

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

CHAD PARKER, REBECCA
KENWICK-PARKER, MARK
REDMAN, and DONNA
REDMAN,

Plaintiffs,

v.

TOM WOLF, in his official capacity
as Governor for the State of
Pennsylvania; JOSH SHAPIRO, in
his official capacity as Attorney
General of the State of Pennsylvania;
and ALISON BEAM, in her official
capacity as Acting Secretary of
Health, Pennsylvania Department of
Health,

Defendants.

1:20-cv-01601-JEJ

FIRST AMENDED COMPLAINT

(Hon. John E. Jones III)

Plaintiffs Chad Parker, Rebecca Kenwick-Parker, Mark Redman, and Donna Redman (collectively referred to as “Plaintiffs”), by and through undersigned counsel, bring this First Amended Complaint against the above-named Defendants, their employees, agents, and successors in office, and in support thereof allege the following upon information and belief:

INTRODUCTION

1. Engraved by the steps of the Pennsylvania State Capitol in Harrisburg is a quote from Benjamin Franklin stating, “Those who would give up essential

liberty, to purchase a little temporary safety, deserve neither liberty nor safety.” This, unfortunately, is the current situation in Pennsylvania.

2. John Adams warned: “But a Constitution of Government once changed from Freedom, can never be restored. Liberty once lost is lost forever.” Plaintiffs bring this action because they reasonably fear that the draconian encroachments on their freedoms set forth in this First Amended Complaint will become the “new norm.” It has been said that all tyranny needs to gain a foothold is for people of good conscience to remain silent.

3. Our Constitution was designed to advance two primary and related goals: prevent tyranny and protect liberty. These important goals are advanced by Article IV, Section 4, which is a “guarantee” that each state will have a “Republican Form of Government” (“Guarantee Clause”).

4. In discussing the Guarantee Clause, James Madison emphasized the federal government’s obligation to ensure that states maintain a republican form of government: “In a confederacy founded on republican principles, and composed of republican members, the superintending government ought clearly to possess authority to defend the system against aristocratic or monarchical innovations. . . . *But a right implies a remedy*; and where else could the remedy be deposited, than where it is deposited by the Constitution?” The Federalist No. 43 (James Madison). (emphasis added).

5. The stated pandemic has been exploited such that the people of the Commonwealth of Pennsylvania no longer have a Republican Form of Government. The power and authority of the legislature has been nullified. Defendant Wolf has assumed the power to lord over the lives of Pennsylvanians like a king, mandating restrictions that deprive the people, including Plaintiffs, of their fundamental liberties. The Pennsylvania Supreme Court has ratified this “monarchical innovation.” The people have no recourse but to seek relief from this tyranny through the United States Constitution and this Court, the guardian of the freedoms guaranteed by that historically important document.

6. This civil rights action is brought under the First, Fourth, and Fourteenth Amendments to the United States Constitution; Article IV, Section 4 of the United States Constitution; and 42 U.S.C. § 1983, challenging Defendants’ policies, practices, and procedures as set forth in this First Amended Complaint.

7. Plaintiffs seek a declaration that the enactment and enforcement of the challenged contact tracing program, mask mandate, and Vaccination Policy as set forth in this First Amended Complaint violate their fundamental liberties and rights secured by the United States Constitution and an order enjoining the same. Plaintiffs seek a declaration that the authority exercised by Defendant Wolf pursuant to his “emergency powers” since the Pennsylvania General Assembly sought to revoke those powers on June 9, 2020, via a concurrent resolution violates the Guarantee

Clause and the Equal Protection Clause of the Fourteenth Amendment and thus his executive orders and the associated orders of the Pennsylvania Department of Health issued since that time under the “emergency powers” are null and void. Plaintiffs also seek an award of attorneys’ fees and costs pursuant to 42 U.S.C. § 1988 and other applicable laws.

8. While claims arising under the Guarantee Clause are typically dismissed as posing a nonjusticiable political question, Plaintiffs agree with Professor Erwin Chemerinsky that “the time is clearly approaching in which the [Supreme] Court may be quite willing to reject the view that cases under the Guarantee Clause should always be dismissed on political questions grounds. . . . [T]he Guarantee Clause should be regarded as a protector of basic individual rights and should not be treated as being solely about the structure of government. Accordingly, judicial interpretation and enforcement is in accord with the preeminent federal judicial mission of protecting individual rights and liberties.” Erwin Chemerinsky, *Cases under the Guarantee Clause Should Be Justiciable*, 65 U. Colo. L. Rev. 849, 851 (1994).

9. In light of the current crisis, and Plaintiffs refer here *not* to the declared pandemic but to the loss of civil liberties during this pandemic, now is the “time” for the courts to consider Guarantee Clause claims in order to protect “basic individual rights.”

JURISDICTION AND VENUE

10. This action arises under the Constitution and laws of the United States. Jurisdiction is conferred on this Court pursuant to 28 U.S.C. §§ 1331 and 1343.

11. Plaintiffs' claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202, by Rules 57 and 65 of the Federal Rules of Civil Procedure, by *Ex parte Young*, 209 U.S. 123 (1908), and by the general legal and equitable powers of this Court.

12. Plaintiffs' claim for an award of their reasonable costs of litigation, including attorneys' fees and expenses, is authorized by 42 U.S.C. § 1988 and other applicable law.

13. Venue is proper under 28 U.S.C. § 1391(b) because the Office of the Governor of Pennsylvania, the Office of the Pennsylvania Attorney General, and the Pennsylvania Department of Health are located in this judicial district and all Defendants are residents of the state in which this district is located.

PARTIES

14. Plaintiffs Chad Parker and Rebecca Kenwick-Parker (collectively referred to as the "Parkers") are adult citizens of the United States and residents of Pennsylvania. Together, they are the parents and legal guardians of six minor children.

15. The Parkers object to the challenged contact tracing program, mask mandate, and Vaccination Policy, and they have been, and continue to be, irreparably harmed by them.

16. The Parkers also object to Defendant Wolf's unilateral exercise of power and are thus disenfranchised by the fact that their representatives in the General Assembly have been rendered impotent by Defendant Wolf's exercise of his "emergency powers."

17. Plaintiffs Mark and Donna Redman (collectively referred to as the "Redmans") are adult citizens of the United States and residents of Pennsylvania. The Redmans are parents and legal guardians of two high school age children (P.G. and M.G., who are twins). Donna is the biological mother, and Mark is the stepfather.

18. The Redmans object to the challenged contact tracing program, mask mandate, and Vaccination Policy, and they have been, and continue to be, irreparably harmed by them.

19. The Redmans also object to Defendant Wolf's unilateral exercise of power and are thus disenfranchised by the fact that their representatives in the General Assembly have been rendered impotent by Defendant Wolf's exercise of his "emergency powers."

20. Defendant Tom Wolf is the Governor of the State of Pennsylvania.

21. Under color of state law, Defendant Wolf has issued various executive orders pursuant to his “emergency powers,” and he has implemented and enforced the challenged contact tracing program, mask mandate, and Vaccination Policy as set forth in this First Amended Complaint. Defendant Wolf will continue to issue executive orders in light of the declared COVID-19 pandemic and the recurrence of the spread of this virus as predicted by his former Secretary of Health, Dr. Rachel Levine, who now works for the Biden administration. Indeed, there is no end in sight as to when Defendant Wolf will relinquish his “emergency powers.”

22. Defendant Wolf is sued in his official capacity only.

23. Defendant Josh Shapiro is the Attorney General of Pennsylvania. The Attorney General is the state’s top law enforcement official.

24. As the Attorney General and under color of state law, Defendant Shapiro has authority to investigate and enforce violations of Defendant Wolf’s executive orders, and he has the authority to investigate and enforce the challenged contact tracing program, mask mandate, and Vaccination Policy as set forth in this First Amended Complaint.

25. Defendant Shapiro is sued in his official capacity only.

26. Defendant Alison Beam is the Acting Secretary of Health for the Pennsylvania Department of Health.

27. As the Acting Secretary of Health for Pennsylvania and under color of

state law, Defendant Beam is responsible for implementing and enforcing the challenged contact tracing program, mask mandate, and Vaccination Policy as set forth in this First Amended Complaint.

28. Defendant Bean is sued in her official capacity only.

STATEMENT OF FACTS

29. On or about March 6, 2020, Defendant Wolf issued a Proclamation of Disaster Emergency, thereby invoking his “emergency powers” and allowing him to act unilaterally, without any checks or balances to his power. The alleged basis for the invocation of these extraordinary powers was the threat of a COVID-19 pandemic in the state.

30. On or about March 9, 2020, Dr. Levine, the Pennsylvania Secretary of Health at the time, announced the presence of 10 suspected cases of COVID-19 in Pennsylvania and stated that the Commonwealth would start contact tracing.

31. On or about April 1, 2020, Defendant Wolf issued a state-wide, stay-at-home order pursuant to his “emergency powers.” The stay-at-home order was the equivalent of a house arrest for the people of Pennsylvania, including Plaintiffs. Yet, there was no probable cause requirement to restrict Plaintiffs’ liberty nor a process by which the order could be challenged by Plaintiffs.

32. At that time, Plaintiffs were told that the stay-at-home order was required to ensure that the hospitals were not overrun and to “flatten the curve.”

Plaintiffs were willing to cooperate given this explanation and what certainly appeared to be a short-term restriction. However, both of the conditions were met, yet the draconian restriction remained.

33. On or about May 20, 2020, Defendant Wolf publicly stated that a “foolproof” vaccine would be required before the state could return to “normal.” However, there is no such thing as a “foolproof” vaccine. In other words, Defendant Wolf has no intention of relinquishing his extraordinary “emergency powers” any time in the near future.

34. Defendants did not establish any clear guidelines or objective criteria for when they would lift or end the COVID-19 restrictions, including the challenged mask mandate and contact tracing program. With regard to the contact tracing program, Defendants have built a large, government infrastructure surrounding the program such that this program will be permanent and thus available for use during any government-perceived or government-created “crisis.”

35. On or about May 20, 2020, it was revealed that several states, including Pennsylvania, were combining the results from viral and antibody COVID-19 tests when reporting the testing totals, despite marked differences between the tests. The combining of the tests leads to the skewing of the overall positivity rate of the tests, a measurement that is one of the benchmarks used in reopening guidelines.

