the Rules ... which govern the conduct and discipline of attorneys. Commonwealth v. Stern, 549 Pa. 505, 701 A.2d 568, 571 (1997). In Stern, this Court held a statute that criminalized the conduct of an attorney ... was unconstitutional as violative of the separation of powers doctrine. Stern, 701 A.2d at 573. Pursuant to Pa.R.D.E. 103, “[t]he Supreme Court declares that it has inherent and exclusive power to supervise the conduct of attorneys who are its officers” and this Court is vested with “the inherent and exclusive power to govern the conduct of those privileged to practice law in this Commonwealth.” Wajert v. State Ethics Comm’n, 491 Pa. 255, 420 A.2d 439, 442 (1980). The General Assembly has no authority under the Pennsylvania Constitution to regulate the conduct of lawyers in the practice of law. Thus, we conclude ... to regulate the conduct of attorneys and would be an impermissible encroachment upon the power of this Court.

Beyers v. Richmond, 594 Pa. 654, 937 A.2d 1082 (2007); Article V, Commonwealth of Pennsylvania Constitution.

16. The United States Constitution, Article III, states: “The judicial Power of the United States, shall be vested in one supreme Court....,” which is a “check and balance” pursuant to principles of “separation of powers” long established by our Founding Fathers, as set forth in *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803) and its progeny, expressed, to wit:³

It is equally evident, that the members of each department should be as little dependent as possible on those of the others, for the emoluments annexed to their offices. Were the executive magistrate, or the judges, not independent of the legislature in this particular, their independence in every other would be merely nominal. But the great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others.

The provision for defense must in this, as in all other cases, be made commensurate to the danger of attack. Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.

The Federalist Papers : No. 51: The Structure of the Government Must Furnish the Proper Checks and Balances Between the Different Departments. February 8, 1788.

³ Late U.S. Supreme Court Justice Scalia stated in Senate Hearing, SH-216, that “Why is America a free country? ... Every Banana Republic in the world has a Bill of Rights. ... The real key ... is independence of the judiciary [decentralization and separation of powers].” https://upload.wikimedia.org/wikipedia/commons/transcoded/7/7a/Justice_Antonin_Scalia_on_Separation_of_Powers_and_Checks_and_Balances.webm/Justice_Antonin_Scalia_on_Separation_of_Powers_and_Checks_and_Balances.webm.360p.vp9.webm?fbclid=IwAR0wabaAPOS-NVfwrcHri6ojjJmUQD7tFRFmXfoFc63X-eE-50Uww0teeks

17. The license to practice law is derived through state licensing by virtue of federalism, but the threat to and upon the Federal Judiciary is direct and immediate. Gov. Wolf has directed that his Executive Officers (State Police) arrest or otherwise incriminate the Federal Officers of the Court (Attorneys) for innocently rendering legal advice regarding federal and state law, even for rendering advice on the propriety of his Executive Order. Any scintilla of an Executive Order threatening to use State Police upon Judicial Officers (Attorneys) is repugnant to the United States Constitutional Republic and is *illegal per se*.⁴

CAUSES OF ACTION

COUNT I **DECLARATORY RELIEF**

18. Plaintiffs hereby incorporates by this reference paragraphs 1 through the prior paragraph of this pleading, inclusive, as fully set forth herein at length.

19. The Defendants are in violation of the law, as set forth above, and Plaintiffs seek a declaration that all or any portion of the Order that is a command upon the Officers of the Court is illegal and unconstitutional, *per se*, as set forth herein.

COUNT II **INJUNCTIVE RELIEF**

⁴ The following should be noted: The Constitution of the United States and the Commonwealth of Pennsylvania are documents of mutual assent. Such as U.S. Supreme Court Justice Oliver Wendell Holmes, Jr. stated in *The Common Law, Lecture VII*, it is immaterial why a person breaches a contract, he or she either performs or suffers the remedy. And, yet, such as it is, we know that a smirk on the face of a person who violates a contract can disclose something circumstantial about the violation. Similarly, the implied or expressed insult by Gov. Wolf upon Judicial Officers might not be material to the violation or remedy sought, but it discloses something circumstantial about his violation. In the larger sense, this circumstantial fact is not even the worst danger: the worst danger is that the undersigned has received a volume of “hate mail” from licensed attorneys who, in a mean-spirited way, direct the undersigned “simply to concede” and “simply to comply” with the Executive Order. The public opinion that is in the middle, many of whom taking the position that “attorneys are no different from anyone else, simply obey Gov. Wolf” is less concerning; laypersons are not trained in the law, and, therefore, that lay opinion is forgivable, since they who say so know not what they do. The right to receive legal counsel is essential—indeed, *quintessential*—and it must remain independent and sacrosanct to preserve our freedoms as an American Constitutional Republic.

