

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ROBERT MONTGOMERY THOMAS)
 PLAINTIFF)
)
 Vs.)
)
 CHARLES DUANE BAKER, JR.,)
 in his official capacity as the elected)
 Governor of Massachusetts,)
)
 And)
)
 MAURA TRACY HEALEY, ESQ.,)
 in her official capacity as the elected)
 Massachusetts Attorney General,)
)
 And)
)
 MASSACHUSETTS DEPARTMENT)
 OF PUBLIC HEALTH AND ITS)
 DIRECTOR, MONICA BHAREL, MD,)
 MPH, in their/her official capacity as)
 an appointed agency/Director, who)
 are not accountable to the voters)
 DEFENDANTS)

CIVIL ACTION NO.

20CV_____

FILED
IN CLERKS OFFICE
 2020 JUL 30 PM 2:04
 U.S. DISTRICT COURT
 DISTRICT OF MASS.

**COMPLAINT AND MOTION FOR DECLARATORY AND
 INJUNCTIVE RELIEF AND EXPEDITED HEARING**

INTRODUCTION

This Complaint centers on numerous federal civil rights violations committed by or allowed by the Defendants causing complete suffocation of the Massachusetts economy and the resultant loss of security, income and property, and the way in which discrimination was permitted, allowing certain establishments to continue to

operate while disallowing others their right to do so, violating the Rule of Law and its covenant of Equal Protection under the Law; all the while allowing mobs to destroy public, private and business property to the detriment of the commonwealth and her lawful residents and taxpayers.

COMPLAINT

Now comes Robert Montgomery Thomas (Plaintiff) petitioning for redress for himself, and for others, for the unlawful police-state actions of Massachusetts Governor Charles Duane Baker, Jr. (Governor) and the inactions of Massachusetts Attorney General Maura Tracy Healey (Attorney General) to compel him otherwise that led to the destruction of the Commonwealth of Massachusetts' economy, actions which were and are violative of several of the U.S. Constitution's Bill of Rights amendments, which were approved and enacted on December 15, 1791 with the ratification by the-then Virginia state legislature, and of the Constitution itself, and, without express consent of the Massachusetts General Court (Legislature).

Count 1: The Governor issued so-called executive orders, powers not found or granted in the Massachusetts State Constitution, to curtail personal freedoms and protections afforded the People and contained in the First Amendment of the U.S. Constitution, the Supreme Law of the Land, which First Amendment was made flesh on December 15, 1791 with ratification by the-then Virginia state legislature, in such ways as to constitute unlawful abridgement of the right of the People to freely assemble; to freely worship in the ways of the Peoples' own choosing in churches, synagogues, mosques or other houses of worship or places of public

assembly so as to exercise those rights; the right to assemble peaceably to speak to or speak out against the Governor's unconstitutional, arbitrary executive orders and edicts as though he were king instead of a servant of the whole People; to allow unelected persons, specifically those within the Massachusetts Department of Public Health, through its director, Monica Bharel, MD, MPH, (together MDPH) not accountable to the People, to make decisions and rules as they saw fit that affected the livelihood, property and financial security of the People, and, to further secure his unconstitutional actions by initiating police-state policies to enforce his unlawful actions by providing for armed arrests and requiring excessive fines to be levied for alleged violations of his edicts; all while the Attorney General has failed her sworn duty to overrule such illegal acts and all without lawful consent of the Legislature comprised of duly elected representatives of the People; or of the People by ballot.

Amendment the First: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Count 2: The Governor issued his so-called executive orders to curtail the personal freedoms and protections of the People incorporated in the Fourth Amendment of the U.S. Constitution, the Supreme Law of the Land, which Fourth Amendment was made flesh on December 15, 1791 with ratification by the-then Virginia state legislature, in such ways as to constitute unlawful abridgement of their rights to be secure in their persons, houses, papers and effects by denying the People their right to gainful employment to provide for their families and their security, tantamount to seizure without just cause or duly executed warrant, while

the Attorney General has failed her sworn duty to overturn such illegal edicts; all without lawful consent of the Legislature or of the People by ballot.

Amendment the Fourth: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Count 3: The Governor has provided for excessive criminal fines to be imposed and levied against the People in violation of the Eighth Amendment of the U.S. Constitution, the Supreme Law of the Land, which Eighth Amendment was approved and adopted on December 15, 1791 with ratification by the-then Virginia state legislature, in such ways as to curtail the rights of the People made flesh on December 15, 1791 in the First and Fourth Amendments of the U.S. Constitution, with which the Governor expects the People to fearfully obey his unlawful edicts and orders, thereby giving rise to cruel and unusual infliction of punishments; all while the Attorney General has failed her sworn duty to overturn or arrest such illegal acts; all without the lawful consent of the Legislature or the People by ballot.

