

**IN THE COURT OF COMMON PLEAS  
LAKE COUNTY, OHIO**

State of Ohio, ex rel	)	
Your Next Move LLC	)	Case No.
34900 Lakeshore Blvd. Suite 204	)	
Eastlake, Ohio 44095	)	
	)	
and	)	Judge:
	)	
Columbus Dance Sport LLC	)	<b>Complaint for Declaratory Judgment,</b>
1000 Morrison Rd. Suite B	)	<b>Injunctive Relief, Writ of Mandamus,</b>
Gahanna, Ohio 43230	)	<b>Just Compensation, Civil Rights</b>
	)	<b>Violations and Other Judicial Relief</b>
and	)	
	)	
Count Me In LLC	)	<b>Jury Demand (Appropriation</b>
1608 State Route 113E	)	<b>Proceedings)</b>
Milan, Ohio 44846	)	
	)	
and	)	
	)	
Evolve Dance Company LLC	)	
4444 Heatherdowns Blvd.	)	
Toledo, Ohio 43614	)	
	)	
and	)	
	)	
Art Sure Creative Studios	)	
836 Sycamore Ridge Ct.	)	
Powell, Ohio 43065	)	
	)	
and	)	
	)	
Joshua L. Tilford	)	
700 E. Mitchell Ave.	)	
Cincinnati, Ohio 45229	)	
	)	
and	)	
	)	
Miss Darcy's Academy of Dance	)	
and Art LLC	)	
5422 Detroit Rd.	)	
Sheffield Village, Ohio 44035	)	
	)	
and	)	

Rhythm & Grace LLC  
7647 Broadview Rd. Suite 3 Bldg. 1  
Seven Hills, Ohio 44131

and

Danci Abel Ballroom Studio  
1178 Alliance Rd. NW  
Minerva, Ohio 44647

Plaintiffs-Relators

vs.

Lake County Health Commissioner  
Ron Graham  
Lake County General Health District  
5966 Heisley Rd.  
Mentor, Ohio 44060

and

Amy Action  
Former Director of the Ohio Department  
of Health-Governor Chief Health Advisor  
246 North Hight St.  
Columbus, Ohio 43215

and

Lance Hines  
Interim Director of the Ohio Department  
of Health  
246 North High St.  
Columbus, Ohio 43215

and

Michael DeWine  
Governor of the State of Ohio  
Riffe Center 30<sup>th</sup> Floor  
77 South Hight St.  
Columbus, Ohio 43215

and	)
	)
David Yost	)
Attorney General of the State of Ohio	)
30 East Broad St. 14 <sup>th</sup> Floor	)
Columbus, Ohio 43215	)
	)
and	)
	)
Sovereign State of Ohio	)
Riffe Center 30 <sup>th</sup> Floor	)
77 South High St.	)
Columbus, Ohio 43215	)
Upon: Michael DeWine, Governor	)
	)
and	)
	)
Franklin County Health Commissioner	)
Joe Mazzola	)
Franklin County Public Health	)
280 East Broad St.	)
Columbus, Ohio 43215	)
	)
and	)
	)
Eire County Health Commissioner	)
Pete Schade	)
Eire County Health Department	)
420 Superior St.	)
Sandusky, Ohio 43215	)
	)
and	)
	)
Lorain County Health Commissioner	)
Dave Covell	)
Lorain County Public Health	)
9880 South Murray Ridge Rd.	)
Elyria, Ohio 44035	)
	)
and	)
	)
Cuyahoga County Health Commissioner	)
Terry Allan	)
Cuyahoga County Board of Health	)
5550 Venture Dr.	)
Parma, Ohio 44130	)

	)
and	)
	)
Carroll County Health Commissioner	)
Wendy Gotschall	)
Carroll County General Health District	)
301 Moody Ave. SW	)
Carrolton, Ohio 44615	)
	)
and	)
	)
Cincinnati Health Commissioner	)
Melba R. Moore	)
Cincinnati Health Department	)
3101 Burnet Ave.	)
Cincinnati, Ohio 45229	)
	)
and	)
	)
Toledo-Lucas County Health Commissioner	)
Eric Zgodzinski	)
Toledo-Lucas County Health Department	)
635 North Erie St.	)
Toledo, Ohio 43604	)
	)
	)
Defendants-Respondents	)

Now comes the Plaintiffs by and through their Attorneys who do hereby file their Complaint as follows:

### **Parties**

- 1) Plaintiff Your Next Move LLC, 34900 Lakeshore Blvd. Suite 204, Eastlake, Ohio 44095, Lake County, is an Ohio business who conducts its dancing studio business operations at said above business location stated herein;
- 2) Plaintiff Columbus Dance Studio LLC, 1000 Morrison Rd. Suite B, Gahanna, Ohio 43230, Franklin County, is an Ohio business who conducts its dancing studio business operations at said above business location stated herein;
- 3) Plaintiff Count Me In LLC, 1603 State Route 113E, Milan, Ohio 44846, Erie County, is

an Ohio business who conducts its dancing studio business operations at said above business location stated herein;

4) Plaintiff Evolve Dance Company LLC, 4444 Heatherdowns Blvd., Toledo, Ohio 43614, Lucas County, is an Ohio business who conducts its dancing studio business operations at said above business location stated herein;

5) Plaintiff Art Sure Creative Studios, 836 Sycamore Ridge Ct., Powell, Ohio 43065, Franklin County, is an Ohio business who conducts its dancing studio business operations at said above business location stated herein;

6) Plaintiff Joshua L. Tilford, 700 East Mitchell Ave., Cincinnati, Ohio, Hamilton County, is an Ohio business who conducts its dancing studio business operations at said above business location stated herein;

7) Plaintiff Miss Darcy's Academy of Dance and Art LLC, 5422 Detroit Rd., Sheffield Village, Ohio 44035, Lorain County, is an Ohio business who conducts its dancing studio business operations at said above business location stated herein;

8) Plaintiff Rhythm & Grace LLC, 7647 Broadview Rd. Suite 3 Bldg. 1., Seven Hills, Ohio, 44131, Cuyahoga County, is an Ohio business who conducts its dancing studio business operations at said above business location stated herein;

9) Plaintiff Dance Abel Ballroom Studio, 1178 Alliance Rd. NW, Minerva, Ohio 44657, Carroll County, is an Ohio business who conducts its dancing studio business operations at said above business location stated herein;