20. Plaintiffs hereby incorporate by this reference paragraphs 1 through the prior paragraph of this pleading, inclusive, as fully set forth herein at length.

21. The Defendants are in violation of the law, as set forth above, and must conform to the respective Constitutions, and thereby be enjoined from enforcement of all of any portion of the Order that is directed to the officers of any state or federal court.

PRAYER FOR RELIEF

WHEREFORE, the undersigned prays for the relief set forth herein and as may be conformed for relief, and any such other and further relief as it shall deem to be just and proper.

*It is proper to take alarm at the first experiment on our liberties. We hold this prudent jealousy to be the first duty of citizens and one of the noblest characteristics of the late Revolution. The freemen of America did not wait till usurped power had strengthened itself by exercise and entangled the question in precedents. ... We revere this lesson too much ... to forget it.*⁵

*I believe there are more instances of the abridgement of the freedom of the people by gradual and silent encroachments of those in power, than by violent and sudden usurpations.... This danger ought to be wisely guarded against.*⁶

April 3, 2020

s/Gregg Zegarelli
 Gregg R. Zegarelli, Esq.
 Counsel of Record, for Plaintiffs
 PA I.D. #52717

TECHNOLOGY & ENTREPRENEURIAL
 VENTURES LAW GROUP, P.C.
 2585 Washington Road, Suite 134
 Summerfield Commons Office Park
 Pittsburgh, PA 15241 USA
 412.833.0600

⁵ James Madison "Memorial and Remonstrance," Rives and Fendall, Letters and Other Writings of James Madison, 1:163.

⁶ James Madison. Jonathan Elliot, ed. *The Debates in the Several State Conventions on the Adoption of the Federal Constitution*, 5 vols. 3:87. Philadelphia: J.B. Lippincott Company, 1901.

March 27, 2020

VIA FACSIMILE: (717) 772-8284

The Hon. Thomas W. Wolf
Office of the Governor
225 Main Capitol Building 225
Harrisburg, PA 17120

Dear Governor Wolf:

Reference is made to your Executive Branch Order, 20200319 TWW COVID 19 Business Closure Order (the "**Order**"). Respectfully, to the extent that the Order is a cease and desist upon the unfettered practice of law, I hereby forthrightly notice you that I am defying the Order, and, further, I notice you that I hereby openly incite other attorneys to defy the Order. The Order is illegal, invalid and contrary to the moral jurisprudence of the United States of America and the Commonwealth of Pennsylvania.

The articles of defiance are set forth below:

1. Article III, Section 1, of the United States Constitution, and Article V, Section 1, of the Constitution of the Commonwealth of Pennsylvania vest exclusive judicial power in the Judiciary. The principle of "separation of powers" is long established by our Founding Fathers, as set forth in *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803) and its progeny. The Order is a cease and desist command upon the Judicial Branch of government and is thereby illegal, *per se*.
2. The power to regulate is the power to destroy. There is no provision in the respective Constitutions that concedes check-and-balance power to the Executive to regulate the Judiciary whenever the Executive, in his or her absolute discretion, decides that there is an "emergency." Any such provision makes the Executive superior to the Judicial and is thereby illegal, *per se*. Indeed, an emergency is a time when the unfettered right to obtain legal counsel is most essential.
3. What is an "emergency" is subject to Executive whims, interpretations and abuse. This year's COVID-19 is next year's annual flu. If the Executive will do it this year for this purported reason, it will do it again next year for a new reason. Each reason further supports and justifies the next. We recall that Adolf Hitler gained power by Constitutional means, then taking away rights by increments.
4. It is insidious to assert that a Judiciary closure of a court is the same as an Executive cease and desist to attorneys in the unfettered practice of law. Stopping the bees stops the honey, stopping the wood-cutter stops the building of sheltering protection, and stopping lawyers stops judicial process, at the first instance. Commanding attorneys to cease and desist the practice of law is an act of tyranny.



Z E G A R E L L I

March 27, 2020
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5. Your latest qualification of the Order to bring some alignment to the judicial orders regarding court closures is sleight of hand, the vigilant will soon discover. The issue is not the part of the Order that you have conceded, but the part of the Order that you refuse to concede. The remaining portion of the Order that regulates judicial processes, commanding a cease and desist, remains illegal, *per se*.
6. It is a flaw of practical reality conveniently to assume that all attorneys or all clients have the means to conduct themselves using virtual technologies. Some attorneys and some clients do not have that training, access or those means. Therefore, the Order forces clients to select new counsel based upon access to technology. This is a deprivation of equal protection of the laws.
7. It is a flaw of logic to assume that, because an attorney refuses to concede Judicial power to the Executive, that it follows that the attorney is practicing irresponsibly or without prudent distancing. Attorneys are highly trained professionals and are best able to determine appropriate behavior in the context that best serves their clients.
8. Even a purported noble cause is not an excuse for tyranny. King George, III, in all his high paternal presumption, also thought his cause was noble. Yet, our Founding Fathers determined that cause did not excuse the quartering of soldiers in our homes. It does not matter how kindly or innocently you present the Order, it is the *Wolf in Sheep's Clothing*; it is an experiment upon liberty as set forth in the Constitutions, and that experiment must fail, now, right now, before the new seed grows.
9. The Executive Branch controls police and the militia. Using the militia or police to enforce the illegal and invalid Order is tyranny. Nevertheless, I am practicing law in open defiance of the Order and may be arrested for doing so at the Administrative Office set forth in this communication.
10. Nothing in these articles of defiance relate to the power of the Executive other than as set forth by the Executive Order commanding attorneys to cease and desist the unfettered practice of law.

