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IN THE FOURTH DISTRICT COURT
FOR THE STATE OF WYOMING

Crosby Taylor, Tara Skagen, Harold Bjork, Melody Nielsen, Jessica McComb, Billie Eckhardt Conservative Corner, Love America Laramie, and others similarly situated, Petitioners	)	
vs	)	Case No. CV-2021-0009
	)	Filed: FEB 26, 2021
Governor Gordon, in his official capacity, Wyoming Dept. of Health, State health officer Alexia Harrist MD in her official capacity, Michael Ceballes in his official capacity, and each of the following health officers in their official capacity for the respective counties: Albany: Jean Allais MD, Big Horn: David Fairbanks MD, Campbell: Kirtikumar Patel MD, Carbon: Wayne Couch MD, Converse: Mark Campbell MD, Crook: James Larsen MD, Fremont: Brian Gee MD, Goshen: Marion Smith MD, Hot Springs: Vernon Miller MD, Johnson: Mark Schueler MD, Laramie: Stanley Hartman MD, Lincoln: Chris Krell MD, Natrona: Mark Dowell, Niobrara: Joleen Falkenburg MD, Park: Aaron Billin MD,	)	

Platte: Steven Peasley MD,)
Sheridan: Ian Hunter MD,)
Sublette: Brendan Fitzsimmons MD,)
Sweetwater: Jean Stachon MD,)
Teton: Travis Riddell MD,)
Uinta: Michael Adams MD,)
Washakie: Ed Zimmerman MD,)
Weston: Michael Jording/Jane/John Doe,)
DOES 1-100,)
Respondents)

PETITION FOR DECLARATORY INJUNCTIONS AND WRIT OF MANDAMUS

COMES NOW the Petitioners by and through their attorney, Roxey Hensley, individually and together and on behalf of others similarly situated for their causes of action against the Governor Gordon et. al. from enforcement of any and all Executive and health orders issued regarding the SARS-CoV-2 virus (hereinafter Covid-19) which has resulted in many and repeated violations of the rights and liberties of the Petitioners.

JURISDICTION AND VENUE

1. All acts alleged herein took place in the State of Wyoming.

2. Jurisdiction of this action is pursuant to and predicated upon the general jurisdiction of this court and Wyoming Statute 5-3-102(a).

3. Venue is proper in this Court pursuant to Wyoming Statute 5-3-102(a) and because the events giving rise to the claims presented occurred and continue throughout the State of Wyoming.

PARTIES

4. Petitioners are individuals, and advocacy groups that speak out and participate on policy and legislative issues of various nature. The specific details of each Petitioner and their cause(s) of action is:

5. Petitioner Crosby Taylor is the owner of a tavern/restaurant in Kaycee, Wyoming. He asserts his standing to the cause of action as per his affidavit attached hereto as Exhibit 1 and incorporated herein as though set forth in full.

6. Petitioner Tara Skagen is a resident of Laramie, Wyoming. She asserts her standing to the cause of action as per her affidavit attached hereto as Exhibit 2 and incorporated herein as though set forth in full.

7. Petitioner Harold Bjork is a resident of Rock Springs, Wyoming. He asserts his standing to the cause of action as per his affidavit attached hereto as Exhibit 3 and incorporated herein as though set forth in full.

8. Petitioner Jessica McComb is a resident of Laramie, Wyoming. She asserts her standing to the cause of action as per her affidavit attached hereto as Exhibit 4 and incorporated herein as though set forth in full.

9. Billie Eckhardt is a resident of Laramie, Wyoming and operates a business therein known as “The Bent & Rusty”. She was cited for an alleged violation of the public health order mandating the wearing of masks. See Exhibit 5. The charges were subsequently dismissed. Petitioner Eckhardt later learn that the county attorney is keeping the door open

to refiling the charges. Since learning of this, Petitioner Eckhardt has to live under duress daily; wondering if this day will be the day criminal charges are refiled against her. And, when they are, will it be by citation. Or will she be arrested? As such, she asserts her standing in this petition.

10. Melody Nielsen is a senior citizen residing in Cheyenne. Since the declaration of an emergency last March by Governor Gordon, her world has been turned upside down. She asserts her standing to the cause of action as per her affidavit attached hereto as Exhibit 6 and incorporated herein as though set forth in full.