36. In addition, states were including “probable cases” in the overall case

count without distinguishing between a confirmed case and a probable case. And the criteria for counting a “case” is constantly changing. For example, on or about August 29, 2020, the Pennsylvania Department of Health (also referred to herein as “the Department”) announced the following: “Persons with a positive antibody (serology) test, moving forward, will no longer be considered a probable case. However, cases previously counted as probable cases, using the prior national case definition, will remain counted as probable cases.”

37. The New York Times reported on or about August 29, 2020, that there are significant problems with COVID-19 test results, noting that “[t]he standard tests are diagnosing huge numbers of people who may be carrying relatively insignificant amounts of the virus.”

38. The Pennsylvania Department of Health considers the PCR test to be the “gold standard” for determining whether someone is “positive” and thus infected with COVID-19. The Department considers this person’s “positive” PCR test to also mean that the person is infectious.

39. However, the Pennsylvania Department of Health does not have a standard cycle threshold (also referred to as “Ct”) it uses to determine a “positive” result from the PCR test. Consequently, persons may test “positive” and thus be subjected to the challenged contact tracing program without being infectious. This lack of a standard also means that the reported COVID-19 case numbers (confirmed

and probable) are likely skewed, if not largely meaningless.

40. The Pennsylvania Department of Health also uses the flawed and much maligned antigen test to trigger the contact tracing program.

41. On or about May 28, 2020, the General Assembly passed House Resolution 836, a Concurrent Resolution that terminates the March 6, 2020, Proclamation of Disaster Emergency issued by Defendant Wolf. Accordingly, the resolution sought to terminate the unilateral, authoritarian “emergency powers” of Defendant Wolf.

42. On or about June 3, 2020, Defendant Wolf violated his own executive order by marching in a “Black Lives Matter” protest. Defendant Wolf joined hundreds of demonstrators as they marched *en masse* through Harrisburg, Pennsylvania to protest the police killing of George Floyd, a black man from Minnesota.



43. Dr. Levine defended Defendant Wolf’s actions, claiming that

regardless of the order, “people have the right to protest, and to demonstrate, and the right to free speech.” Dr. Levine stated further that Defendant Wolf is “not restricting people’s right to protest,” adding that “[t]here are all obviously significant social issues that are present, that people feel that they need to have a voice, and so the governor is always supportive of that and is participating.” However, Defendant Wolf denounced those protesting his edicts as “ignoring the danger of COVID-19,” and he has called state and county politicians who oppose him “cowardly” for seeking to defy his stay-at-home orders. In other words, if the activity fits Defendant Wolf’s personal, political agenda, then the rules do not apply.

44. In court filings in *County of Butler v. Wolf*, Case No. 2:20-cv-00677-WSS, Defendant Wolf admitted as follows: “Defendants ADMIT that Governor Wolf marched in a protest, in a congregate number that exceeded the Governor’s/Secretary of Health’s authorized congregate number in effect in Dauphin County, Pennsylvania on June 3, 2020.” A justification provided for Governor Wolf’s unlawful actions was that he was “trying to show support for a cause—the eradication of racism.”

45. Plaintiffs do not want to wear masks pursuant to any mask mandate enforced by Defendants because Plaintiffs want to show support for an exceedingly important cause: the eradication of tyranny. However, Defendants will not grant Plaintiffs a First Amendment exemption similar to how Defendant Wolf granted

himself a First Amendment exemption from the COVID-19 restrictions.

46. On or about June 19, 2020, the Pennsylvania Department of Health announced that more than 4,000 close contacts of COVID-19 cases have been identified and monitored to date through the contact tracing efforts of 500 trained contact tracers throughout the state. Dr. Levine remarked that the Department is “now equipped with hundreds of contact tracers.”

47. On or about July 1, 2020, the Pennsylvania Secretary of Health issued an order mandating “universal face coverings,” thereby requiring all persons in Pennsylvania to wear a face mask when leaving their home.

48. More specifically, pursuant to the mask mandate, individuals were required to wear a face mask when outdoors and unable to consistently maintain a distance of six feet from individuals who are not members of the same household and when in any indoor location where members of the public are generally permitted. However, the propaganda message from Defendant Wolf and the Department is that masks are required *anytime* an individual leaves the home.

49. Defendant Wolf creates conflict between Pennsylvanians when he publicly states that people are required to wear masks every time they leave home, but then purposely excludes the “unless 6 feet apart” component of the mask mandate.

50. There is no scientific basis for concluding that face masks will stop a

pandemic, including the COVID-19 pandemic.

51. A study posted on the Centers for Disease Control (“CDC”) website in May 2020, concluded, *inter alia*, that “[t]here is limited evidence for [the] effectiveness [of masks] in preventing influenza virus transmission either when worn by the infected person for source control or when worn by uninfected persons to reduce exposure.” As noted, the mask mandate went into effect initially on July 1, 2020, when the “curve” had flattened and hospitalizations decreased, calling into question its need.

52. A more recent study published in the *Annals of Internal Medicine* and conducted at the University of Copenhagen in Denmark recruited 6,024 participants. Half of the participants wore surgical masks in public and half did not. About 4,860 people completed the study. Forty-two people in the mask group, or 1.8%, got infected. Fifty-three in the unmasked group, or 2.1%, got infected. The difference is not statistically significant. Dr. Henning Bundgaard, the lead author of the study, publicly stated, “Our study gives an indication of how much you gain from wearing a mask. Not a lot.”

53. On or about November 17, 2020, the Pennsylvania Department of Health issued an “UPDATED ORDER OF THE SECRETARY OF THE PENNSYLVANIA DEPARTMENT OF HEALTH REQUIRING UNIVERSAL

FACE COVERINGS.” This mandate went into effect on or about November 18, 2020. A copy of this mandate is attached as Exhibit 1.

54. The mask mandate was amended on or about March 16, 2021, by adding the following language to Section 3:

G. In non-healthcare settings when CDC’s Interim Public Health Recommendations for Fully Vaccinated People (“Public Health Recommendations”) or its successor allow for no face coverings and if acting in accordance with the Public Health Recommendations.

A copy of this amendment is attached as Exhibit 2.

55. The mask mandate remains in effect. Plaintiffs are subject to this mandate and the penalties for failing to comply with it.

56. In November 2020, while a mask mandate was in full effect, there was a surge in COVID-19 cases in Pennsylvania, calling into question the mandate’s effectiveness. If face masks stop or significantly reduce the spread of COVID-19, as Defendants claim, then Defendant Wolf should have removed all or most of the COVID-19 restrictions—restrictions that are harmful to the economy and harmful to individuals who have been separated from friends, co-workers, and family members as a result—and allowed all Pennsylvanians the freedom to return to their normal lives. Governor Wolf did not remove nor ease the restrictions as a result of the mask mandate because face masks are not effective at reducing the spread of the virus, and they are certainly not as effective as Defendants claim them to be.

57. Under the mask mandate, almost anything qualifies as a face mask, and the mandate discourages the use of N95 masks, which are perhaps the only masks that have some effect against viruses and which are nearly impossible to find or acquire outside of the health fields.

58. Face masks are completely useless outdoors as the chances of spreading the virus outdoors is miniscule, if not nonexistent. Consequently, there is no justification, and there never was any justification, for mandating the wearing of face masks when outdoors.

59. On August 5, 2020, the FDA issued an Emergency Use Authorization (“EUA”) related to surgical masks. In this EUA, the FDA stated, in relevant part, the following:

The labeling of the authorized surgical masks must:

* * *

- State that surgical masks *are not intended to provide protection against pathogenic biological airborne particulates and are not recommended for use in aerosol generating procedures and any clinical conditions where there is significant risk of infection through inhalation exposure*; and
- Not include statements that would misrepresent the product or create an undue risk in light of the public health emergency. For example, the labeling must not include any express or implied claims for: (1) reuse, (2) antimicrobial or antiviral protection or related uses, (3) infection prevention, infection reduction, or related uses, or (4) *viral filtration efficiency*.

(emphasis added).

60. For many individuals, including Plaintiffs, a face mask is a symbol of

oppression and an attempt by the government to control the citizenry. This view was recently expressed by the below political cartoon published in the Wall Street Journal:



61. Additionally, journalists were constantly attempting to get photographs of President Trump wearing a mask because it is a political issue. Many politicians who publicly support mask wearing for political reasons (it makes the pandemic look and appear worse than what it is) would often not wear one until the cameras were rolling, at which time they would dutifully don the mask for public consumption.

62. During an event in Doylestown, Pennsylvania on or about September 29, 2020, Governor Wolf and Pennsylvania State Representative Wendy Ullman were chatting about removing their masks to speak. Representative Ullman said she was going to play “political theater” and wait to remove her mask “on camera.” They both laughed, and Governor Wolf responded, “okay, that’s good.” This conversation was captured on a “hot mic” at this event.

63. A Columbus Dispatch poll of July 1, 2020, asked, “Is a mask a symbol

of freedom or oppression.” When last viewed by Plaintiff Mark Redman, 67% responded “oppression” and only 8% said “freedom.” As another example, in May 2020, the Wisconsin State Journal published an article titled, “Face masks becoming a political symbol of the COVID-19,” noting how the mask has become a political symbol during this politicized pandemic.

64. For many, including Plaintiffs, forcing them to wear a face mask is forcing them to convey a message with which they disagree. Wearing a mask conveys the message that the wearer has surrendered his or her freedom to the government, particularly in light of the facts of this current declared pandemic. During this current political climate, a mask has become a symbol of government oppression.

65. Because a mask has become a political symbol during this current and highly politicized pandemic, the wearing of a mask is a form of symbolic speech. Consequently, via the mask mandate, Defendants are compelling Plaintiffs to engage in a form of expression and to convey a message with which Plaintiffs disagree.

66. The mask mandate presumes that all people are diseased and thus makes the wearer contribute to a false public statement that all people are in fact diseased.

67. Plaintiffs also object to the mask mandate because it violates their privacy interests, including their right to bodily integrity and personal autonomy free

from government interference.