Amendment the Eighth: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

Count 4: The Governor has denied certain rights guaranteed to the People incorporated in the Ninth Amendment of the U.S. Constitution, the Supreme Law of the Land, which Ninth Amendment was made flesh on December 15, 1791 with ratification by the-then Virginia state legislature, in that the Governor's so-called executive orders violate natural human rights made flesh in said Amendment, and in the entirety of the U.S. Constitution. The People have the right to free speech and association, freedom of religion, life, liberty and the pursuit of happiness and in

that regard may not be subjected to cruel and unusual punishments through an unelected MDPH reacting to an alleged viral pandemic based on faulted models of severity and casualty predictions, while the Attorney General has failed her duty to overturn such illegal acts. None of the fallacious claims of an alleged global pandemic have borne fruit of any consequence, as though the alleged pandemic might now rightly be considered gross exaggeration, witness that the Director of the Centers for Disease Control and Prevention (CDC), Dr. Anthony Fauci, regularly flip-flops on his “opinions and guidance”.

Amendment the Ninth: The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Count 5: The Tenth Amendment incorporates the phrase “or to the People” at the end, indicating that it is the absolute right of the People of any particular state (or territory) to have final say; to accept or reject what their state or territorial legislatures or political leaders claim to be in the best interest(s) of the People. While one might argue that the Tenth Amendment allows states wide latitude in enacting their own laws, those laws may not be repugnant to the U.S. Constitution, just as municipalities may not make ordinances or laws repugnant to federal or state constitutions in accordance with the **Dillon Rule**, adopted by the Supreme Court of the United States in 1907 (**Hunter v. City of Pittsburgh – 207 U.S. 161, 178-79**) keeping in mind that **ALL** state or local laws emanate from the Supreme Law of the Land, the U.S. Constitution, and **MUST BE in conformance thereto.**

Amendment the Tenth: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

ARGUMENT

The actions and/or inactions by the Defendants amount to subversion of the U.S. Constitution, the Bill of Rights therein and the Rule of Law, by denying the People equal protection under the law. There are not two separate sets of laws.

Of one particular note, the Governor has recently restricted travel into the Commonwealth compelling citizens, more than likely returning college students, to self quarantine for 14 days and has ordered that violators be subject to a **Five Hundred Dollar (\$500)** daily fine, which exceeds statutory limits in **MGL c. 40, §§ 21 and 21D**, which limit non-criminal daily fines to a maximum of **Three Hundred Dollars (\$300)**. Exceeding statutory non-criminal maximums thus would seem to make the violation a criminal offense, which was not approved by the Legislature or by the People by ballot, and a clear violation of the Eighth Amendment to the U.S. Constitution, which prohibits excessive criminal fines. See **MGL c. 40, §§ 21, 21D**, *supra*, with its Legislature-approved limits.

The Massachusetts economy relies on a number of factors that benefit the Legislature's need for revenue. One that stands out is the restaurant-pub model, highly taxed and permit-regulated for additional revenues; where the People congregate to meet and break bread with family or associates, and perhaps to imbibe taxed spirits while so doing. Restaurant-pubs were ordered closed as were houses of worship, while at the same time liquor and package stores were allowed to continue serving patrons in-store. Restaurants may now provide outdoor service or curbside takeout and bars may now serve takeout alcohol, an absolute act of lunacy.

Citizens deemed non-essential were restricted from working; causing them to fall behind on mortgage and rent payments and some will be evicted or foreclosed upon going forward. Domestic battery and child abuse is skyrocketing. Schools, so necessary for children to learn basic skills and how to get along with others were abruptly closed, leaving a generation of children with horrible childhood memories while being denied needed peer companionship. Plaintiff has to ask, "Who benefits from that?" Landlords denied rents still have had mortgage, tax and utility expenses to bear and while renters and borrowers have been given an extended, enacted legislative reprieve, H.4647 (*see Exhibit 1, of p2*) they will still have to make up their missed payments. Many will be bankrupt by then and there will be a trickle-up effect affecting investors, bank lenders, mortgage holders and others. The People need to return to reasonable work. The economy needs to be restarted; not further hindered by out-of-touch elected and appointed officials, none of whom have seen pay cuts or loss of benefits during this protracted, alleged pandemic. The Governor's actions were ill-advised by the MDPH and the CDC, who seem to have been granted supernatural powers to shut down the national and Massachusetts economies while not being accountable to the People for their illegitimate actions. That, too, is the definition of sheer lunacy.

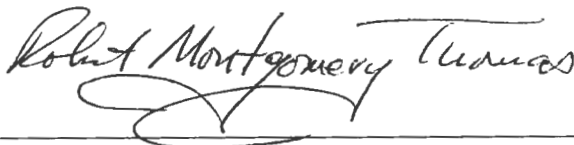
Plaintiff is also very concerned that vulnerable seniors and others in need of regular or special medical attention and procedures are being denied physician and hospital access with yet to be seen ominous effects on their physical and mental health and overall well being. That is patently outrageous and absolutely wrong.

SUMMARY

Plaintiff respectfully requests this Honorable Court to overrule the actions and/or inactions of the Defendants as stated herein and grant the requested injunctive relief. Our economy is essential not only so the People have an opportunity for gainful employment, but for their physical health and sanity as well. Our federal Constitution, which grants all powers to the People, was and is still being assaulted and violated on a daily basis. While there may be need for caution navigating the effects of Covid-19, there is no proportionate need to place the People in dire physical or financial jeopardy from the ever-changing, flip-flop narrative being stage-managed by so-called experts.

For the record, Plaintiff has no ties to any business, religious institution or dogma, political organization, or any other entity or affiliation that may or may not seem to be addressed in his Complaint.

Respectfully submitted,



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Dated July 29, 2020