10) Defendant Amy Acton, is the former Director of the Ohio Department of Health, State Medical Director, and now Governor Chief Health Advisor ("Acton"), whose offices are located at 246 North High St., Columbus, Ohio 43215, who controls and supervises the Health Commissioners from all of the health districts in the State of Ohio;

11) Defendant Lance Hines is the Interim Director of the Ohio Department of Health, State Medical Director ("Hines"), whose offices are located at 246 North High St., Columbus, Ohio

43215, who controls and supervises the Health Commissioners from all of the health districts in the State of Ohio; (Collectively herein this Complaint Hines and Acton are referred as “Acton” since Hines is the successor in interests to Acton and the Acton Orders);

12) Defendant Michael DeWine is the Governor of the State of Ohio whose offices are located Riffe Center 30<sup>th</sup> Floor, Columbus, Ohio 43215;

13) Defendant Lake County Health Commissioner Ron Graham is the Health Commissioner of the Lake County General Health District with offices located 5966 Heisley Rd., Mentor, Ohio 44060 who is under the direct control supervision and direction of the State Medical Director and implements and carries out the Acton Orders;

14) Defendant David Yost, Ohio Attorney General 30 East Broad St. 14<sup>th</sup> Floor, Columbus, Ohio 43215, has a legal interest due to the constitutional issues asserted herein this action;

15) Defendant Franklin County Health Commissioner Joe Mazzola is the Health Commissioner of the Franklin County Public Health with offices located 280 East Broad St., Columbus, Ohio 43215, who is under the direct control supervision and direction of the State Medical Director and implements and carries out the Acton Orders;

16) Defendant Erie County Health Commissioner Pete Schade is the Health Commissioner of the Erie County Health Department with offices located 420 Superior St., Sandusky, Ohio 43215, who is under the direct control supervision and direction of the State Medical Director and implements and carries out the Acton Orders;

17) Defendant Lorain County Health Commissioner David Covell is the Health Commissioner of the Lorain County Public Health with offices located 9880 South Murray Ridge Rd., Elyria, Ohio 44035, who is under the direct control supervision and direction of the State Medical Director and implements and carries out the Acton Orders;

18) Defendant Cuyahoga County Health Commissioner Terry Allan is the Health Commissioner of the Cuyahoga County Board of Health with offices located 5550 Venture Dr., Parma, Ohio 44130, who is under the direct control supervision and direction of the State

Medical Director and implements and carries out the Acton Orders;

19) Defendant Carroll County Health Commissioner Wendy Gotschall is the Health Commissioner of the Carroll County General Health District with offices located 301 Moody Ave., Lisbon, Ohio 44432, who is under the direct control supervision and direction of the State Medical Director and implements and carries out the Acton Orders;

20) Defendant Cincinnati Health Commissioner Melba R. Moore is the Health Commissioner of the Cincinnati Health Department offices located 3101 Burnet Ave, Cincinnati, Ohio 45229, who is under the direct control supervision and direction of the State Medical Director and implements and carries out the Acton Orders;

21) Defendant Toledo-Lucas County Health Commissioner Eric Zgodzinski is the Health Commissioner of the Toledo-Lucas County General Health Department with offices located 635 North Erie St., Toledo, Ohio 43604, who is under the direct control supervision and direction of the State Medical Director and implements and carries out the Acton Orders;

### **Jurisdiction**

22) This Court has jurisdiction of this herein action pursuant to Ohio Revised Code Section 2721, 2727, and its general jurisdiction under Ohio Revised Code Section 2305.01;

### **Venue**

23) Venue is proper in this Court for and over this Complaint pursuant to Ohio Civil Rule of Procedure 3(B)(2), 3(B)(3), 3(B)(4), 3(B)(5), 3(B)(6), and 3(E).

### **Coronavirus (COVID 19)**

#### **Statutes-Laws Violations**

24) Defendant Acton authority for her unconstitutional actions were based upon Chapter 3701 of the Ohio Revised Code including without limitations Sections 3701.03, 3701.04, 3701.13, and 3701.352;

25) Defendant Hines authority for his future unconstitutional actions were based upon Chapter 3701 of the Ohio Revised Code including without limitations Sections 3701.03,

3701.04, 3701.13, and 3701.352;

26) A violation of Ohio Revised Code Section 161 including and expressly Ohio Revised Code Section 161.09 occurred with respect to the Coronavirus or COVID 19;

27) A violation of the Emergency Management provisions ORC Section 5502.21 through 5502.38, including ORC Section 5502.25 the rules making provisions for the Emergency Management provisions including those mandatory requirements for rule making under ORC Section 119 occurred with respect to the Coronavirus or COVID 19;

### **Ohio Constitution Violations**

28) A violation of the Ohio Constitution, Article 1, Section 18, the prohibition of the suspension of laws occurred with respect to the Acton Orders;

29) A violation of the Ohio Constitution, Article 1, Section 20, the reservation of constitutional rights and inalienable rights of the people occurred with respect to the Acton Orders;

30) A violation of the Ohio Constitution, Article 2, Section 42, limitation of powers during a disaster occurred with respect to the Acton Orders;

31) A violation of the Ohio Constitution, Article 3, Section 8, non-feasance of the Governor DeWine occurred with respect to the Acton Orders;

32) A violation of the Ohio Constitution, Article 3, Section 6, non-feasance and misfeasance of Governor DeWine, failure to assure that laws are faithfully executed occurred with respect to the Acton Orders;

33) A violation of the Ohio Constitution, Article 3, Section 7, non-feasance and misfeasance of Governor DeWine, failure to communicate the state of affairs of the state to the General Assembly occurred with respect to the Acton Orders;

34) A violation of the Ohio Constitution, Article 1, Section 1, enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety occurred with respect to the Acton Orders;



- 35) A violation of the Ohio Constitution, Article 1, Section 2, equal protection of the law occurred with respect to the Acton Orders;
- 36) A violation of the Ohio Constitution, Article 1, Section 16, procedural and substantive due process of law and the open courts provisions occurred with respect to the Acton Orders;
- 37) A violation of the Ohio Constitution, Article 1, Section 19, appropriation of one's private personal property without just compensation occurred with respect to the Acton Orders;
- 38) "Neither the legislature nor any executive or judicial officer may disregard the provisions of the constitution in case of emergency", *Ex Parte Milligan* (1866) 71 US 2;