68. A mask is required for everyone, even though the vast majority of individuals required to wear one are healthy or are not in a group with a high risk to contract COVID-19. Indeed, masks are also required to be worn by those who have already contracted COVID-19 and are thus now immune from the virus, including Plaintiff Chad Parker.

69. While science and data show that the vast majority of Americans are healthy (80% to 90% do not have COVID or a comorbidity that would make them susceptible to COVID), the mask mandate presumes that all people are diseased unless proven healthy. The mask mandate is forcing every Pennsylvanian, including Plaintiffs, to become the government's patient without the person's consent.

70. The mask mandate creates a false public impression that private individuals must rely on the government for their safety, thereby allowing Defendants to use the mandate as a tool for maintaining power and authority.

71. Remarkably, an exception to the mask mandate is provided for individuals with a medical condition, including those with "respiratory issues that impede breathing." In other words, masks are not required to be worn by individuals who are most susceptible to COVID-19, a virus that attacks the respiratory system.

72. Defendant Wolf has resorted to social media to publicly shame individuals who object to wearing face masks. As an example of Defendant Wolf's

Orwellian Newspeak, he proclaimed on social media that “[w]earing a mask gives us more freedom to do the things we love”

73. Then-Secretary of Health Dr. Levine joined the effort to shame those who oppose the mask mandate, stating, “My mask protects you, and your mask protects me. Wearing a mask shows that you care about others, and that you are committed to protecting the lives of those around you.” This mantra presumes that everyone is, at all times, a potential carrier of the virus, when the vast majority of the population is not. This type of propaganda stokes conflict between and among Pennsylvanians, and it weaponizes the issue of mask wearing. Further, by requiring healthy people to wear masks, Defendants can magnify the risk of the virus in order to maintain control. This type of propaganda and forcing of morality goes far beyond a disaster emergency declaration related to a virus. Defendants are using similar propaganda tactics with the vaccines.

74. The mask mandate is a tool to create conflict and to divide Pennsylvanians against each other. The mandate is a way in which political leaders, such as Defendant Wolf, can promote the narrative that this declared pandemic is far worse than what it really is.

75. By creating fear and panic about the declared pandemic, Defendant Wolf was able to promote and enforce unlawful changes in Pennsylvania’s election laws that favored his Democratic party during the 2020 general election.

76. Defendants further exacerbate the division caused by the mask mandate by establishing a “snitch line” that allows someone to report directly to the Pennsylvania Department of Health perceived violations of the mask mandate or other COVID-related restrictions.

77. Mandating the wearing of masks as a means of limiting disease spread is not based on science, and this includes the wearing of *proper* personal protective equipment (PPE), such as the N-95 masks, and not the largely useless coverings approved by Defendants’ mask mandate. The Lancet study, often cited in support of mask wearing, actually concluded that the use of PPE to contain transmission was of “low certainty,” saying anecdotally that what protective value it had was higher for N95 respirators, but that this indicated protection for the wearer, not for others.

78. On or about August 17, 2020, Defendants ordered that all students attending primary and secondary schools must wear masks, even if social distancing can be maintained. However, according to the Pennsylvania Department of Health, children ages 0 to 19 make up less than 8% of total confirmed and presumed positive COVID-19 cases. The Department does not list any deaths in this age demographic. Further review of the Department data shows that the COVID-19 virus is more serious for the elderly population, not for students. The last-minute order caused chaos and confusion in school districts that were getting ready to start the school year in less than three weeks.

79. The wearing of masks can have negative consequences for the wearer. In March of this year, a paper was published by the Journal of Infectious Diseases and Epidemiology that conducted a survey of 343 frontline healthcare workers in New York City responding to the first wave of COVID-19. In this survey, 314 respondents reported adverse effects from prolonged mask use with 245 reporting headaches being the most common complaint. Skin breakdown was the second most common issue with 175 respondents, and impaired cognition was reported in 81 respondents. Many experienced resolved side effects once masks were removed, while others required physical or medical intervention. Thirty percent of those who reported headaches reported them after 3 or more hours of wear.

80. Defendants have not conducted or commissioned any studies regarding the adverse effects of wearing masks.

81. A least restrictive or narrowly tailored means of accomplishing Defendants' objective for the mask mandate (*i.e.*, to allegedly limit the harmful spread of the virus) is to have those who are susceptible to COVID-19 (the elderly and persons with pre-existing conditions) wear N95 respirators when they leave their homes if they are concerned about contracting the disease. Defendants could also enact measures that isolate, and thus protect, the most vulnerable demographic, and thereby permit the majority of the population to enjoy their freedom. Defendants refuse to do so because it would mean relinquishing their power and control over the

residents of Pennsylvania.

82. Defendants are implementing/have implemented a policy whereby, *inter alia*, vaccinated persons are excused from certain COVID-19 restrictions, including the requirement to wear a face mask. This policy discriminates against people who oppose the COVID-19 vaccine; it discriminates in favor of those who are vaccinated over those who are not vaccinated (hereinafter referred to as the “Vaccination Policy”).

83. Pursuant to the Vaccination Policy, proof that a person is vaccinated may/will be required for the person to enjoy the benefits and privileges of living a life free from government restrictions, specifically including government-imposed, COVID-19 restrictions such as the mask mandate.

84. The Vaccination Policy does not take into account the fact that a person may be immune from COVID-19 due to natural immunities developed from having had the virus or from other treatment/therapeutics received by the person.

85. By forcing individuals who have not been vaccinated to wear a mask, Defendants are forcing these individuals (including Plaintiffs) to reveal private medical information, and it is subjecting persons who object to getting a COVID-19 vaccine to abuse and ridicule from those who have been vaccinated.

86. Defendant Wolf is further coercing people to get vaccinated by declaring that the mask mandate will be lifted when 70% of Pennsylvanians get

vaccinated. Pursuant to a press release issued by the Pennsylvania government (Defendants) on or about May 4, 2021, “The current order requiring Pennsylvanians to wear masks will be lifted when 70% of Pennsylvanians age 18 or older are fully vaccinated. Face coverings are required to be worn indoors and outdoors if you are away from home.”

87. Plaintiffs object to the government forcing and/or coercing them to get vaccinated—whether the force/coercion is direct or indirect. If Plaintiffs refuse the COVID-19 vaccines, their refusals will result in the loss of benefits, freedom, and privileges.

88. The COVID-19 vaccines have been deadly for some. They were not subject to the full trials of the Food and Drug Administration (“FDA”). Consequently, they are not FDA “approved.” Rather, the vaccines were “authorized” by the FDA pursuant to an emergency authorization.

89. As the CDC acknowledges, the COVID-19 vaccines are a “new approach to vaccines.” Per the CDC, “mRNA vaccines are a new type of vaccine to protect against infectious diseases. To trigger an immune response, many vaccines put a weakened or inactivated germ into our bodies. Not mRNA vaccines. Instead, they teach our cells how to make a protein—or even just a piece of a protein—that triggers an immune response inside our bodies. That immune response, which produces antibodies, is what protects us from getting infected if the real virus enters

our bodies.”

90. The body of a person who has had COVID-19 and recovered has already “trigger[ed] an immune response . . . which produce[d] antibodies” to the virus, thereby “protect[ing the person] from getting infected [again].” If the antibodies developed from having had COVID-19 do not protect the person, then the antibodies created by the vaccines are useless, particularly since natural immunities are better than those created by vaccines. Nonetheless, pursuant to the Vaccination Policy, Defendants are discriminating against individuals with natural immunities in order to force people to get a COVID-19 vaccine. This decision is driven by politics and not science.

91. Because the mRNA vaccines are new, their mid-term and long-term effects are unknown. Indeed, these effects could prove deadly or seriously debilitating, particularly to younger people, such as Plaintiffs, who will have the mRNA vaccine operating in their bodies for many decades.

92. Plaintiffs and their children are not part of the demographic most susceptible to COVID-19 (the elderly and those with co-morbidities). Consequently, Defendants have no basis or interest in coercing them into getting a COVID-19 vaccine.

93. Plaintiffs object to getting a COVID-19 vaccine for the following reasons, among others:

a. The mRNA shots are experimental drugs for which we do not know the medium- and long-term consequences.

b. The Johnson & Johnson vaccine is made with fetal tissue cell lines that are from aborted babies. Plaintiffs object on religious grounds to abortion, and they object on religious grounds to the use of fetal tissue, cells, or other parts of aborted babies for medical research or development. Accordingly, Plaintiffs object on religious grounds to the Johnson & Johnson vaccine and any other vaccine that was developed through the use of aborted baby parts.

c. The COVID-19 vaccines are authorized under Emergency Use Authorizations. They were not “approved” by the FDA pursuant to the normal approval process. The COVID-19 vaccines were rushed to market without understanding the medium- and long-term consequences.

d. The authorizations issued for the COVID-19 vaccines were improper because they were obtained, in part, by suppressing the existence of good therapeutics that effectively treat COVID-19, including hydroxychloroquine, ivermectin, and inhaled nebulized steroids, *inter alia*.

e. The criteria for issuing an EUA is found in 21 U.S.C. § 360bbb-3(c), which provides as follows:

The Secretary may issue an authorization under this section with respect to the emergency use of a product *only if*, after consultation with the Assistant Secretary for Preparedness and Response, the Director of the National Institutes of Health, and the Director of the Centers for

Disease Control and Prevention (to the extent feasible and appropriate given the applicable circumstances described in subsection (b)(1)), the Secretary concludes-

(1) that an agent referred to in a declaration under subsection (b) can cause a serious or life-threatening disease or condition;

(2) that, based on the totality of scientific evidence available to the Secretary, including data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that-

(A) the product may be effective in diagnosing, treating, or preventing-

(i) such disease or condition; or

(ii) a serious or life-threatening disease or condition caused by a product authorized under this section, approved or cleared under this chapter, or licensed under section 351 of the Public Health Service Act [42 U.S.C. § 262], for diagnosing, treating, or preventing such a disease or condition caused by such an agent; and

(B) *the known and potential benefits of the product, when used to diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product*, taking into consideration the material threat posed by the agent or agents identified in a declaration under subsection (b)(1)(D), if applicable;

(3) *that there is no adequate, approved, and available alternative to the product for diagnosing, preventing, or treating such disease or condition*;

(4) in the case of a determination described in subsection (b)(1)(B)(ii), that the request for emergency use is made by the Secretary of Defense; and

(5) that such other criteria as the Secretary may by regulation prescribe are satisfied.