It is proper to take alarm at the first experiment on our liberties. We hold this prudent jealousy to be the first duty of citizens and one of the noblest characteristics of the late Revolution. The freemen of America did not wait till usurped power had strengthened itself by exercise and entangled the question in precedents. ... We revere this lesson too much ... to forget it. ... I believe there are more instances of the abridgement of the freedom of the people by gradual and silent encroachments of those in power, than by violent and sudden usurpations....This danger ought to be wisely guarded against. ~ James Madison

Z E G A R E L L I
Technology & Entrepreneurial
Ventures Law Group, P.C.

By: _____
Gregg R. Zegarelli

cc. Pennsylvania State Police (via email: tips@pa.gov)

March 30, 2020

VIA FACSIMILE: (717) 772-8284

The Hon. Thomas W. Wolf
Office of the Governor
225 Main Capitol Building 225
Harrisburg, PA 17120

Dear Governor Wolf:

Reference is made to my letter, dated March 27, 2020, containing “**articles of defiance**” to your Executive Branch Order, 20200319 TWW COVID 19 Business Closure Order (the “**Order**”) commanding attorneys to cease and desist the unfettered practice of law. In our Constitutional Republic, the inviolate right of legal counsel is sacrosanct; indeed, the right to counsel is more than an essential service, but *the quintessential* service and right of every American. Your assertion that unfettered legal services are not essential is tyrannous.

As an Officer of the Court, as a licensed member of the Bar for more than 30 years, and being admitted to practice before the Supreme Court of the United States of America and the Supreme Court of the Commonwealth of Pennsylvania, I hereby command you to cease and desist your cease and desist Order.

An attorney cannot serve two masters. Attorneys are privileged to serve exclusively the Judicial Branch of Government, not the Executive Branch of Government. Your Executive Order is out of order and actually creates more injury to the Constitution of American Government than the flu might create to the constitution of our bodies. Your acts are in violation of well-established principles of “**separations of powers**” as clearly stated by the Judicial Branch, being the Pennsylvania Supreme Court; to wit:

Pursuant to our constitutional authority, this Court adopted the Rules ... which govern the conduct and discipline of attorneys. Commonwealth v. Stern, 549 Pa. 505, 701 A.2d 568, 571 (1997). In Stern, this Court held a statute that criminalized the conduct of an attorney ... was unconstitutional as violative of the separation of powers doctrine. Stern, 701 A.2d at 573. Pursuant to Pa.R.D.E. 103, “[t]he Supreme Court declares that it has inherent and exclusive power to supervise the conduct of attorneys who are its officers” and this Court is vested with “the inherent and exclusive power to govern the conduct of those privileged to practice law in this Commonwealth.” Wajert v. State Ethics Comm'n, 491 Pa. 255, 420 A.2d 439, 442 (1980). The General Assembly has no authority under the Pennsylvania Constitution to regulate the conduct of lawyers in the practice of law. Thus, we conclude ... to regulate the conduct of attorneys and would be an impermissible encroachment upon the power of this Court. Beyers v. Richmond, 594 Pa. 654, 937 A.2d 1082 (2007) (emphasis added).



Z E G A R E L L I

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The American branches of government are co-equal. There is no exception in the United States Constitution or the Commonwealth of Pennsylvania Constitution that gives one man, being you, the absolute power to make the absolute decision that an absolute “emergency” as you have defined that term in your absolute discretion, absolutely to disrespect the Constitutional framework of our Constitutional Republic. Absolute power corrupts absolutely.

Respectfully, being compelled by and in accordance with my Oath to uphold the Constitution of the United States of America and the Constitution of the Commonwealth of Pennsylvania, and as an Officer of the Court, I hereby command you to cease and desist, by retraction, your Executive Branch Order, to the extent that it regulates the unfettered practice of law.

If you do not do so within three (3) calendar days, I will proceed accordingly.

Z E G A R E L L I

Technology & Entrepreneurial
Ventures Law Group, P.C.

By: _____
Gregg R. Zegarelli

cc. Pennsylvania State Police (via email: tips@pa.gov)