### **United States Constitution**

- 39) A violation of the United States Constitution 5<sup>th</sup> Amendment rights of due process of law both procedural and substantive has occurred as a result of the Unconstitutional Orders and Violations;
- 40) A violation of the United States Constitution 5<sup>th</sup> Amendment rights of taking one's private property without just compensation has occurred as a result of the Unconstitutional Orders and Violations;
- 41) A violation of the United States Constitution 14<sup>th</sup> Amendment rights of due process of law both procedural and substantive has occurred as a result of the Unconstitutional Orders and Violations;
- 42) A violation of the United States Constitution 14<sup>th</sup> Amendment rights of equal protection of law has occurred as a result of the Unconstitutional Orders and Violations;
- 43) "Neither the legislature nor any executive or judicial officer may disregard the provisions of the constitution in case of emergency", *Ex Parte Milligan* (1866) 71 US 2;

### **Civil Rights**

- 44) 42 U.S.C. Section 1983 provides as follows: "Every person who, under color of any statute, ordinance, regulation, custom, or usage of any State or Territory or the District of Columbia, subjects or causes to be subjected, any citizen of the United States or other person

within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity or other proper proceeding for redress...” (“Civil Rights Violations”);

45) A violation of the Civil Rights of the Plaintiffs has occurred as a result of the Unconstitutional Orders and Violations, and the Acton Orders;

46) The Defendants were acting under color of state law and were engaged in state action and activities when the Civil Rights Violations occurred with respect to the Acton Orders;

### **Unconstitutional Orders**

47) DeWine’s Emergency Order, Executive Order 2020-01D dated 3-9-20, Exhibit A;

48) Acton Order to Limit and/or Prohibit Mass Gatherings in the State of Ohio, dated 3-12-20, Exhibit B;

49) Acton Amended Order to Limit and/or Prohibit Mass Gatherings in the State of Ohio and the Closures of Venues in the State of Ohio, dated 3-17-20, Exhibit C;

50) Acton Order that All Persons Stay at Home Unless Engaged in Essential Work or Activity, dated 3-22-20, Exhibit D;

51) Acton Amended Director’s Order that All Persons Stay at Home Unless Engaged in Essential Work or Activity, dated 4-30-20, Exhibit E;

52) Acton Order that Re-opens Businesses, with Exceptions, and Continue a Stay Healthy and Safe at Home Order, dated 4-30-20, Exhibit F;

53) Acton Order Rescinds and Modifies Portions of the Stay Safe Ohio Order, dated 5-20-20, Exhibit G;

54) Acton Order that Reopens Gyms, Dance Instruction Studios, and Other Personal Fitness Venues, with Exceptions, dated 5-22-20, Exhibit H;

- 55) Acton Director's Updated and Revised Order for Business Guidance and Social Distancing, dated 5-29-20, Exhibit I;
- 56) Acton guidelines and regulations for Gyms, Dance Instruction Studios, and Other Personal Fitness Venues, with Exceptions, implementing Exhibit H, Exhibit J;
- 57) Collectively the Acton Orders, Exhibit A through J, and any amendments thereto are unconstitutional on their face and as applied to the Plaintiffs and class members, ("Acton Orders");
- 58) "Neither the legislature nor any executive or judicial officer may disregard the provisions of the constitution in case of emergency", *Ex Parte Milligan* (1866) 71 US 2;

### **Quarantine**

- 59) Quarantine means the restriction of the movements or activities of a well individual or animal who has been exposed to a communicable disease during the period of communicability of that disease and in such manner that transmission of the disease may have occurred. The duration of the quarantine ordered shall be equivalent to the usual incubation period of the disease to which the susceptible person or animal was exposed, Ohio Adm. Code 3701-3-01 (W);
- 60) Period of Communicability means the interval during which an infected individual or animal is shedding the specific microorganism of a communicable disease in such a manner that those who are susceptible could acquire the infection, Ohio Adm. Code. 3701-3-01(U);
- 61) The department of health defines isolation as the separation of an infected individual from others during the period of disease communicability in such a way that prevents as far as possible the direct or indirect conveyance of an infectious agent of those who are susceptible to infection or who may spread the agent to others;

- 62) The incubation period for the coronavirus, COVID 19, can be up to 14 days according to the Ohio Department of Health, and Acton;
- 63) Acton has quarantined the entire people of the State of Ohio, for more than 14 days, and Acton has no legal statutory, constitutional, or express legal authority to order such broad, unlimited, unrestricted, unlawful, illegal, and unconstitutional quarantine;
- 64) A true and accurate copy of Judge Eugene A. Lucci, decision in Lake County Common Pleas Court, Case No. 20 CV 000631 is attached hereto and incorporated herein as if fully restated herein, Exhibit K;
- 65) Ohio Revised Code Section 3701.13 gives State Medical Director, Amy Acton (“Acton”) and Lance Hines, Interim Medical Director, Acton successor, ultimate authority concerning quarantine, who is appointed by Governor Michael DeWine (“DeWine”) (collectively the “Acton’s Powers”);
- 66) Acton Powers are overly vague and broad and are unconstitutional;
- 67) Acton Powers violate the Ohio Constitution as an unconstitutional delegation of legislative powers, the Action Powers are legislative powers not administrative powers carrying out existing laws;
- 68) Acton Powers violate the Ohio Constitution by the well-known doctrine and principles of separation of powers, the Acton Powers are legislative powers and not administrative powers carrying out existing laws;

### **Secrecy of Quarantine**

- 69) On 5-30-20 a Public Records Request was made upon Acton, for quarantine information and data, modeling information and data, and statistics analysis for the modeling projections, a

true and accurate copy of such Public Request is attached hereto and made a part hereof, Exhibit M;

70) Acton has refused to comply and has not comply with such Public Records Request;

### **Statistics-Deceptive and Misleading Information and Data**

71) As of the most recent data on the Coronavirus Ohio Website, there are 2,633 deaths from the COVID 19, 2,401 confirmed deaths, 232 probable-possible related deaths as of 6-18-20;

72) The COVID 19 deaths are concentrated in two centers, 1) Nursing Homes which account for 1,860 of the deaths, and these individuals are the most susceptible and vulnerable persons to contract the COVID 19; and 2) Inmates in state and federal prisons and institutions in the State of Ohio, and there are 83 deaths, 76 confirmed, 7 probable-possible deaths;

73) Out of the 2,633 confirmed deaths including those questionable, approximately 1,860 are among Nursing Homes, and 83 among Jails, leaving a mere 670 individuals in the State of Ohio outside Nursing Homes and Jails;