21 U.S.C. § 360bbb-3(c) (emphasis added). The COVID-19 vaccines did not meet all of the required criteria.

f. The risks of the vaccines outweigh their benefits for the vast majority of people, including Plaintiffs. The survival rate for COVID-19 is well over 90%, which includes the entire population. For healthy people, such as

Plaintiffs, the survival rate is above 99%. COVID-19 is most harmful to those with comorbidities and/or the elderly. For example, in Pennsylvania, there are no reported deaths from COVID-19 in the 0-to-19-year age group.

g. COVID-19 can be effectively treated using therapeutics. These therapeutics have less risks than the vaccines. The treatments are known to be effective, yet they are being suppressed.

h. If people knew about the effectiveness of therapeutics/treatment options, more people would avoid the vaccines. The government, including Defendants, are suppressing information about therapeutics/treatment options. They are also suppressing data about the adverse effects of the COVID-19 vaccines. The suppression of scientific debate about therapeutics/treatment options and the negative effects of the vaccines suggests that something other than a desire to curb a virus is motivating the relentless public campaign to get everyone vaccinated.

i. Scientific evidence shows that the vaccines lower the immune system, thereby making a person more vulnerable to any other strain of virus with which they may come in contact. The autoimmune reaction in response to the vaccines can be more dangerous than the virus for which the vaccines are being used to protect against.

j. Lowering immune systems will create a massive autoimmune response. Once compromised with the vaccine, boosters will be required on a

continuous basis, making the individual dependent on government medical oversight.

k. If there is no hyping of the pandemic, as Defendants have done, there is no fear. If there is no fear, there is no need for a vaccine for safety. If nobody was vaccinated, there would be no need for a vax passport, thereby undermining the government's power to control people.

l. Plaintiffs will not get a COVID-19 vaccine because it is not a prevention from any kind of sickness. Rather, it is a tool for the government to control people's lives.

m. The reasons behind the intense marketing of the vaccines are financial and for government control. When medicine is unduly influenced by politics and marketing it is dangerous. The COVID-19 vaccine push has been improperly and unduly influenced by politics and marketing, and it is dangerous.

94. Americans, including Pennsylvanians, do not live in a "nanny state." It should be up to each individual to decide whether he or she should wear a mask or get vaccinated based on his or her own personal situation and concerns. The U.S. Constitution guarantees freedom from such government interference with a private citizen's personal life.

95. On or about July 1, 2020, the Pennsylvania Supreme Court ruled 4-3 in favor of Defendant Wolf on House Resolution 836, holding that the resolution must

be presented to Defendant Wolf for signature.

96. On or about July 8, 2020, House Resolution 836 was presented to Defendant Wolf.

97. On or about July 14, 2020, Defendant Wolf vetoed House Resolution 836. Defendant Wolf refused to approve the resolution because it robs him of his extraordinary “emergency powers.” In his veto message, Defendant Wolf stated, “At some point, we will be ready as a Commonwealth to move past the disaster emergency currently challenging us. But that day is unfortunately not yet here.” Indeed, there is no end in sight for Defendant Wolf because he does not want to surrender his unilateral power to lord over the people of Pennsylvania.

98. On or about July 10, 2020, the Pennsylvania Department of Health received emergency approval to spend \$2 million to ramp up contact tracing by way of a contract with a software company to develop a smartphone app for contact tracing.

99. On or about July 17, 2020, the Pennsylvania Department of Health received emergency approval to spend \$25 million to recruit, hire, and train 4,000 contact tracers in 90 days.

100. On or about July 22, 2020, the Pennsylvania Department of Health issued a press release, confirming that it is expanding its contact tracing resources, but concealing the earlier approvals to spend \$27 million on contact tracing. The

Department noted that “[c]ontact tracing is the process of identifying, notifying, and monitoring anyone who came in close contact with an individual who tested positive for COVID-19 while they were infectious.” According to the Department, “Our estimates show that the state needs about 625 contact tracers. However, this number could grow hundreds, even thousands, depending on the resurgence of COVID-19 in the fall.” The Department concludes by stating, “Between June 29 and July 13, contact tracers have enrolled 3,638 contacts in the Sara Alert system. The Sara Alert, working alongside our disease surveillance system (NEDSS), offers contact tracers the ability to track, monitor, isolate and test symptomatic contacts and is further enhanced by the use of technology applications. This web-based monitoring tool enable[s] contact tracers to send daily emails, texts and/or phone calls to cases and identified close contacts throughout their isolation/quarantine monitoring period. This technology enhances the contact tracer’s ability to promptly respond and provide guidance to symptomatic individuals.”

101. On or about July 23, 2020, the Pennsylvania Department of Health posted Request for Expression of Interest 001746 (RFEI 001746) on the Commonwealth’s eMarketplace portal. RFEI 001746 seeks “expressions of interests” from firms to “implement a Contact Tracing Management System.” The materials describing RFEI 001746 show that this is in fact the creation of a massive and permanent database that will be used to surveil the population of Pennsylvania.

As a result of this RFEI, a \$3.4 million contract was awarded to Deloitte Consulting LLP.

102. According to the Pennsylvania Department of Health, an individual who is tested and confirmed positive for COVID-19 is considered a “case.”

103. However, the “positive” result is terribly flawed because the testing relied upon by Defendants for this result is terribly flawed, as set forth in this First Amended Complaint.

104. According to the Pennsylvania Department of Health, “Within 24 hours of receiving the positive result, trained public health staff conduct an interview with the case to obtain a list of close contacts they had while infectious. . . . The cases are encouraged to utilize calendars, social media, etc. to remember where and who they were around during their infectious period. During the case investigation, the public health staff attempt to obtain as much information as possible on the contacts (address, phone, email, etc.) and then share the contact information with the designated contact tracers.” All of this information is then compiled and retained in a government database.

105. On or about July 31, 2020, the Pennsylvania Department of Health announced that it intended “to recruit, hire, train, and support 1,000 paid contact tracing staff to further COVID-19 contact tracing efforts” in the state. This is “an additional 1,000 contact tracing staff to the 654 contact tracers across the state

currently.” The announcement did not disclose that the Department intends to hire up to 4,000 paid contact tracers.

106. In this public announcement, the Department stated, “A case investigation is the identification and investigation of patients who are classified as being a confirmed or *probable* case of COVID-19. Contact tracing is the subsequent *verification, monitoring*, and support of their contacts who have been exposed to and *possibly* infected with the virus.” (emphasis added).

107. On or about August 4, 2020, the Pennsylvania Department of Health posted Request for Application (RFA) 67-116 on the Commonwealth’s eMarketplace portal. RFA 67-116 seeks to spend \$60,000,000 on “hub and spoke” COVID-19 testing. The bid documents indicate that the contract will run through June 30, 2022, and that the objective is to test 5% of the population every month, which is approximately 640,000 people. This “hub and spoke” rapid testing capability is part and parcel of the contact tracing program: “test, trace, stay in place.” And it will lead to more contact tracing and surveillance of private individuals with no regard for the fact that it is not necessary.

108. As part of the challenged contact tracing program, restaurants are encouraged to “utilize reservations for dining on premises to maintain records of all appointments, including contact information for all customers.” Similarly, salons and barbershops are required to conduct business by appointment only.

109. The Pennsylvania Department of Health, in conjunction with the Pennsylvania Department of Education, directly implements and enforces the challenged contact tracing program within the public schools. To more effectively implement the program, the Department of Health requires each school to “[t]ake measures that allow for exposed individuals to be more easily traced,” including, the “[u]se of assigned seating for each class,” “tak[ing] attendance for every class and including all individuals (staff and contractors) who were in the classroom,” “us[ing] sign-in sheets for in-person meetings to document staff attendees,” and “keep[ing] accurate records of any persons other than students and staff that enter the building, their reason for being there, the locations in the building they visit, and the names of close contacts they visit in the building.”

110. On or about July 14, 2020, Plaintiff Chad Parker believed he had a sinus infection and so he sought medical treatment. On or about July 19, 2020, he was tested for COVID-19, and on or about July 24, 2020, his test came back positive. Plaintiff Chad Parker works for a government employer, which follows the CDC guidance for when a person who tests positive for COVID-19 is cleared to return to work. Pursuant to that guidance, Plaintiff Chad Parker was cleared on July 24, 2020, and he returned to work on July 25, 2020.

111. On or about July 25, 2020, Plaintiff Chad Parker was contacted by a contact tracer pursuant to the challenged contact tracing program. The contact tracer

asked probing questions, including who Plaintiff Chad Parker lives with, the ages of the individuals he lives with, the names of any businesses or other places he recently visited, and the names and contact information of any people he recently visited or had contact with. Plaintiff Chad Parker was disturbed by the intensive questioning by this government investigator and by the investigation itself, which sought personal and private information regarding his personal and private contacts and associations.

112. In a press release posted on or about August 31, 2020, the Pennsylvania Department of Health acknowledged the following with regard to the challenged contact tracing program: “During the case investigation, public health professionals spend 30 to 60 minutes asking questions to ensure all potential close contacts are identified. They collect information about who the case came in contact with and where they went while they were infectious.”

113. Shortly following the probing phone call with the contact tracer, the Parkers received a letter in the mail from the Pennsylvania Department of Health dated July 25, 2020 (hereinafter “DOH Letter”). A true and correct copy of the DOH Letter, which is incorporated herein by reference, is attached to this First Amended Complaint as Exhibit 3.

114. The DOH Letter was addressed to the “Parker/Kenwick Family.” The letter made explicit that “[t]he Secretary of Health is *directing* you as a close contact

of a person that has COVID-19 to self-quarantine in your home.” (emphasis added). The letter states that “[t]his authority is granted to the Secretary of Health under the law,” citing as authority, *inter alia*, various sections of the Disease Prevention and Control Law and the Department of Health’s regulations found at 28 Pennsylvania Code Chapter 27.

115. During the mandated, 14-day quarantine (house arrest), the DOH Letter also “directed” the Parkers to, *inter alia*, “[m]aintain social distancing of at least 6 feet from family members” and to “[c]ooperate with the monitoring and other contacts of the Department or its representatives.”

