

IN THE CIRCUIT COURT  
FOR THE FOURTH JUDICIAL CIRCUIT  
CLAY COUNTY, ILLINOIS

Darren Bailey )  
 )  
 Plaintiff, )  
 )  
 vs. ) 2020CH6  
 ) Case No. 2020-CH-\_\_\_\_\_  
 )  
 Governor Jay Robert Pritzker, )  
 in his official capacity. )  
 )  
 Defendant. )

**VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT  
AND INJUNCTIVE RELIEF**

COMES NOW Plaintiff, Darren Bailey, (hereinafter referred to as “Bailey”) by and through his attorneys, Thomas G. DeVore, Erik Hyam, and DeVore Law Offices, LLC, and for his Verified Complaint for Declaratory Judgment and Injunctive Relief against Defendant, Governor Jay Robert Pritzker (hereinafter referred to as “Pritzker”), in his official capacity, and hereby alleges as follows:

1. On March 09, 2020, Pritzker issued a proclamation declaring, as of that date, a disaster existed within Illinois. (See Exhibit 1 hereinafter referred to as the “March 09 Proclamation”)
2. Pritzker issued the proclamation pursuant to the authority granted him under the Illinois Emergency Management Agency Act. (See Section 1 of the March 09 Proclamation) (See also 20 ILCS 3305 *et seq.* which is hereinafter referred to as the “Act”)
3. The Act states: “In the event of a disaster, as defined in Section 4, the Governor may by proclamation declare that a disaster exists. (See 20 ILCS 3305/7)
4. Section 4 of The Act defines a disaster as follows:

“Disaster” means an occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from any natural or technological cause, including

but not limited to fire, flood, earthquake, wind, storm, hazardous materials spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, extended periods of severe and inclement weather, drought, infestation, critical shortages of essential fuels and energy, explosion, riot, hostile military or paramilitary action, public health emergencies, or acts of domestic terrorism. (See 20 ILCS 3305/4)

5. Pritzker determined the COVID-19 pandemic to be a “public health emergency” (See the March 09 Proclamation)
6. As a result of the COVID-19 pandemic, Pritzker declared all 102 counties within Illinois a disaster area. (See Section 1 of March 09 Proclamation)
7. Bailey is citizen and lawful resident of Cole County Illinois.
8. Subsequent to a disaster proclamation, The Act confers specific enumerated powers upon the Governor of the State of Illinois. (See 20 ILCS 3305/2(a)(2))
9. Amongst those enumerated powers are thirteen (13) emergency powers as provided in section 7 of The Act. (See 20 ILCS 3305/7)
10. Section 7 of the Act expressly states:

“Upon such proclamation, the Governor shall have and may exercise for a period not to exceed 30 days the following emergency powers.... (See 20 ILCS 3305/7)
11. Pursuant to the statutory authority granted Pritzker via 20 ILCS 3305/7, resulting from the March 09 Proclamation, on March 20, 2020 he issued Executive Order 2020-10. (See attached Exhibit 2) (hereinafter referred to as the “March 20 Executive Order”)
12. The March 20 Executive Order, *inter alia*, limits Bailey’s constitutionally protected freedoms in that it ordered him to stay at home, or at his place of residence, as well as limited his ability to travel within the state. (See Section 1 of the March 20 order)
13. The March 20 Executive Order on its face was effective from March 21, 2020 through April 07, 2020. (See the “therefore” clause of the March 20 Executive Order)

14. On April 01, 2020 Pritzker issued a second proclamation. (See Exhibit 3) (hereinafter referred to as the “April 01 Proclamation”)
15. In the April 01 Proclamation, Pritzker declares the COVID-19 pandemic to be a “continuing public health emergency”. (See the April 01 Proclamation)
16. On that same date of April 01, 2020, Pritzker issues Executive Order 2020-18. (See attached Exhibit 4) (hereinafter referred to as the “April 01 Executive Order”)
17. In the April 01 Executive Order, Pritzker specifically acknowledges the March 09 Proclamation and the April 01 Proclamation were both in direct response to the COVID-19 pandemic. (See the April 01 Executive Order)
18. The April 01 Executive Order, *inter alia*, extended the duration of the March 20 Executive Order until April 30, 2020. (See the April 01 Executive Order)
19. As a direct result of the April 01 Executive Order, Pritzker has acted to restrain Bailey within his residence, as well as limit his travel, for a period of time from March 21, 2020 until April 30, 2020 as the result of the COVID-19 pandemic which was declared a disaster on March 09, 2020.
20. Additionally, Pritzker on announced publicly on April 23, 2020 on his daily 2:30 P.M. press conference, that effective May 01, 2020, he will issue another extension of the March 20, 2020 order restrain Bailey within his residence, as well as limit his travel, within the state.

COUNT I  
DECLARATORY JUDGMENT

21. Plaintiff restates paragraphs 1-20 as if more fully stated herein.
22. In relation to the specific matters raised herein, Pritzker must act within the statutory authority granted him in The Act.