74) A mere 670 deaths for non-highly susceptible Ohioans, among 11,747,694 Ohioans, represents a mere .000057 (0.0057%), no justification to destroy Ohio's economy;

75) Testimony has recently been presented to the Ohio State Legislative stating that the more Ohioans died from the flu pandemic of 2018 in the first four months of that year, than the number of Ohioans who died in 2020 from the COVID in the first four months of 2020, but there were no actions and conduct similar to Acton and DeWine;

76) Acton and DeWine through their fraudulent and misleading modeling predicated a potential of 160,000 COVID 19 cases per day, but the maximum number reached about 1,600 per day, a gross understatement of 100 times, at a time when Acton has conspired with DeWine to willfully maliciously and intentionally failed to comply with a public records request Exhibit I

related to some fraudulent and misleading modeling, violating the public and the citizens of Ohio right to know, a violation of their constitutional rights;

77) Acton and DeWine has used a “sledge hammer” to kill the Ohio economy through the their unconstitutional actions, destroying the Ohio economy, and destroying the constitutional rights of all Ohioans, individuals and businesses, outside of Nursing Homes and Jails, when Acton and DeWine should have used a “scalpel and a knife” to delicately slice and dice the COVID 19;

78) Acton and DeWine should be considered faithless servants who have violated their oaths of office to defend and protect the Constitution of Ohio and the United States Constitution, Acton and DeWine should be both removed from office, consistent with and pursuant to Ohio Revised Code Section 3.04, Ohio Revised Code Section 3.07 through 3.10, Article 2, Section 38 of the Ohio Constitution, and impeachment procedures brought forth pursuant to Article 2, Section 23 and 24 of the Ohio Constitution;

79) DeWine’s misconduct in office, and his gross neglect of duty is clearly evidenced by the following violations: A) A violation of the Ohio Constitution, Article 3, Section 8, non-feasance of the Governor DeWine occurred with respect to the Acton Orders; B) A violation of the Ohio Constitution, Article 3, Section 6, non-feasance and misfeasance of Governor DeWine, failure to assure that laws are faithfully executed occurred with respect to the Acton Orders; C) A violation of the Ohio Constitution, Article 3, Section 7, non-feasance and misfeasance of Governor DeWine, failure to communicate the state of affairs of the state to the General Assembly occurred with respect to the Acton Orders; and D) Conspiracy with Acton to violate Ohioans constitutional rights; and constitutes violations of ORC Section 2921.44 Dereliction of Duty and ORC Section 2921.45 Interfering with Civil Rights;

80) “ANYONE who declares the suspension of constitutionally guaranteed rights (to freely travel, peacefully assemble, earning a living, freely worship, etc) and or attempts to enforce such suspension with the 50 independent, sovereign, continental United States of America is making war against our constitution(s) and therefore, we the people. They violate their constitutional oath and thus, immediately forfeit their office and authority and their proclamations may be disregarded with impunity and that means ANYONE; even the governor and President”, *Ex parte Milligan* (1866) 71 US 2;

### **Unconstitutional Activity**

#### **Vagueness**

81) The Acton Orders are unconstitutional due to the well-known and accepted doctrine of void for vagueness;

82) Due process demands that the state provide meaningful standards in its laws, which must give fair notice to the citizenry of the conduct proscribed and the penalty to be affixed if that law is breached, *Kolender vs. Lawson* (1983) 461 US 352, 357-358, 102 S.Ct. 1855, 75 L.Ed. 2<sup>nd</sup> 903, *Colten vs. Kentucky* (1972) 407 US 104, 110, 92 S.Ct. 1953, 32 L.Ed. 2<sup>nd</sup> 584;

83) Implicitly, the law must also convey an understandable standard of enforcement in the courts, for judicial review is a necessary constitutional counterpoise to the broad legislative prerogative to promulgate codes of conduct, *Giaccia vs. Pennsylvania* (1966) 383 US 399, 403, 86 S.Ct. 518, 15 L.Ed. 2<sup>nd</sup> 447;

84) The Acton Orders have failed to provide A) sufficient notice of its proscriptions to facilitate compliance by persons of ordinary intelligence and B) lack specificity enough to prevent official arbitrariness or discrimination in its enforcement, the Plaintiffs are left guessing what the law says and the Acton Orders are broad enough to drive a semi-truck through allowing for arbitrariness and discrimination in its enforcement;

85) Fundamental and important property rights are involved herein and demand the “strict scrutiny test be applied *Norwood vs. Horney* (2006) 110 OS 3<sup>rd</sup> 353;

### **Unconstitutional Delegation-Separation of Powers**

86) The Acton Orders are unconstitutional due to their violation of the well-know and accepted doctrine of the unconstitutional delegation of legislative authority, the authority to make and enact laws, to an executive director;

87) In Ohio, “the lawmaking prerogative is a sovereign power conferred by the people upon the legislative branch of the government”, and therefore “cannot be delegated to other officers, board or commission, or branch of government”, *Matz vs. J.L. Curtis Cartage Co.* (1937) 132 OS 271

88) Rather, the General Assembly can only “confer administrative power on an executive, a board, or commission”. Since the time of the Ohio Constitution, these limits have been consistent: “the delegation of power to make the law, which necessarily involves discretion as to what it shall be ....can not be done”, *Cincinnati, Wilmington, & Zanesville R. Co. vs. Comr’s of Clinton County* (1852) 1 OS 77, 88;

89) Consequently, it is black letter administrative law in Ohio that “Administration regulations cannot dictate public policy, but rather can only dictate public policy already established by the General Assembly”, *D.A.B.E. Inc. vs. Toledo-Lucas Bd. of Health* (2002) 2002-Ohio 4172, Par. 41;

90) To protect Ohioans, the Constitution forbids the General Assembly from giving away its policymaking power to unelected agencies, but in the present case that has happened. Acton Orders picking and choosing between “essential” and “non-essential” businesses, travel, and activities and then criminalizing what it alone deems “non-essential” is policy making that administrative agencies cannot undertake, and unlawfully, illegally, and unconstitutionally has assumed and undertaken;

91) The Acton Orders are unconstitutional due to their violation of the well-know and



accepted doctrine and principles of separation of powers, the transfer of legislative powers to an executive unelected director;

92) The General Assembly certainly cannot transfer its power to legislate on major policy issues to just one politically unaccountable administrative agency or an unelected executive Director of Health, State Medical Director, Acton;