116. The DOH Letter concludes with a stern warning: “You must immediately adhere to this quarantine directive and all disease control measures included in it. If you do not cooperate with this directive, the Secretary of Health may petition a court to have you *confined* to an appropriate place chosen by the Department. . . . This may be a hospital, or some other appropriate place, *whichever the Department determines is best suited for your case. You will be kept there until the Department determines it can release you from quarantine. Law enforcement may be called upon, to the extent necessary, to ensure your compliance with this directive.*” (emphasis added).

117. Pursuant to 28 Pennsylvania Code Chapter 27, a violation of the Pennsylvania Department of Health’s directives as set forth in the DOH Letter could

result in criminal penalties (§ 27.8). Additionally, Chapter 27 gives the Pennsylvania Department of Health very broad, plenary, and punitive powers. For example, among other powers, the Department has the power to isolate, quarantine, segregate, and surveil individuals without a warrant or consent (§ 27.60(a)); it has the power to define the conditions of the quarantine (§ 27.65); it has the power to put a placard/sign in front of a person's home if the Department believes that the person is not "fully" compliant (§ 27.66); it has the power to restrict physical movement, requiring the quarantine to "take place in an institution where the person's movement is physically restricted" (§ 27.88(a)); it has the power to "treat" minors without parental consent (§ 27.97); it has the power to isolate a person if he or she refuses treatment (§ 27.87(a)); it has the power to enter a home without a warrant or consent (§ 27.152(b)); and it has the power to review confidential medical records without a warrant or consent (§ 27.152(c)). All of these powers are available to the Department to enforce the challenged contact tracing program.

118. As a result, the Pennsylvania Department of Health has the authority to remove minor children from their homes and place them in an isolated quarantine location without parental consent pursuant to the contact tracing program.

119. At all relevant times, the Parkers, including their children, lived in close contact with each other in the same household. Accordingly, their exposure to COVID-19 via Plaintiff Chad Parker had begun as early as July 14, 2020, and yet

none of the family members demonstrated any symptoms. Nonetheless, the Parkers and their children were forced to quarantine (house arrest) for 14 days *beginning* on July 25, 2020.

120. The Pennsylvania Department of Health does not know what Ct laboratories use to determine a “positive” COVID-19 test—a “positive” result that triggers the contact tracing program and its mandated quarantine. The Department does not have a standard Ct that it uses to trigger the contact tracing program and its mandated quarantine. The Department does not know whether a “positive” test that triggered the contact tracing program and its mandated quarantine was the result of an antigen test or a PCR test. The Department has no idea if Plaintiff Chad Parker’s “positive” COVID-19 test that resulted in his and his family’s 14-day quarantine was accurate or false, and there was no mechanism or procedure in place for Plaintiff Chad Parker to challenge the Department’s determination, and there is no such mechanism or procedure today.

121. Accordingly, there was no process in place for Plaintiff Chad Parker to challenge this forced quarantine (house arrest) nor were Defendants required to demonstrate probable cause that this quarantine (house arrest) was necessary. Indeed, it was not necessary as the period of infection had already expired prior to the imposed quarantine (house arrest). Moreover, nobody in the house was exhibiting symptoms.

122. From the date of his first phone call with a contact tracer to on or about August 24, 2020, Plaintiff Chad Parker received approximately 14 texts a day as a result of the challenged contact tracing program. The text messages required responses to a “Daily Self-Report.” There was no way to stop the incessant messages, which were apparently generated by the Sara Alert system. Moreover, pursuant to the DOH Letter, the Parkers were required to “cooperate” and thus respond.

123. Because the Parkers are now in Defendants’ contact tracing database, they reasonably fear that they will be subjected once again to a quarantine. At a minimum, they object to being subjected to surveillance, having their personal medical records reviewed by the Pennsylvania Department of Health, and being in the government’s database.

124. Plaintiff Rebecca Kenwick-Parker homeschools her three biological children, giving them the option to attend public school once they reach the 8th grade. Plaintiff Rebecca Kenwick-Parker’s 14-year-old son (her oldest biological child) attended public school last year (8th grade) and was planning on attending public high school (9th grade) this year (2020-2021). However, due to the contact tracing program and the mask mandate, the Parkers were forced to keep him home, causing them to scramble to find a homeschool high school curriculum and thus incurring additional costs for that curriculum as well. So long as the contact tracing

program and mask mandate remain in effect, the Parkers will not send Plaintiff Rebecca Kenwick-Parker's biological children to public school.

125. Because of the challenged contact tracing program and mask requirement, the Parkers are suffering and will continue to suffer irreparable harm.

126. The Redmans have two boys (P.G. and M.G.) who are juniors at Delaware Valley High School, which is part of the Delaware Valley School District ("DVSD").

127. The school year began on September 2, 2020. The DVSD Board decided to implement in-person instruction, but it allowed students to attend remotely as well. Parents were required to make an election prior to the start of the school year.

128. Because of the challenged contact tracing program, particularly as it was applied in the public schools, the Redmans decided to have the boys attend remotely at the start of the school year, over the vehement objection of both boys. The Redmans decided to do this because they did not want to risk their children being contact traced, and they objected to the fact that their children would have to wear masks throughout the school day.

129. The children struggled with the remote learning format, and this struggle was reflected in their grades. One child in particular had a very difficult time. In addition, both boys missed the social interaction.

130. The school district announced that students desiring to move to in-person instruction could do so at the start of the second marking period, which began on or about November 9, 2020.

131. The Redmans decided that their boys' education was suffering too greatly due to the remote learning format. Consequently, in or about October 2020, the Redmans advised the school administration that the boys would be returning to school for in-person instruction.

132. During the course of the school year, the high school would close at times to in-person instruction based on a formula established by the Pennsylvania Department of Health and the Pennsylvania Department of Education. The formula looked at the spread of COVID in the county, along with the number of reported "cases" within a given school building.

133. On or about April 29, 2021, Assistant Principal Heather Santarelli called the Redmans to advise them that one son, P.G., was a "close contact" with someone who had tested positive for COVID-19. The Redmans were advised that their son was ordered to leave the school, and that they should pick him up as he could not take the bus home. The assistant principal had no objection to P.G.'s brother, M.G., driving him home. The assistant principal advised that P.G. was excluded from school until May 8, 2021, based on the date of the last contact, and she advised that the school uses a 14-day quarantine period. The assistant principal

would not tell the Redmans who tested positive or in what class the contact was made. P.G.'s brother M.G. was not excluded from school. The assistant principal advised the Redmans to contact the school district's "pandemic coordinator," Mr. Chris Lordi, for any further details.

134. The Redmans' fear about their family being "contact traced" through the public school system was thus realized. Additionally, the Redmans' son, M.G., has been suffering at school due to the requirement that he wear a mask all day, further confirming the Redmans' concerns about sending their children to school.

135. On or about April 30, 2021, the Redmans met with the DVSD pandemic coordinator Chris Lordi. Mr. Lordi explained the district's contact tracing procedure, and he stated that it was based on the Pennsylvania Department of Health's policies and procedures. Mr. Lordi advised that contact information would be provided to the Pennsylvania Department of Health, and that we should expect a call and a letter from the department. When asked if there was any appeal process, Mr. Lordi answered "no."

136. On or about April 30, 2021, Plaintiff Donna Redman received a call on her cell phone with a caller ID that stated "Pa Dept Health." The caller left a voice message. Plaintiff Donna Redman then received a text message from someone claiming to be with the Pennsylvania Department of Health.

137. On or about May 1, 2021, Plaintiff Donna Redman received another

call on her cell phone with the same caller ID (“Pa Dept Health”). The caller left a voice message. About 1.5 hours later, Plaintiff Donna Redman received another text message from someone claiming to be with the Pennsylvania Department of Health.

138. On or about May 3, 2021, the Redmans received a letter from the high school advising them that P.G. “may have been exposed to someone who has COVID-19.”

139. As a result of the challenged contact tracing program, P.G. was forced to stay at home even though he had no symptoms whatsoever of COVID-19. In addition to missing his in-person instruction, P.G. missed a scheduled lifeguard recertification class as a result of the contact tracing quarantine.

140. On or about May 7, 2021, P.G. (a minor) received a letter addressed to him from the Pennsylvania Department of Health. The letter stated: “I need to speak with you regarding an urgent health matter. Please contact me at 1-877 PA HEALTH (1-877-724-3258), Option 1, as soon as possible. Please leave a message with a good contact number if I am not available. Your cooperation is greatly appreciated.” The letter was signed by Emily Charland-Snoots, “PA Department of Health Contact Tracer.”

141. Upon information and belief, Pathline Labs in Ramsey, New Jersey is the laboratory that performed the test that ultimately resulted in the quarantine order issued against P.G. On or about May 10, 2021, a client services representative at

Pathline Labs confirmed that the lab uses 35 cycle thresholds (Ct) in its PCR testing to detect COVID-19. Testing at this Ct level results in a significant number of false positive results. Even assuming the presence of the COVID-19 virus, a person testing positive at this number of cycle thresholds (35) is not infectious. That is, COVID-19 cannot be spread by someone who tests positive at that level of sensitivity.

142. The CDC announced that it wants laboratories to submit specimens of “breakthrough” cases of COVID-19. That is, cases where a vaccinated person gets the virus. However, per the CDC, “[f]or cases with a known RT-PCR cycle threshold (Ct) value, submit only specimens with Ct value ≤ 28 to CDC for sequencing.”

143. The CDC specifies a Ct value of 28 or less only for positive tests of individuals who received the COVID-19 vaccine. However, the CDC does not specify or require this more accurate Ct value standard for other purposes, such as identifying “positive” cases or before the government can quarantine a person, as Defendants do with the challenged contact tracing program.

144. The CDC specified this more accurate Ct value for testing of vaccinated persons because it wants to protect the vaccines. In other words, the CDC is politically motivated and not motivated by science. Defendants share the same

political motivations regarding the declared COVID-19 pandemic, and they too camouflage them as science.

145. Prior to the implementation of the contact tracing program, the Redmans used Life360—a smartphone application that allowed them to track the whereabouts of their children. However, because of the challenged contact tracing program, the Redmans do not want to have any data or information available that Defendants may seize to quarantine not only their children, but also others with whom they associate. The Redmans have also purposely deactivated updates to their cell phones to avoid the unwanted installation of tracking and surveillance software.