23. Bailey is a citizen and resident of Clay County, Illinois and as such has a right to demand the executive orders issued by Pritzker pursuant to a declaration of a disaster are within the confines of the authority granted Pritzker by the legislature pursuant to The Act.
24. Pursuant to The Act, Pritzker issued the March 09 Proclamation wherein he determined the COVID-19 pandemic to be a disaster.
25. As a result of the March 09 Proclamation, Pritzker issued the March 20 Executive Order wherein he, *inter alia*, ordered Bailey to remain within the confines of his home, as well as limited his travel, absent certain specific exceptions.
26. Assuming arguendo, the March 20 Executive Order doesn't suffer other fatal defects, The Act is unambiguous in that it limits Pritzker's authority to utilize such an emergency order for a period of time not to exceed 30 days from the date of the declaration of said disaster.
27. Given the proclamation of the COVID-19 disaster was March 09, 2020, the March 20 executive order was as a matter of law required to lapse on or before April 08, 2020.
28. On April 01, 2020 Pritzker issues the April 01 proclamation, wherein he declares COVID-19 to be a "continuing disaster".
29. On that same day of April 01, 2020, Pritzker issued the April 01 Executive Order, and ordered, *inter alia*, a continuance of his March 20 Executive Order until April 30, 2020.
30. As such, Pritzker, under the color of authority granted him by The Act, is utilizing the emergency powers for more than 30 days from the declaration of disaster resulting from the COVID-19 virus which was pronounced on March 09, 2020.
31. Pritzker is issuing redundant proclamations acknowledging the same COVID-19 virus as a "continuing disaster", wherein he is reenergizing the emergency provisions of The Act for

the sole purpose of rendering the statutory 30-day limitation placed on his emergency powers meaningless.

32. Bailey's interests are in opposition to Pritzker's in that Bailey insists Pritzker can only issue emergency executive orders within the confines of his authority delegated to him by the legislature under The Act. (See Bailey's Legal Brief which shall be incorporated herein by reference).
33. An actual controversy exists between the parties in regard to the authority of Pritzker to issue and enforce emergency orders under The Act for more than 30 days as a result of the ongoing COVID-19 disaster which began March 09, 2020.
34. An immediate and definitive determination is necessary to clarify the rights and interests of the parties.

WHEREFORE, Plaintiff, Darren Bailey, herein request that this court enter an Order:

- A. Entering an order finding Pritzker declared the COVID-19 pandemic a state-wide disaster on March 09, 2019;
- B. Entering an order finding the emergency powers granted Pritzker as a result of the March 09 Proclamation lapsed on April 08, 2020;
- C. Entering an order declaring the March 20 Executive Order lapsed at the end of April 07, 2020;
- D. Entering a finding that Pritzker's April 01 Emergency Order extending the effective date of his March 20 Executive Order until April 30, 2020 was in excess of the authority granted him under The Act;
- E. Enter an order finding that any further emergency executive orders in response to the COVID-19 continuing disaster, be it continuations or otherwise, issued

subsequent to April 08, 2020 ordering Bailey remain within the confines of his home, as well as limited his travel, absent certain specific exceptions are void ab initio; and

- F. Awarding the Plaintiff his costs incurred in this matter as may be allowed by law;
- G. That the Court grant such other and further relief as is just and proper.

COUNT II  
REQUEST FOR INJUNCTION

- 35. Plaintiff restates paragraphs 1-34 as if more fully stated herein.
- 36. The Act clearly limits Pritzker's authority to issue emergency orders under The Act for a period of time not to exceed 30 days from the declaration of a disaster.
- 37. Bailey has a right to insist Pritzker's executive orders comport to the confines of the authority delegated to Pritzker under The Act.
- 38. Bailey is being irreparably harmed each and every day beyond April 08, 2020 in which he continues to be subjected to Pritzker's ultra vires executive order.
- 39. Bailey has no adequate remedy at law to prohibit Pritzker from enforcing the executive orders against him absent an injunction from This Court ordering the same.
- 40. There is a reasonably likelihood of success on the merits in that the disaster proclamation resulting from the COVID-19 pandemic originated on March 09, 2020 and as such any emergency order of Pritzker resulting from this proclaimed disaster lapsed on April 08, 2020 under the clear and unambiguous language of The Act.

WHEREFORE, Plaintiff, Darren Bailey, prays that this Court enter judgment in his favor and finds and declares that:

- A. Finding the Plaintiff has a right to insist Pritzker's executive orders relative to this cause were issued within the authority delegated by the legislature.

- B. Finding Bailey is irreparably harmed each day he is subjected to the executive orders relative to this cause.
- C. Finding Bailey has no adequate remedy at law to protect his rights against any unlawful orders of Pritzker beyond injunctive relief.
- D. Finding Bailey has a likelihood of success on the merits that the April 01 Executive Order extending the March 20 Executive Order until April 30, 2020 is void.
- E. Enter an injunction permanently enjoining Pritzker, or anyone under his authority, from enforcing the March 20 Executive Order against Bailey from this date forward.
- F. For such other relief as this Court deems just and proper.

Respectfully submitted,

By: /s/ Thomas Devore  
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**VERIFICATION**

Under penalties of perjury as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct except as to matters therein stated to be on information and belief, if any, and as to such matters the undersigned certifies as aforesaid that the undersigned verily believes the same to be true.

Date: 4-23, 2020

By: 

Darren Bailey