93) Separating powers “divides power among sovereigns and branches of government precisely so that we may resist the temptation to concentrate power in one location as an expedient solution to the crises of the day”, and serves to “reduce the risk of tyranny an abuse” *New York vs. United States* (1992) 505 US 144, 181-187-188;

### **Criminalization**

94) The Acton Orders are unconstitutional due to the criminalization of violations of the Acton Orders, due to violations contained in this herein Complaint, including without limitation vagueness, separation of powers, and due process hearing;

95) Acton has acted as judge, jury and executioner;

96) Acton has issued the Acton Orders under the authority of ORC Section 3701.13 which acts as laws, she has the authority under ORC Section 3701.352 to determine violations of her Acton Orders, and she has enforcement authority and powers under ORC Section 3701.99 to punish those businesses and individuals she determines to have violated her Acton Orders which she is the author, so much power in one unelected executive department head is just outright tyranny, unlawful, illegal and unconstitutional, a true and accurate copy of the Judgement Entry in the Erie County Common Pleas Court, Case No. 2020-CV-0201, Exhibit L, is attached hereto and incorporated herein and made a part hereof (“Erie Court Decision”);

97) Separating powers “divides power among sovereigns and branches of government precisely so that we may resist the temptation to concentrate power in one location as an expedient solution to the crises of the day”, and serves to “reduce the risk of tyranny an abuse” *New York vs. United States* (1992) 505 US 144, 181-187-188;

## **Due Process-Hearings**

98) Acton Orders are unconstitutional due to their failure to provide a reasonable opportunity to be heard in both pre-deprivation hearings and post deprivation hearings regarding the closures of the Plaintiffs businesses and the substantial restrictions and limitations on the opening of the businesses;

99) The touchstone of procedural due process is the fundamental requirement that an individual be given the opportunity to be heard “in a meaning manner”, *Loudermill vs. Cleveland Board of Education* (1985) 470 US 532, 105 S.Ct. 1487;

100) Interests in operating a business or earning a living are more than sufficient to invoke procedural due process guarantees, *Johnson vs. Morales* (2020) 946 F. 3d 911, 935-937 (6<sup>th</sup> Circuit) (“Johnson’s interest in her business license is enough to invoke due process protection”);

101) “There is no dispute than never providing an opportunity to challenge a permit revocation violates due process. Thus, the revocation of [the right to remain in business] without a pre-deprivation hearing or a post deprivation hearing violated due process”, *United Pet Supply Inc. vs. City of Chattanooga, Tennessee* (2014) (6<sup>th</sup> Circuit) 768 F. 3d. 464, 488;

102) Even when such property interests are deprived in an “emergency situation” government must provide an “adequate post-deprivation process”, *United Pet Supply Inc. vs. City of Chattanooga, Tennessee* (2014) (6<sup>th</sup> Circuit) 768 F. 3d. 464, 486;

103) These safeguards for liberty are so beyond objection that “no reasonable officer could believe that revoking a permit to do business without providing any pre-deprivation or post deprivation remedy is constitutional”, *United Pet Supply Inc. vs. City of Chattanooga, Tennessee* (2014) (6<sup>th</sup> Circuit) 768 F. 3d. 464, 488;

104) Putting Ohioans out of business without any opportunity for a hearing “is one of the rare situations where the unconstitutionality of the application of a statute to a situation is plainly obvious” such that “a clearly established right” is violated, and even qualified immunity is to be denied, *United Pet Supply Inc. vs. City of Chattanooga, Tennessee* (2014) (6<sup>th</sup> Circuit) 768 F. 3d.

464, 488;

105) The fundamental requirement of due process is the opportunity to be heard and it is an “opportunity which must be granted at a meaningful time and in a meaningful manner”,

*Armstrong vs. Manzo* (1965) 380 US 545, 552;

106) Furthermore, even when “the government has a substantial interest in ensuring the safety of its citizens”, a post deprivation hearing is still required. *Johnson vs. Morales* (2020) 946 F. 3d 911, 923 (6<sup>th</sup> Circuit);

107) Finally, in requiring a post deprivation hearing, at least with respect to the decimation of one’s business and livelihood, it matters not that the deprivation may only be “temporary” in nature, *Fuentes vs. Shevin* (1972) 407 US 67, 84-85 (“It is now well settled that a temporary non-final deprivation of property is nonetheless a “deprivation” in terms of the Fourteenth Amendment”);

### **Administrative Rules**

108) Acton Orders are unconstitutional due to the fact that they were not enacted, promulgated, and implemented in accordance with legal requirements for the enactment, promulgation and implementation of administrative rules, regulations, and orders including with limitation R.C. Section 119;

109) Plaintiffs further contend that allowing the creation of a criminal offense via R.C. Section 3701.352, when solely reliant on R.C. Section 3701.13, runs afoul of separation of powers. More specifically that consolidation of power to make policy and criminalize it by an unelected official offends the idea of free government based upon separation of powers: To-wit: the ability, and failure, to go through the “rule making process” via R.C. Section 119 ensures that “no checks and balances” exists. This allows for the denial of affected parties to have an input or voice in the enactment of what they could be held accountable for regarding their future actions. The General Assembly intended that the Plaintiffs have that input and voice in the process when legislating R.C. Section 119, and they never intended that the Plaintiffs would be “silenced” with respect to

the closures of their businesses or the substantial restrictions and limitation on they operating their business, both fundamental constitutional rights (“Erie Decision, Page 4);

110) The Supreme Court of the State of Wisconsin has clearly recognize that a violation of the rule making process violates the delegation of legislative authority and separation of powers and the “rule making process of their state”, *Wisconsin Legislature, Petitioner vs. Secretary Andrea Palm, etc* (2020) 2020 AP 42, Supreme Court of Wisconsin, No. 2020 AP 765-OA , Par. 58-59 (“Accordingly, the rulemaking procedures of Wis. Stat. Section 227.24 were required to be followed during the promulgation of Order 28. Because they were not, Emergency Order 28 is not enforceable [21] Furthermore, Wis. Stat. Section 252.25 required that Emergency Order 28 be promulgated using the procedures established by the Legislature for rulemaking if criminal penalties were to follow. Because Palm did not follow the law in creating Order 28, **there can be no criminal penalties for violations of her order.** The procedural requirements of Wis. Stat. Ch. 227 **must be followed because they safeguard all people.** (Par. 58). We further conclude that Palm’s order confining all people to their homes, forbidding travel and **closing businesses exceeded the statutory authority of Wis. Stat. 252.02, upon which Palm claims to rely.** By the Court-Palms’ Emergency Order is declared unlawful, invalid and unenforceable” (Par. 59);