146. Defendants have issued orders limiting the number of people that can be in a congregate setting. As a result, the church the Redmans had been attending required pre-registration in order to attend in-person services within the church. Because of the challenged contact tracing program, the Redmans ceased attending religious services at the church, which they had been associated with for approximately 16 years. The Redmans do not want to provide data or information that Defendants may acquire or seize to quarantine them, their children, or others with whom they associate.

147. Because of the challenged contact tracing program and mask requirement, the Redmans are suffering and will continue to suffer irreparable harm.

148. The challenged contact tracing program is dangerous. It would permit

a desperate and unscrupulous political operative to dampen voter participation in a given district. It would permit a desperate and unscrupulous business owner to stifle competition. Either could falsely and anonymously report incidences of coronavirus without fear of repercussion. Trolls could create chaos. Protesters could trigger panic as a form of civil disobedience. Hostile foreign intelligence operatives could shut down an entire city by falsely reporting COVID-19 infections in every neighborhood. The abuses permitted by granting the government such power are practically without limits.

149. The challenged contact tracing program is not limited to COVID-19. Rather, Defendants have put in place a large, government infrastructure that can be utilized during any alleged health “crisis.”

150. The contact tracing program has resulted in the government (Defendants) creating a large database of confidential, private, and, sensitive information about private individuals. This massive contact tracing database was subject to a serious data breach, thereby compromising the confidential, private, and sensitive information of countless numbers of Pennsylvanians, including Plaintiffs.

151. Defendants consistently assert that the restrictions they have imposed upon the fundamental liberties of Pennsylvanians are based on science and data, yet they refuse to provide the evidence they purportedly rely upon.

152. The challenged restrictions are imposed mainly upon asymptomatic

individuals. However, with respect to asymptomatic spreading of the virus, White House Coronavirus Task Force leader Dr. Anthony Fauci stated, “Even if there’s a rare asymptomatic person that might transmit, an epidemic is not driven by asymptomatic carriers.” Dr. Maria Van Kerkhove, technical lead for the World Health Organization on the COVID-19 pandemic, stated in June 2020, that secondary transmission from asymptomatic individuals is “very rare.”

153. In other words, science and data do not justify Defendants’ suspension of fundamental liberties as set forth in this First Amended Complaint.

154. The U.S. Constitution and its Bill of Rights guarantee freedom. Accordingly, the government bears the burden to justify a restriction on liberty; it is not a private citizen’s burden to prove his or her freedom. Here, Defendants presume that all Pennsylvanians, including Plaintiffs, are diseased (guilty), and it is the private individual’s burden, without any procedure for doing so, to prove otherwise. This is a form of tyranny that is prohibited by our Constitution.

155. On or about May 18, 2021, during a primary election, the people of the Commonwealth of Pennsylvania voted in favor of amending their state constitution. The two amendments, which were approved by the voters 54% to 46%, require the governor to seek legislative approval for disaster declarations extending beyond 21 days and specify that the General Assembly can terminate a declaration upon passage of a concurrent resolution with a simple majority. The amendments were

intended to limit the authority of the governor of Pennsylvania, including Defendant Wolf, to unilaterally and indefinitely maintain his “emergency powers.”

156. Contrary to the will of the people, on or about May 20, 2021, Defendant Wolf yet again extended his monarchical “emergency powers,” thus unilaterally extending his extraordinary “powers” another 90 days. Defendant Wolf plans to continue to extend his “emergency powers” into the foreseeable future.

FIRST CLAIM FOR RELIEF

(First and Fourteenth Amendments—Right of Association)

157. Plaintiffs hereby incorporate by reference all stated paragraphs.

158. By reason of the aforementioned acts, policies, practices, procedures, and/or customs, created, adopted, and enforced under color of state law, Defendants have deprived Plaintiffs of their right of association in violation of the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983.

159. The freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of freedom of speech. Indeed, implicit in the right to engage in activities protected by the First Amendment is a corresponding right to associate with others in pursuit of a wide variety of political, social, economic, educational, religious, and cultural ends free from government intrusions or burdens.

160. Moreover, as recognized by the U.S. Supreme Court, family relationships, by their nature, involve deep attachments and commitments to the

necessarily few other individuals with whom one shares not only a special community of thoughts, experiences, and beliefs but also distinctively personal aspects of one's life. Consequently, it is relationships such as these that led to an understanding of freedom of association as an intrinsic element of personal liberty under the Fourteenth Amendment.

161. As set forth in this First Amended Complaint, the challenged contact tracing program deprives Plaintiffs of their fundamental right of association in violation of the First and Fourteenth Amendments.

162. As a direct and proximate result of Defendants' violation of the right of association under the First and Fourteenth Amendments as set forth in this First Amended Complaint, Plaintiffs have suffered irreparable harm, including the loss of their fundamental constitutional rights, entitling them to declaratory and injunctive relief.

SECOND CLAIM FOR RELIEF

(Due Process—Fourteenth Amendment)

163. Plaintiffs hereby incorporate by reference all stated paragraphs.

164. By reason of the aforementioned acts, policies, practices, procedures, and/or customs, created, adopted, and enforced under color of state law, Defendants have deprived Plaintiffs of their right to due process in violation of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

165. The challenged contact tracing program, mask mandate, and Vaccination Policy, as set forth in this First Amended Complaint, lack any rational basis, are arbitrary, capricious, and vague, have no real or substantial relation to the objectives of the program or mandate, and are a palpable invasion of rights secured by fundamental law in violation of the Due Process Clause of the Fourteenth Amendment.

166. The challenged contact tracing program, as set forth in this First Amended Complaint, is unconstitutionally vague in that it fails to provide clear notice as to who may or may not be subject to the forced quarantine. The program's ambiguity also invites discriminatory enforcement against disfavored individuals and groups.

167. The challenged contact tracing program violates the Due Process Clause of the Fourteenth Amendment because it is impermissibly vague; it fails to give fair notice of the conduct that is required or prescribed; it presumes that all Pennsylvanians, including Plaintiffs, are diseased (guilty), placing the burden on the private individual to prove otherwise without a procedure for doing so; it fails to provide minimal guidelines to govern law enforcement; and it encourages arbitrary enforcement.

168. The challenged contact tracing program fails to provide adequate notice and an opportunity to be heard before imposing onerous and punitive restrictions on

a person's liberty in violation of the Due Process Clause of the Fourteenth Amendment.

169. As a direct and proximate result of Defendants' violation of the Due Process Clause of the Fourteenth Amendment as set forth in this First Amended Complaint, Plaintiffs have suffered irreparable harm, including the loss of their fundamental constitutional rights, entitling them to declaratory and injunctive relief.

THIRD CLAIM FOR RELIEF

(Equal Protection—Fourteenth Amendment)

170. Plaintiffs hereby incorporate by reference all stated paragraphs.

171. By reason of the aforementioned acts, policies, practices, procedures, and/or customs, created, adopted, and enforced under color of state law, Defendants have deprived Plaintiffs of the equal protection of the law guaranteed under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

172. As set forth in this First Amended Complaint, the challenged restrictions (contact tracing program, mask mandate, and Vaccination Policy) deprive Plaintiffs of their fundamental rights and freedoms, yet the restrictions lack any rational basis, are arbitrary, capricious, and vague, have no real or substantial relation to the objectives of the restrictions, and are a palpable invasion of rights secured by fundamental law in violation of the Equal Protection Clause.

173. The Vaccination Policy discriminates against people, including Plaintiffs, who oppose the COVID-19 vaccinations for religious and other reasons, and it favors those who do not oppose the vaccines. This discrimination lacks any rational basis, is arbitrary and capricious, it has no real or substantial relation to the objectives of the discrimination, and is a palpable invasion of rights secured by fundamental law in violation of the Equal Protection Clause.

174. The Fourteenth Amendment's guarantee of the equal protection of the law is also a corollary to the Guarantee Clause. As set forth in this First Amended Complaint, Defendant Wolf's unilateral exercise of power has disenfranchised Plaintiffs by the fact that their representatives in the General Assembly have been rendered impotent by Defendant Wolf's exercise of his "emergency powers," in violation of the Fourteenth Amendment.

175. As a direct and proximate result of Defendants' violation of the equal protection guarantee of the Fourteenth Amendment as set forth in this First Amended Complaint, Plaintiffs have suffered irreparable harm, including the loss of their fundamental constitutional rights, entitling them to declaratory and injunctive relief.

FOURTH CLAIM FOR RELIEF

(Guarantee Clause—Article IV, Section 4)

176. Plaintiffs hereby incorporate by reference all stated paragraphs.

177. By reason of the aforementioned acts, policies, practices, procedures, and/or customs, created, adopted, and enforced under color of state law, Defendants have deprived Plaintiffs of their rights secured by Article IV, Section 4 of the United States Constitution (“Guarantee Clause”) and 42 U.S.C. § 1983.

178. The Guarantee Clause is a protector of basic individual rights.

179. The authority exercised by Defendant Wolf pursuant to his “emergency powers” since the Pennsylvania General Assembly sought to revoke those powers on or about June 9, 2020, via a concurrent resolution violates the Guarantee Clause and thus Defendant Wolf’s executive orders, along with the various policies and programs that would normally be subject to legislative approval, funding, and oversight, issued and adopted since that time pursuant to his “emergency powers” are null and void.

180. As a direct and proximate result of Defendants’ violation of the Guarantee Clause as set forth in this First Amended Complaint, Plaintiffs have suffered irreparable harm, including the loss of their fundamental constitutional rights, entitling them to declaratory and injunctive relief.

FIFTH CLAIM FOR RELIEF

(Right to Privacy/Due Process—Fourteenth Amendment)

181. Plaintiffs hereby incorporate by reference all stated paragraphs.

182. By reason of the aforementioned acts, policies, practices, procedures, and/or customs, created, adopted, and enforced under color of state law, Defendants have deprived Plaintiffs of their right to privacy, personal autonomy, and bodily integrity secured by the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

183. The right to privacy protects Plaintiffs' personal autonomy and bodily integrity from intrusion by the government, and it protects the disclosure of personal and private information, such as a person's medical history. The mask mandate, contact tracing program, and Vaccination Policy violate Plaintiffs' right to privacy.

