

APPEAL TO THE APPELLATE COURT OF ILLINOIS
FIFTH JUDICIAL DISTRICT

FROM THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
CLAY COUNTY, ILLINOIS

JAMES MAINER, in his individual)	
capacity and on behalf of all citizens)	
similarly situated, and HCL DELUXE,)	E-FILED
LLC, an Illinois limited liability)	Transaction ID: 5-20-0163
company, on its behalf and on behalf)	File Date: 5/26/2020 3:13 PM
of all businesses similarly situated,)	John J. Flood, Clerk of the Court
)	APPELLATE COURT 5TH DISTRICT
)	
Plaintiffs-Appellees,)	No. 2020CH10
)	
v.)	
)	
GOVERNOR JAY ROBERT)	
PRITZKER, in his official)	
capacity,)	The Honorable
)	MICHAEL D. McHANEY,
Defendant-Appellant.)	Judge Presiding.

NOTICE OF INTERLOCUTORY APPEAL

PLEASE TAKE NOTICE that Defendant Jay Robert Pritzker, in his official capacity as Governor of the State of Illinois, by his attorney, Kwame Raoul, Attorney General of the State of Illinois, hereby appeals to the Appellate Court of Illinois, Fifth Judicial District, based on Illinois Supreme Court Rule 307(d) from an order of the Honorable Judge Michael D. McHaney of the Circuit Court of the Fourth Judicial Circuit, Clay County, Illinois, entered on May 22, 2020, granting the motion of Plaintiffs James Mainer and HCL Deluxe Tan, LLC for a temporary restraining order. A copy of said order is attached to this notice of interlocutory appeal.

By this interlocutory appeal, Defendant requests that this court reverse and vacate the circuit court's order of May 22, 2020, dissolve the temporary restraining order, and grant any other appropriate relief.

Respectfully submitted,

KWAME RAOUL
Attorney General
State of Illinois

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May 22, 2020

STATE OF ILLINOIS
IN THE FOURTH JUDICIAL CIRCUIT
CLAY COUNTY

FILED

MAY 22 2020

Cynthia Baalard
CIRCUIT CLERK OF THE
FOURTH JUDICIAL CIRCUIT
CLAY COUNTY ILLINOIS

JAMES MAINER, in his individual capacity and on)
behalf of all citizens similarly situated, and)
HCL DELUXE TAN, LLC, an Illinois)
Limited liability company, on its behalf and on)
behalf of all businesses similarly situated.)

Plaintiffs,)

Vs.)

Governor Jay Robert Pritzker,)
in his official capacity.)

Defendant.)

Case No. 2020-CH- 10

TEMPORARY RESTRAINING ORDER WITH NOTICE

This Cause coming to be heard on Plaintiffs' Motion for Temporary Restraining Order, no notice having been given, the Court finds as follows:

1. Plaintiffs have filed a verified Complaint and verified Motion for Temporary Restraining Order.
2. Plaintiffs also filed a brief in support as accompanying documentation.
3. The Court has considered the pleadings filed to date and has further considered the legal arguments made in the brief.
4. Plaintiffs clearly have protectable rights and interests at stake to be free from the defendants ultra vires lawmaking which vitiates procedural and substantive protections explicitly provided by Illinois law under the IEMAA.
5. Plaintiffs' Verified Complaint, Verified Motion for Temporary Restraining Order, along with their accompanying legal brief, show Plaintiffs have a reasonable

likelihood of succeeding on the merits.

6. Plaintiffs have shown they will suffer irreparable harm if the Temporary Restraining order is not issued.
7. Plaintiffs have shown that absent a Temporary Restraining Order being entered every hour which passes they have no adequate remedy at law to prohibit Pritzker from enforcing EO 32 against them absent an injunction from this Court barring the same.
8. Waiting until such time as a hearing might be had on a determination on the merits of the injunction is too great a risk for James and HCL, ~~and all citizens and businesses similarly situated,~~ given their freedom and livelihoods are being stripped away in violation of Illinois law every hour that passes.
9. The balancing of the equities weigh in great favor of James and HCL, ~~and all citizens and businesses similarly situated,~~ being granted this relief as the Plaintiffs are all still subject to the supreme authority which lies with the Illinois Department of Public Health, which oversight rests with each local department of public health, which administrative body can legally restrict the movement or activities of people, or force business closures, should a bona fide public health risk, specific to Plaintiffs, actually arise during the pendency of this order.

WHEREFORE, based on the above findings of this Court, IT IS HEREBY ORDERED:

- A. Defendant, and all administrative agencies under his control are hereby immediately enjoined from in anyway enforcing any provision of EO 32 against

James, ~~or any citizen similarly situated within the State of Illinois,~~ which provision might restrict their movement or activities;

B. Defendant, and all administrative agencies under his control are hereby immediately enjoined from in anyway enforcing any provision of EO 32 against HCL, ~~or any businesses similarly situated within the State of Illinois,~~ which provision might forcibly close their business;

C. Nothing in this order shall be construed to interfere with the Department of Health's supreme authority delegated to them under the Department of Public Health Act of enforcing its lawful authority against James and HCL, and all citizens and businesses similarly situated, including taking all necessary measures prudent as allowed by law to protect the public health, up to and including restricting the movement or activities of citizens, or closure of the businesses, should the facts and circumstances warrant consistent with the Department of Health Act.

D. This Temporary Restraining Order shall remain in full force and effect for ~~ten~~ days from the date hereof or until JUNE 5, 2020 [a.m.] [p.m.] on AT 1:00 pm ~~2020~~, unless sooner modified or dissolved by this Court.

E. This Temporary Restraining Order is entered at 3:18 [a.m.] [p.m.] on MAY 22, 2020.

DATED this 22 day of May, 20.

Michael D. McHenry
JUDGE

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CERTIFICATE OF FILING AND SERVICE

I hereby certify that on May 22, 2020, I electronically filed the foregoing Notice of Interlocutory Appeal with the Clerk of the Circuit Court for the Fourth Judicial Circuit, Clay County, Illinois, by using the Odyssey eFileIL system.

I further certify that the other participant in this appeal, named below, is a registered service contact on the Odyssey eFileIL system, and thus will be served via that system. As a courtesy, that participant was served by sending a copy from my e-mail address to the e-mail addresses of record indicated below on May 22, 2020.

Thomas G. DeVore
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Under penalties as provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure, I certify that the statements set forth in this instrument are true and correct to the best of my knowledge, information, and belief.

/s/ Nadine J. Wichern
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