### **Takings Clauses**

111) Acton Orders are unconstitutional under Article 1, Section 19 of the Ohio Constitution and the 5<sup>th</sup> Amendment of the United States Constitution, taking the Plaintiffs’ private and personal property without just compensation;

112) For just compensation for the Plaintiffs for their “temporary total regulatory takings”, must be constitutionally provided for per *Lucas vs. South Carolina Coastal Council* (1992) 505 US 1003, 112 S.Ct 2886, 120 L. Ed 2<sup>nd</sup> 798;

113) For just compensation for the Plaintiffs for their “temporary partial regulatory takings”, must be constitutionally provided for per *Penn Central Transportation Co. vs. New York City* (1978) 438 US 104, 98 S.Ct. 2646; 57 L. Ed. 2<sup>nd</sup> 631;

114) First, when government requires an owner to suffer a permanent physical invasion of one's property, however minor or temporary, it must provide just compensation, *Loretto vs. Teleprompter Manhattan CATV Corp.* (1982) 458 US 419. 102 S.Ct. 3164, 73 L.Ed. 2<sup>nd</sup> 868 (state law requiring landlords to permit cable companies to install cable facilities in apartment buildings effected a taking");

115) "Mandamus is the vehicle for compelling appropriation proceedings by public authorities where an involuntary taking of private property is alleged", *State ex Rel Levin vs. Sheffield Lake* (1994) 70 OS 3<sup>rd</sup> 104, *State ex rel McKay vs. Kauer* (1951) 347 Syllabus 3 ("In such actions, the court, as the trier of fact and law, must determine whether any property rights of the owner have been taken by the public authority");

### **Constitutional Property Rights**

116) Property Rights are the most sacred fundamental right. *City of Norwood vs. Horney* (2006) 110 OS 3<sup>rd</sup> 353, 362, Par. 34 ("The rights related to property, ie to acquire, use, enjoy, and dispose of property, *Buchanan vs. Warley* (1917) 245 US 60, 74. 38 S.Ct; 16, 62 L.Ed. 149, are among the most revered in our law and traditions. Indeed, property rights are integral aspects of our theory of democracy and notions of liberty"), *Tindal vs. Wesley* (1897) 167 US 204, 215 ("The instances in which life and liberty of the citizens have been protected by the judicial writ of habeas corpus are too familiar to need citation, and many of these cases-indeed, almost all of them-are those in which life and liberty was invaded by persons assuming to act under the authority of the government, *Ex Parte Milligan* 4 Wall 2. If this constitutional provision is sufficient authority of the government, what reason is there that the same courts shall not give remedy to the citizens whose property has been seized without due process of law, and devoted to public use without just compensation"- there is none);

117) Property rights are the most “precious” and “fundamental” rights, *City of Norwood vs. Horney* (2006) 110 OS 3<sup>rd</sup> 353, 362, Par. 35 (“Believed to be derived fundamentally from a higher authority and natural law, property rights were so sacred that they could not be entrusted lightly to the “uncertain virtue of those who governs”), *Bank of Toledo vs. Toledo* (1853) 1 OS 622, 664;

118) Property rights are inalienable rights which exist absence of a written constitution, *City of Norwood vs. Horney* (2006) 110 OS 3<sup>rd</sup> 353, 362, Par. 35 (“As such property rights were believed to supersede constitutional principles. “To be ...protected and ...secure in the possession of [one’s] property is a right inalienable, a right which a written constitution may recognize and declare, but which existed independently of and before such recognition **which no government can destroy**”), *Tindal vs. Wesley* (1897) 167 US 204, 215 (“The defense stands here solely upon the absolute immunity from the judicial inquiry of everyone who asserts authority from the executive branch of the government, however clear it may be that the executive possessed no such power. Not only no such power is given, but it is absolutely prohibited, both to the executive and legislative, to deprive anyone of life, liberty, or property without due process of law, or take private property without just compensation. These provisions are for the security of the rights of the citizen stand in the Constitution in the same connection and upon the same ground as they regard life and his property. It cannot be denied that both were intended to be enforced by the judiciary as one of the departments of the government established by the Constitution. As we have already said, the writ of habeas corpus has been often used to defend the liberty of the citizen, and even his life, against the assertion of unlawful authority on the part of the executive and the legislative branches of the government. See *Ex Parte Milligan*, 4 Wall 2, *Kilbourne vs. Thompson* 103 US 168. **No man in this country is so high that he is**

**above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government from the highest to the lowest, are creatures of the law, and are bound to obey it”;** including Acton and the Defendants)

119) Since there is a “severe burden” upon the constitutional property rights, the “strict scrutiny” doctrine applies, *City of Norwood vs, Horney* (2006) 110 OS 3<sup>rd</sup> 353, Syllabus 3 (“Courts shall apply “heightened scrutiny” when reviewing statutes that regulate the use of eminent domain powers”);

120) In the present case the State of Ohio is requiring the Plaintiffs to shut their businesses down totally for a period of time and then letting them to open up partially for their alleged pretense of a COVID 19 pandemic;

121) Closures of business even if nominal are a “severe burden”, which mandates the “strict scrutiny” test, *City of Norwood vs, Horney* (2006) 110 OS 3<sup>rd</sup> 353; First, when government requires an owner to suffer a permanent physical invasion of one’s property, however minor or temporary, it must provide just compensation, *Loretto vs. Teleprompter Manhattan CATV Corp.* (1982) 458 US 419. 102 S.Ct. 3164, 73 L.Ed. 2<sup>nd</sup> 868 (state law requiring landlords to permit cable companies to install cable facilities in apartment buildings effected a taking”)

122) There is a lack of any “state compelling interest” to justify the “severe burden” imposed on the constitutional property rights under the “strict scrutiny” test, *City of Norwood vs, Horney* (2006) 110 OS 3<sup>rd</sup> 353; First, when government requires an owner to suffer a permanent physical invasion of one’s property, however minor or temporary, it must provide just compensation, *Loretto vs. Teleprompter Manhattan CATV Corp.* (1982) 458 US 419. 102 S.Ct. 3164, 73 L.Ed. 2<sup>nd</sup> 868 (state law requiring landlords to permit cable companies to install cable facilities in apartment buildings effected a taking”)

123) The State must put forth **precise interests** as justification for the burdens imposed and show to the extent why those burdens are **necessary to protect those interests** put forth. This is clearly illustrated by the “strict scrutiny” test, This is also clearly illustrated by the flexible standard Andersen-Burdick standard is as follows: “A court considering a challenge to a state election law must weigh “the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate” against **“the precise interests put forward by the State as justifications for the burdens imposed by its rule”**, taking into consideration **“the extent to which those interests make it necessary to burden the plaintiffs’ rights** “*Anderson vs. Celebrezze* (1982) 460 US 780, 789, 103 S Ct 1564, 75 LE 2<sup>nd</sup> 547, *Burdick vs. Takushi* (1992) 504 US 428, 434, 112 S Ct 2059, 119 LE 2<sup>nd</sup> 245.