184. As a direct and proximate result of Defendants' violation of the Fourteenth Amendment as set forth in this First Amended Complaint, Plaintiffs have suffered irreparable harm, including the loss of their fundamental constitutional rights, entitling them to declaratory and injunctive relief.

SIXTH CLAIM FOR RELIEF

(Unlawful Search & Seizure—Fourth Amendment)

185. Plaintiffs hereby incorporate by reference all stated paragraphs.

186. By reason of the aforementioned acts, policies, practices, procedures, and/or customs, created, adopted, and enforced under color of state law, Defendants have deprived Plaintiffs of their right to be free from unreasonable searches and seizures protected by the Fourth Amendment as applied to the states and their

political subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

187. As set forth in this First Amended Complaint, the challenged contact tracing program authorizes government officials to search and seize private individuals, including Plaintiffs, without a warrant or probable cause.

188. The quarantine demanded by Defendants pursuant to the challenged contact tracing program is the equivalent of a house arrest.

189. The challenged contact tracing program is arbitrary and unreasonable, and it presumes that all Pennsylvanians are diseased (guilty), placing the burden on the private individual to prove otherwise without a procedure for doing so.

190. Pursuant to the challenged contact tracing program, Defendants can search and seize private individuals, including Plaintiffs, enter and search their homes, conduct surveillance, unilaterally remove and isolate minor children, and review private records and documents without a warrant in violation of the Fourth Amendment.

191. As a direct and proximate result of Defendants' violation of the Fourth Amendment as set forth in this First Amended Complaint, Plaintiffs have suffered irreparable harm, including the loss of their fundamental constitutional rights, entitling them to declaratory and injunctive relief.

SEVENTH CLAIM FOR RELIEF

(First Amendment—Freedom of Speech)

192. Plaintiffs hereby incorporate by reference all stated paragraphs.

193. By reason of the aforementioned acts, policies, practices, procedures, and/or customs, created, adopted, and enforced under color of state law, Defendants have deprived Plaintiffs of their right to freedom of speech in violation of the First Amendment as applied to the states and their political subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

194. The freedom of speech is not confined to verbal expression, but includes conduct that is sufficiently imbued with elements of communication. That is because the Constitution looks beyond written or spoken words as mediums of expression and recognizes that symbolism is an effective way of communicating ideas. Conduct, such as the wearing of a face mask during this politicized pandemic, is sufficiently communicative because it conveys a particularized message and the likelihood is great that the message will be understood by those who view it.

195. Wearing a face mask during this current and highly politicized pandemic has become a form of expression. The face mask is, for many, including Plaintiffs, a symbol of oppression and government tyranny. It is a sign that the wearer is willing to surrender his or her freedoms to the government. Plaintiffs oppose this message and thus they oppose the requirement to wear a face mask

because it conveys this message. Moreover, Plaintiffs oppose the mask mandate because science and data have shown that wearing a face mask pursuant to the mandate is not medically required or necessary, and it is harmful to the wearer.

196. The mask mandate, as set forth in this First Amended Complaint, is compelling Plaintiffs to express a message with which they disagree in violation of their rights protected by the First Amendment.

197. As a direct and proximate result of Defendants' violation of the right to freedom of speech under the First Amendment as set forth in this First Amended Complaint, Plaintiffs have suffered irreparable harm, including the loss of their fundamental constitutional rights, entitling them to declaratory and injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs ask this Court:

- A) to declare that Defendants violated Plaintiffs' fundamental constitutional rights as set forth in this First Amended Complaint;
- B) to enjoin Defendants' enforcement of the challenged restrictions as set forth in this First Amended Complaint;
- C) to award Plaintiffs their reasonable attorneys' fees, costs, and expenses pursuant to 42 U.S.C. § 1988 and other applicable law;
- D) to grant such other and further relief as this Court should find just and proper.

Respectfully submitted,

AMERICAN FREEDOM LAW CENTER

/s/ Robert J. Muisse

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LAW OFFICE OF ANDREW H. SHAW. P.C.

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Carlisle, Pennsylvania 17013

(717) 243-7135

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on May 25, 2021, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the court's electronic filing system. Parties may access this filing through the court's system. I further certify that a copy of the foregoing has been served by ordinary U.S. mail upon all parties for whom counsel has not yet entered an appearance electronically: None.

AMERICAN FREEDOM LAW CENTER

/s/ Robert J. Muise

Robert J. Muise, Esq.

EXHIBIT 1

UPDATED ORDER OF THE SECRETARY OF THE PENNSYLVANIA DEPARTMENT OF HEALTH
REQUIRING UNIVERSAL FACE COVERINGS

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, and 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, surrounding states, and the world. As of November 16, 2020, there have been 269,613 cases and 9,325 deaths in this Commonwealth caused by the still present and ongoing pandemic. The Commonwealth and the nation are seeing the highest number of reported cases since the pandemic was declared in January.

Earlier in the pandemic, I issued an Order directing life-sustaining businesses to institute mitigation measures to protect the safety of employees and customers: *Order of the Secretary of the Pennsylvania Department of Health Directing Public Health Safety Measures for Businesses Permitted to Maintain In-person Operations*, dated April 15, 2020. The Department of Health (Department) has also issued guidance to health care providers in the form of Health Alerts (HANs) regarding isolation and quarantine, intended to allow for the continuation of life-sustaining health care services in the midst of the pandemic. With the measured reopening of the Commonwealth, the *Order of the Governor of the Commonwealth of Pennsylvania Regarding the Closure of All Businesses That Are Not Life Sustaining*, dated March 19, 2020, *as amended*, and my *Order Regarding the Closure of all Businesses That Are Not Life Sustaining*, dated March 19, 2020, *as amended*, have been suspended.

Despite the mitigation efforts that were implemented in the spring and successfully saved lives, 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 ensure that participation in those activities contributes as little danger as possible to the people of the Commonwealth.

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 social distancing, mask wearing, isolation, and quarantine are the first line of defense against the disease's spread, and where large and small gatherings are spreading disease¹, the experiences of the Commonwealth (and its and the country's health experts), and recommendations of the CDC regarding travel and gatherings with persons not habitually together lead me to issue this new Order with new disease control measures regarding universal face coverings. Given the method by which the virus spreads, universal face coverings, even when not clinical-level masks, have been an effective mitigation strategy to prevent and control the spread of disease. See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-guidance.html#recent-studies>. Experience demonstrates that when used in public settings, face coverings reduce the spread of COVID-19 in the Commonwealth. This Order is a critical measure to prevent the spread of COVID-19 while minimizing the impact on physical and economic well-being.

Accordingly, on this day, November 17, 2020, in order to prevent and control the spread of disease, I hereby order:

Section 1: Definitions

“Alternative to a face covering” may include a plastic face shield that covers the nose and mouth, extends below the chin and to the ears, and leaves no exposed gap between the forehead and the shield's headpiece. The [Centers for Disease Control and Prevention \(CDC\)](#) has advised there is currently not enough evidence to determine how much protection a face shield provides to individuals around the person wearing the face shield, because of gaps where

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); 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).

respiratory droplets may escape. The CDC does state, however, that face shields may still be an option in situations where wearing a cloth face covering is not otherwise feasible.

“Face covering” means covering of the nose and mouth with material that is secured to the head with ties, straps, or loops over the ears or is wrapped around the lower face. A “face covering” can be made of a variety of synthetic or natural fabrics, including cotton, silk, or linen. A “face covering” may be factory-made, [sewn by hand, or be improvised from household items](#), including, but not limited to, scarfs, bandanas, t-shirts, sweatshirts, or towels. While procedural and surgical masks intended for health care providers and first responders, such as N95 respirators, meet those requirements, these specialized masks should be reserved for appropriate occupational and health care personnel.

“Physical distancing” means the practice of staying at least six feet away from others. Social distancing is the term that was used earlier in the pandemic as many people stayed home to help prevent the spread of COVID-19. Now, the term physical distancing is used to stress the importance of maintaining physical space when in public areas.

“School entity” means a public K-12 school, a brick and mortar and cyber charter school, a private or parochial school, a career and technical center (CTCs), and an intermediate unit (IU); educational programming for students in non-educational placements in residential settings (e.g., boarding schools), residential facilities, detention centers, and hospital settings; a PA Pre-K Counts program, Head Start Program and Preschool Early Intervention program; a Private Academic Nursery School and locally funded prekindergarten activities; and a post-secondary institution.

“Sustained physical distance” means the practice of staying at least six feet away from others to avoid becoming a [close contact](#). On October 21, 2020, the Centers for Disease Control and Prevention (CDC) updated its definition of close contact to “someone who was within six feet of an infected person for a cumulative total of 15 minutes or more over a 24-hour period.” The guidance goes on to note that there are additional factors to consider when defining “close contact.” DOH recommends using 15 consecutive minutes of exposure at a distance of six feet or less as an operational definition for “close contact.” However, there are circumstances when someone should be considered a close contact of a case after being within six feet for fewer than 15 consecutive minutes. Additional factors that should be considered when assessing close contacts include but are not limited to: close proximity to an infected person, infected person exhibiting symptoms, and environmental conditions like crowds or inadequate ventilation.

“Working alone” means when a person is isolated from interaction with other people with little or no expectation of in-person interruption. Examples include:

- A lone worker inside the enclosed cab of a crane or construction equipment.
- A person by themselves inside an office with four walls and a door.

- A lone worker inside a cubicle with 3 walls and a door or entryway, with walls high enough to block the breathing zone of all people walking by, and the worker's activity will not require anyone to come inside of the worker's workspace.
- An employee who is alone in an agricultural field or other open area with no anticipated contact with others.

