

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT,
IN AND FOR LEON COUNTY, FLORIDA**

DANIEL W. UHLFELDER,

Plaintiff,

vs.

CASE NO.:

THE HONORABLE RON DESANTIS,
in his Official Capacity as Governor of the State of
Florida,

Defendant.

_____ /

COMPLAINT FOR INJUNCTIVE RELIEF

Plaintiff, Daniel W. Uhlfelder (“Uhlfelder”), through undersigned counsel, bring this suit against The Honorable Ron Desantis (“Desantis”) in his official capacity as the Governor of the State of Florida, and alleges:

JURISDICTION AND VENUE

1. This is a lawsuit for injunctive relief over which this Court has jurisdiction.
2. Venue is proper in Leon County, Florida under Fla. Stat. § 47.011 because Desantis maintains his principal places of business in Leon County and because all or part of the claim for relief at issue in this litigation arose in Leon County.

PARTIES

3. Plaintiff, Uhlfelder, is a Florida resident.
4. Desantis is a proper Defendant in this action because the “Governor is responsible for meeting the dangers presented to this state and its people by emergencies” pursuant to section 252.36(1)(a), Florida Statutes. The Governor has the responsibility to initiate immediate action to cope with the emerging health problems and try to prevent the spread of infectious diseases.

5. The laws empowering the executive to act are based on the police power, which has been described as “the sovereign right of the State to enact laws for the protection of lives, health, morals, comfort, and General welfare.” *Cippolone v. Liggett Group, Inc.*, 505 U.S. 504 (1992); *Lorillard Tobacco Company v. Reilly*, 533 U.S. 525 (2001). Under article IV, Section 1 of the Florida Constitution the Governor is vested with “supreme executive power.”

6. Under various provisions of chapter 252, Florida Statutes, titled Emergency Management, the Governor may issue executive orders declaring a state of emergency, which shall activate the emergency mitigation, response, and recovery aspects of state and local emergency management plans in the affected area, and which shall be authority for the deployment and use of any forces or materials to which the plan applies. Among the Governor’s powers that may be exercised if deemed necessary during an emergency pursuant to section 252.36, Florida Statutes, are to: • issue, amend, and rescind executive orders, proclamations, and rules having the force and effect of law; • assume direct operational control over all or part of the emergency management functions of the state or to delegate same; • suspend the provisions of any regulatory statute regarding the conduct of state business or the rules of any state agency; • utilize all the available resources of the state government and of each political subdivision; • commandeer or utilize any private property found necessary to cope with the emergency; • “[d]irect and compel the evacuation of all or part of the population from any stricken or threatened area”; • “[c]ontrol ingress and egress to and from an emergency area, the movement of persons within the area, and the occupancy of premises therein”; • take measures concerning the conduct of civilians, pedestrian and vehicular traffic, public meetings and gatherings, and the “evacuation and reception of civilian population”; • “take such action and give such direction to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing

compliance with [this chapter] and with the orders and rules made pursuant thereto”; and • “employ such measures and give such directions to the Department of Health . . . as may be reasonably necessary for securing compliance” with this chapter.

7. In the event of an emergency beyond local control, the Governor, or, in the Governor's absence, her or his successor as provided by law, may assume direct operational control over all or any part of the emergency management functions within this state, and she or he shall have the power through proper process of law to carry out the provisions of this section. The Governor is authorized to delegate such powers as she or he may deem prudent.

FACTS

8. On March 17, 2020, Desantis issued Executive Order 20-68 directing parties accessing public beaches in the State of Florida to follow the CDC guidance in limiting their gatherings to no more than 10 persons, distance themselves from other parties by 6 feet, and support beach closures at the direction of local authorities.

9. For the past several days, Uhlfelder has demanded Desantis close all Florida beaches. Desantis has refused.

10. On March 20, 2020, Desantis issued Executive Order 20-70, directing beaches to close in Broward and Palm Beach County. However, he refused to issue an order closing the beaches in Florida.

11. Uhlfelder has no adequate remedy at law.

COUNT I **INJUNCTIVE RELIEF**

12. Uhlfelder realleges and incorporates herein paragraphs 1 – 11 above.

13. Uhlfelder seeks injunctive relief directing Desantis to close all Florida beaches.

PRAYER FOR RELIEF

WHEREFORE, Uhlfelder respectfully requests:

(A) Emergency and injunctive relief in the form of an order directing Desantis to close all of Florida's beaches; and

(B) Such other and further relief as this Court deems just and proper.

DATED this 20th day of March, 2020.

/s/ Daniel W. Uhlfelder

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