There must be a direct causal link between the restrictions and limitation and the state compelling interests, and they must advance and achieve the results justifications for these state compelling interests, speculation that the results may be achieved is legally insufficient;

124) The State restrictions and limitation must be “narrowly tailored” and limited in scope to address these state compelling interests, and not to impose any restrictions and limitations beyond that which is necessary to solely address these state compelling interests, “A court considering a challenge to a state election law must weigh “the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate” against **“the precise interests put forward by the State as justifications for the burdens imposed by its rule”**, taking into consideration **“the extent to which those interests make it necessary to burden the plaintiffs’ rights** “*Anderson vs. Celebrezze* (1982) 460 US 780, 789, 103 S Ct 1564, 75 LE 2<sup>nd</sup> 547, *Burdick vs. Takushi* (1992) 504 US 428, 434, 112 S Ct 2059, 119 LE 2<sup>nd</sup> 245.



125) The Acton Orders violate these most sacred fundamental and inalienable property rights, and unconstitutionally take the Plaintiffs personal private property without just compensation;

126) Plaintiffs have a clear legal right to just compensation paid to them for the unconstitutional taking, the Defendants are under a duty compelled by law to pay the Plaintiffs just compensation for their unconstitutional taking, and there is no adequate remedy available in the ordinary course of law to compel the payment of just compensation for such unconstitutional taking, *State ex Rel Levin vs. Sheffield Lake* (1994) 70 OS 3<sup>rd</sup> 104, (“Mandamus is the vehicle for compelling appropriation proceedings by public authorities where an involuntary taking of private property is alleged”), *State ex rel McKay vs. Kauer* (1951) 347 Syllabus 3 (“In such actions, the court, as the trier of fact and law, must determine whether any property rights of the owner have been taken by the public authority”);

### **Equal Protection**

127) Acton Orders are unconstitutional violating the constitutional rights of equal protection under the Ohio Constitution Article 1, Section 2 and the United States Constitution 5<sup>th</sup> Amendment and 14<sup>th</sup> Amendment;

128) Acton Orders are dedicated to articulating exemptions from these Orders meaning many Ohioans or their activities will be unaffected by them, essential businesses or activities, whereas many of them, non-essential business activities, will be directly affected by them by closures or severely imposed restrictions or limitations which imposed severe and heavy burdens on protected constitutional rights;

129) Any attempted classifications fails to rest upon differences which bears a reasonable and just relation to the act in respect to the classifications that were proposed and are arbitrary capricious and unreasonable and without a reasonable rationale basis, *State vs. Mole* (2016)

2016-Ohio-5124, *Adamsky vs. Buckeye Local School District* (1995) 73 OS 3<sup>rd</sup> 666, *Bldg. Industry Assn. of Cleveland & Suburban Ctys. vs. Westlake* (1995) 103 O App 3<sup>rd</sup> 546;

### **Declaratory Judgement Relief**

- 130) There are controversies concerning the constitutionality of the Acton Orders;
- 131) A declaration by this Court concerning the constitutionality of the Acton Orders will resolve these controversies;
- 132) Plaintiffs seek a declaration by this Court concerning the constitutionality of these Acton Orders;

### **Injunctive Relief**

- 133) Plaintiffs have no adequate remedy in the ordinary course of law to prevent the violations of their constitutional rights under the Acton Orders;
- 134) Plaintiffs will suffer irreparable harm and injury from the violations of their constitutional rights under the Acton Orders unless restrained or prevented;
- 135) Plaintiffs will suffer irreparable harm and injury from the violations of their constitutional rights under the Acton Orders unless mandatory orders are issued;
- 136) Plaintiffs seek injunctive relief, temporary, preliminary and permanent, to prevent and restrain violations of their unconstitutional rights under the Acton Orders, and/or to make orders for the protection of their constitutional rights under the Acton Orders;

### **Writ of Mandamus**

- 137) The Plaintiffs have the clear legal right to have their private and personal property free from being taken under the unconstitutional Acton Orders, to be appropriated under the provisions under Section 163 of the Ohio Revised Code and to receive just compensation (“Appropriation Procedures”);

138) The Defendants have the clear duties to undertake the necessary Appropriation Procedures;

139) The Plaintiffs have no adequate remedy in the ordinary course of law to compel the commencement of Appropriation Procedures;

### **Class Action-Certification**

140) The Plaintiffs are bringing forth this action as a class action as businesses in the dance instruction businesses including any and all other related dance activities on behalf of all such businesses subject to the illegal and unlawful and unconstitutional Acton Orders including those within all eighty eight (88) counties within the State of Ohio, pursuant to Civil Rule of Procedure 23;

141) The class is so numerous that joinder of all plaintiffs is at least impracticable if not impossible, since the true and complete identity of all class members will be increasing until this Court enjoins the illegal unlawful and unconstitutional Acton Orders;

142) The questions of law or facts are common to all such businesses within the class. The questions of law are the same for all businesses, and there are a common set of facts concerning the illegality and invalidity and unconstitutionality of the Acton Orders which is common to all such businesses;

143) The claims of the Plaintiffs are the same for all businesses, the unlawful, illegal and unconstitutional Acton Orders;

144) The Plaintiffs are adequately and fairly representing the class, and will adequately and fairly protect the interests of the class and all of its members;

145) The prosecution of separate actions by members of the class members would create the risk of inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class;

146) The prosecution of separate actions by members of the class members would create a risk of adjudication with respect to individual members of the class which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests;

147) The Defendants opposing the class have acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole;

148) The questions of law or facts common to the members of the class predominant over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversies;

## **Count I**

### **Declaratory Judgment Relief**

149) Plaintiffs for purposes of the Count I Declaratory Judgment do hereby incorporate by reference herein paragraphs 1 thorough 148 herein as if fully restated herein;