Section 2: Face Coverings Required

Except as provided in Section 3, every individual, age two and older, in the Commonwealth of Pennsylvania shall wear a face covering when:

- A. Indoors or in an enclosed space, where another person or persons who are not members of the individual's household are present in the same space, irrespective of physical distance.
- B. Outdoors with others who are not members of a person's household and unable to maintain sustained physical distance.
- C. As permitted in my Order [Directing Mitigation Measures](#), dated July 15, 2020, as amended, for participation in an indoor or outdoor event, gathering, or group setting where another person or persons, who are not members of the individual's household are present.
- D. Participating in indoor physical activity in a gym, fitness center or group fitness classes, where another person or persons who are not members of the individual's household are present in the same space, irrespective of physical distance.
- E. Waiting in a public area for, riding on, driving or operating public transportation or paratransit or while in a taxi, private car service or ride-sharing vehicle, irrespective of physical distance.
- F. Obtaining services for themselves or another person or a pet from the health care sector in settings including, but not limited to, a hospital, pharmacy, medical clinic, laboratory, physician or dental office, veterinary clinic, or blood bank.
- G. When working in any space where food is prepared, packaged for sale, or prepared for distribution to others.
- I. Certain facilities—including hospitals, shelters, long-term care facilities, residential treatment facilities, and correctional facilities—may also require visitors and residents, patients, or inmates to wear face coverings even when in a living unit.

Section 3: Exceptions to Covering Requirement

The following are exceptions to the face covering requirements in Section 2. All alternatives to wearing a face covering, including the use of a face shield, should be exhausted before an individual is excepted from this Order.

- A. If wearing a face covering while working would create an unsafe condition in which to operate equipment or execute a task as determined by local, state, or federal regulators or workplace safety guidelines.
- B. If wearing a face covering would either cause a medical condition, or exacerbate an existing one, including respiratory issues that impede breathing, a mental health condition or a disability.
- C. When necessary to confirm the individual's identity.
- D. While obtaining a service that requires the temporary removal of the face covering, such as dental services.
- E. When working alone and isolated from interaction with other people with little or no expectation of in-person interaction.
- F. If an individual is communicating or seeking to communicate with someone who is hearing-impaired or has another disability, where the ability to see the mouth is essential for communication.

Section 4. Business and School Entity Obligations

A. A business or a school entity must:

- 1. Require that all people, including their employees, customers, teachers, students and visitors, wear a face covering and take reasonable steps to enforce the requirement.
- 2. Mitigate or eliminate employee, teacher, student, visitor, and customer exposure to people who cannot wear or refuse to wear a face covering.
- 3. Post prominent signs that are visible to all people—including employees, teachers, students, customers, and visitors—stating that face coverings are required by the Order of the Secretary of Health.
- 4. Provide reasonable accommodations to people, including their employees, teachers, students, customers, and visitors, who state they have a medical condition, mental health condition, or disability that makes it unreasonable for the person to maintain a face covering.
 - a. Businesses may decline service to individuals who are not wearing a face covering or claiming to have a condition preventing them from wearing a face covering or an alternative to a face covering, so long as they attempt to provide a reasonable accommodation.
 - b. Accommodations could include an alternative to a face covering, such as use of a face shield or providing service options that do not require a customer to enter the business. This may include offering curbside pick-up, delivery, or other innovative solutions.

C. A business or a school entity should not:

- 1. Enforce face covering requirements when it is unsafe to do so.

2. Restrain, assault, use force, or physically remove employees, teachers, students, customers or other individuals who refuse to comply with this Order when it would not otherwise be legal to do so.
3. Violate other laws, including state and federal anti-discrimination laws.

Section 5. Effect on other Orders of the Secretary of Health

My Order Requiring Universal Face Coverings, dated July 15, 2020, is hereby rescinded and superseded by this Order.

My [Order Directing Mitigation Measures](#), dated July 15, 2020, as [amended](#), is hereby further amended as follows:

Section 3(E): Venues must require attendees to comply with 6-foot physical distancing requirements, to wear masks or face coverings in compliance with my *Updated Order of the Secretary of the Pennsylvania Department of Health Requiring Universal Face Coverings*, dated November 17, 2020 and implement other mitigation practices such as timed entry, multiple entry and exit points, multiple restrooms and hygiene stations. Venues and event planners can review the [CDC Events and Gatherings Readiness and Planning Tool](#) for additional information regarding mitigation practices.

The remainder of the Order Directing Mitigation Measures of July 15, 2020 as amended, remains unchanged.

Section 6. Effective Date and Enforcement Date

This Order is effective on and enforcement will begin on November 18, 2020, 12:01 a.m.

A handwritten signature in black ink, appearing to read 'Q22 MP', is written above a horizontal line.

Rachel L. Levine, MD
Secretary

EXHIBIT 2



Order of the Acting Secretary of the Pennsylvania Department of Health Amending the November 17, 2020 Order of the Secretary of the Pennsylvania Department of Health Requiring Universal Face Coverings

And now, on this 16th day of March, 2021, I hereby amend the [Updated Order of the Secretary of the Pennsylvania Department of Health Requiring Universal Face Coverings dated November 17, 2020](#) as follow:

Section 3 is amended by adding the following language to that section:

- G. In non-healthcare settings when CDC's Interim Public Health Recommendations for Fully Vaccinated People ("Public Health Recommendations") or its successor allow for no face coverings and if acting in accordance with the Public Health Recommendations.

The [Order](#) on November 17, 2020, otherwise remains unchanged.

This Amended Order shall take effect at 12:01 a.m. on March 17, 2021 and shall remain in effect until further notice.

A handwritten signature in black ink that reads "Alison V. Beam". The signature is written in a cursive style.

Alison V. Beam
Acting Secretary of Health

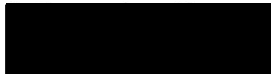
EXHIBIT 3



Close Contacts of Persons with Coronavirus Disease 2019 (COVID-19)

07/25/2020

Parker/ Kenwick family



Dear Parker/ Kenwick Family:

The Secretary of Health is directing you as a close contact of a person that has COVID-19 to self-quarantine in your home. A “close contact” is defined as either being within approximately 6 feet of a COVID-19 case for a prolonged period of time, currently defined as at least 15 minutes (close contact can occur while caring for, living with, visiting, or sharing a healthcare waiting area or room with a COVID-19 case), or having direct contact with infectious secretions of a COVID-19 case (*e.g.*, being coughed on).

COVID-19 is a disease that is capable of rapidly spreading person-to-person. If someone is infected, that person is capable of exposing other people to COVID-19, even if they have no symptoms. Symptoms of COVID-19 may include cough, shortness of breath, fever, chills, repeated shaking with chills, muscle pain, headache, sore throat, and new loss of taste or smell. Older adults and people who have serious chronic medical conditions are at a higher risk for serious illness. Early symptoms may also include chills, body aches, sore throat, headache, diarrhea, nausea/vomiting, and runny nose.

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, quarantine. This authority is granted to the Secretary of Health under the law. (Sections 5 and 7 of the Disease Prevention and Control Law, sections 2102 and 2106 of the Administrative Code of 1929, and the Department of Health’s (Department) regulations found 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)).

If your exposure to the person with COVID-19 is ongoing, you must self-quarantine in your home for 14 days after the person with COVID-19 is released from isolation. If you do not live in the same household as the person with COVID-19, you must remain in quarantine in your home for 14 days from the date of last contact with the person with COVID-19. A negative test during the quarantine period will only show your infection status at the time of the test. A person can develop the virus and become infectious between 2 to 14 days after exposure; therefore, you must quarantine for the entire 14 days even if you have had a negative test during this time.

If you do not have any symptoms and are health care worker, you may be permitted to leave your home only to continue work, provided you remain asymptomatic, crisis circumstances require that you continue to work, and you adhere to the following practices: 1) measure your temperature and assess symptoms prior to starting work; 2) wear a mask at all times while in the workplace; and 3) maintain 6 feet between self and others and practice social distancing as your work duties permit. If you become sick while working, you shall return home immediately.

You are directed to do the following while in quarantine:

1. Take your temperature twice daily.
2. Watch for other symptoms of COVID-19 (including fever (a body temperature of 100.4°F/38°C or higher), cough, shortness of breath, chills, body aches, sore throat, headache, diarrhea, nausea/vomiting, and runny nose).
3. Immediately report any of symptoms requiring medical attention to the Department if they develop (see number below), and contact your health care provider, but make sure to tell them you are a close contact or household contact of a person with COVID-19.
4. Do not travel or leave the place to which you have been quarantined, unless you are a health care worker adhering to the above-mentioned requirements, in which case you may travel to your place of work only.
5. Maintain social distancing of at least 6 feet from family members.
6. Do the following:
 - a. Wash your hands often with soap and water for at least 20 seconds. Use an alcohol-based hand sanitizer if soap and water are not available.
 - b. Cover any coughs or sneezes with your elbow, do not use your hands.
 - c. Clean surfaces frequently, including countertops, light switches, cell phones, and other frequently touched items.
7. Cooperate with the monitoring and other contacts of the Department or its representatives.
8. Be aware of any persons in your home who may be particularly likely to get COVID-19, like those who are elderly, or who are immunocompromised, for example, someone who has cancer and is taking chemotherapy, or who may have another condition or illness, like diabetes or asthma. Be careful to practice social distancing around those persons.

If family members develop symptoms of COVID-19 (cough, shortness of breath, fever, chills, repeated shaking with chills, muscle pain, headache, sore throat, new loss of taste or smell, headache, diarrhea, nausea/vomiting, and runny nose), or symptoms worsen,

you or they should notify the Department immediately at 1-877-724-3258 and contact your health care provider. Before seeking medical attention for yourself or your family, you or your family should let your health care provider know that you have been in contact with a person with COVID-19.

You must immediately adhere to this quarantine directive and all disease control measures included in it. If you do not cooperate with this directive, the Secretary of Health may petition a court to have you confined to an appropriate place chosen by the Department to make certain that you are not able to infect the public, and to make certain that you receive proper care. This may be a hospital, or some other appropriate place, whichever the Department determines is best suited for your case. You will be kept there until the Department determines it can release you from quarantine. Law enforcement may be called upon, to the extent necessary, to ensure your compliance with this directive. Please feel free to contact the Department about the content of this directive at 1-877-724-3258.

The Department is concerned about the health and well-being of you, your family and the general public during this outbreak. We understand that this is a difficult time, and that some individuals may need additional support during this period. Please reach out to us if you or your family need assistance by contacting the Department at 1-877-724-3258.

Sincerely,

A handwritten signature in black ink, appearing to read "RL 22 MD".

Rachel Levine, MD
Secretary of Health