150) There are controversies concerning the legality lawfulness and constitutionality of the Acton Orders;

151) A declaration by this Court concerning the legality lawfulness and constitutionality of the Acton Orders will resolve these controversies;

152) Plaintiffs seek a declaration by this Court concerning the legality lawfulness and unconstitutionality of these Acton Orders on their face and as applied to the Plaintiffs;

## **Count II**

### **Injunctive Relief**

153) Plaintiffs for purposes of the Count II Injunctive Relief do hereby incorporate by reference herein paragraphs 1 thorough 152 herein as if fully restated herein;

154) Plaintiffs have no adequate remedy in the ordinary course of law to prevent the violations of their legal and constitutional rights under the Acton Orders;

155) Plaintiffs will suffer irreparable harm and injury from the violations of their legal and constitutional rights under the Acton Orders unless restrained or prevented;

156) Plaintiffs will suffer irreparable harm and injury from the violations of their legal and constitutional rights under the Acton Orders unless mandatory orders are issued;

157) Plaintiffs seek injunctive relief, temporary, preliminary and permanent, to prevent and restrain violations of their legal and unconstitutional rights under the Acton Orders, and/or to make orders, mandatory injunctions, for the protection of their legal and constitutional rights under the Acton Orders;

## **Count III**

### **Mandamus Relief**

158) Plaintiffs for purposes of the Count III Mandamus Relief do hereby incorporate by reference herein paragraphs 1 thorough 157 herein as if fully restated herein;

159) The Plaintiffs have the clear legal right to have their private and personal property free from being taken under the unconstitutional Acton Orders, to be appropriated under the

provisions under Section 163 of the Ohio Revised Code and to receive just compensation (“Appropriation Procedures”);

160) The Defendants have the clear duties to undertake the necessary Appropriation Procedures;

161) The Plaintiffs have no adequate remedy in the ordinary course of law to compel the commencement of Appropriation Procedures;

162) Plaintiffs seek an Alternative Writ of Mandamus, and a Pre-emptory Writ of Mandamus compelling the Defendants to immediately proceed with Appropriation Proceedings, and to order a jury to determine just compensation for the unconstitutional takings, both partial total permanent and temporary partial and all other kinds of unconstitutional takings;

#### **Count IV**

##### **Civil Rights Relief**

163) Plaintiffs for purposes of the Count IV Civil Rights Relief do hereby incorporate by reference herein paragraphs 1 through 162 herein as if fully restated herein;

164) The Plaintiffs have as a direct result of their Civil Rights Violations stated herein, they have been damaged, injured, and have had their personal private property taken without just compensation, and have suffered damages, loss profits, loss revenues, injury to the businesses goodwill, reputation, loss of going concern value resulting from these Civil Rights Violations including those from the unlawful, illegal and unconstitutional Acton Orders;

165) The Plaintiffs are entitled to their reasonable attorney fees and costs of litigation as a result of these Civil Rights Violations pursuant to law;

#### **Count V**

##### **Jury Determination of Just Compensation**

166) Plaintiffs for purposes of the Count V Jury Determination of Just Compensation do hereby incorporate by reference herein paragraphs 1 through 165 as if fully restated herein;

167) Plaintiffs demand and are entitled to as a result of the unlawful illegal and unconstitutional takings a jury determination of just compensation for such unlawful illegal and unconstitutional takings including related damages from such unlawful illegal and unconstitutional takings related to the unlawful illegal and unconstitutional Acton Orders;

Wherefore, the Plaintiffs request that this Court enters into and order the following judgments and relief;

- 1) For judgment that the Acton Orders are unconstitutional and are null and void and no further force and effect;
- 2) For Declaratory Judgment Relief upon Count I;
- 3) For Injunctive Relief upon Count II;
- 4) For Mandamus Relief upon Count III;
- 5) For Civil Rights Violations Relief upon Count IV;
- 6) For Just Compensation for their Takings pursuant to Count V;
- 7) For Class Certification as prayed for in the Complaint;
- 8) For costs;
- 9) For reasonable attorney fees;
- 10) For such other relief at law or in equity or as is provided for by law or equity;

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### **Jury Demand**

Plaintiffs do hereby demand a trial by jury for just compensation for their Takings Claims  
and all other matters so triable by a jury;

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Gerald. W. Phillips (0024804)  
Attorney for Plaintiffs



State of Ohio                 )  
  )     Affidavit  
Lorain County                )

I, Gerald W. Phillips, being first duly sworn, based upon my own personal knowledge depose and state the following:

- 1) That I am an attorney at law licensed in the State of Ohio since 1977, almost 43 years;
- 2) That I am a certified public accountant licensed in the State of Ohio since 1976 almost 44 years;
- 3) That I am the founder and member of the Ohio Citizens for Honesty Integrity and Openness in Government Ltd., a non-profit organization formed in 2001, whose non-profit activities includes the education, promotion, and dissemination of information and data, concerning public records, open public meetings, sunshine laws, ballot initiatives such as initiatives, referendums, recalls, charters, charter amendments, and the rights to petition one's government for redress of grievances, freedom of speech, all together in the furtherance of the basic principles of constitutional rights, freedoms, and liberties;
- 4) That I have review the Acton Orders;
- 5) That I have reviewed all of the Coronavirus, COVID 19, materials on the State of Ohio web site for these matters;
- 6) That I have reviewed, read, research numerous articles, journals, and programs regarding the Coronavirus, COVID 19;
- 7) That I am an expert real estate and zoning attorney and constitutional law and rights attorney in the State of Ohio, having filed numerous cases in the state and federal courts;

8) That I have reviewed the various legal actions challenging the Acton Orders and similar orders in other state courts;

9) That I have reviewed the various legal actions challenging the shutdowns of businesses and the stay at home orders in Ohio, and other states including Michigan, Oregon, Wisconsin, and California;

10) That I have read the herein Complaint including the facts and statements therein and the Exhibits attached thereto, and the facts therein and the Exhibits attached thereto are true and accurate, correct, and based upon my personal knowledge, and the Exhibits A thru M are true and accurate copies of the original documents;

11) That I am competent to testify concerning the facts and statements contain in this Affidavit and in the Complaint;

12) That Plaintiff's fundamental constitutional rights are being and have been violated by the Defendants as described and set forth herein this Complaint;

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Gerald W. Phillips

Sworn to and subscribed to before me a notary public this 21<sup>st</sup> day of June 2020.

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Maureen M. Phillips  
Notary Public  
Expiration Date 12-30-24