11. Petitioner Conservative Corner is a First Amendment educational and advocacy group that focuses on citizens' rights and responsibilities. It encourages citizens to be responsible by educating themselves to government activities at every level such as knowing what legislative bills are filed for legislative secession and then participate by speaking with elected officials and attending committee meetings. Conservative Corner has and continues to work to educate citizens, elected and non-elected bureaucratic officials about citizens' rights such as the right to work, the right to contract, and the right of each citizen has to make their own health care decisions. They have put forth great effort to educate citizens to get fully informed regarding all health care decisions. To that end, Conservative Corner has found it difficult to compete with the disinformation via any meaningful context by Respondents Gordon, Wyoming Dept of Health and Laramie county health officer Hartman as set forth supra.

Each Respondent has a duty regarding the distribution of factual and documented information regarding the Covid-19 virus which includes putting factual information into a meaningful context of the actual affect of the virus within Wyoming and to it's citizens. As a result of the arbitrary decisions, actions and negligence by Respondents Gordon, Wyoming Dept of Health and Albany county health officer Hartman, Conservative Corner has found it difficult to hold in person meeting and grow which in turn leads to limiting their funding. Simply put, it cannot compete with the virtual unlimited disinformation without meaningful context of the Respondents.

12. Petitioner Love America Laramie is a First Amendment group of citizens who mostly live in Laramie, Wyoming who join together to improve their community by advocating conservative values with positive community involvement, education, and supporting like-minded candidates for public office. Part of their efforts specific to education and individual responsibility have been regarding the distribution of factual and documented information regarding the Covid-19 virus and a meaningful context of the actual affect of the virus within Wyoming and to it's citizens. As a result of the arbitrary decisions, actions and negligence by Respondents Gordon, Wyoming Dept of Health and Albany county health officer Allais as set forth supra, Love America Laramie has found it difficult to hold in person meeting and grow which in turn leads to limiting their funding. Simply put, it cannot compete with the virtual unlimited propaganda disinformation of the Respondents.

13. Respondent Gordon is the Governor of the State of Wyoming. Respondent Michael Ceballes is the Director of the Wyoming Dept of Health. Respondent Alexia Harrist MD is the State health officer for the State of Wyoming. The remaining Respondents are county health officer as follows: Albany, Jean Allais; Big Horn, David Fairbanks; Campbell, Kirtikumar Patel; Carbon, Wayne Couch; Converse, Mark Campbell; Crook, James Larsen; Fremont, Brian Gee; Goshen, Marion Smith; Hot Springs, Vernon Miller; Johnson, Mark Schueler; Laramie, Stanley Hartman; Lincoln, Chris Krell; Natrona, Mark Dowell; Niobrara, Joleen Falkenburg; Park, Aaron Billin; Platte, Steven Peasley; Sheridan, Ian Hunter; Sublette, Brendan Fitzsimmons; Sweetwater, Jean Stachon; Teton, Travis Riddell; Uinta, Michael Adams; Washakie, Ed Zimmerman**.**

FACTS OF THE CASE

Petitioners, individually and together alleges that:

14. On March 13, 2020 Respondent Gordon arbitrarily declared a State of Emergency for the entire State of Wyoming via an Executive Order (EO hereinafter) attached hereto as Petitioners' Exhibit 7. Moreover, Respondent Gordon stated that such temporary action was necessary to “flatten the curve”.

15. Thereafter, the State and county health officers began issuing their own health orders at various times and of varying degrees and continue to do so. Likewise, Respondent Gordon has also continued to issue EOs of various decrees from March 13th to present. At present, we are at the 21st continuance.

16. Each and every one of these various EOs and health orders were issued arbitrarily without lawful authority and have caused confusing and chaotic outcomes such as the closing of businesses, limited government service, limited business services, the closing of schools and day care facilities, and the mandatory wearing of face coverings that serve no medical purpose as to the declared emergency as a few examples. These various arbitrary decisions have resulted in many and repeated violations of the Petitioners' rights and liberties.

17. The Petitioners believe, and therefore contend, that all the decisions and orders after March 13, 2020, and the outcomes thereof, are a direct result of Respondent Gordon's arbitrary decision on March 13, 2020 to issue an EO declaring a Statewide State of Emergency without any factual basis or lawful authority to do so.

18. Wyoming § 35-4-115(a)(i) states:

> "Public health emergency" means an occurrence or imminent threat of an illness or health condition caused by an epidemic or pandemic disease, a novel and highly fatal infectious agent or a biological toxin that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability. The governor shall declare when a public health emergency exists or has ended."

The Petitioners believe, and therefore contend, that Wyoming § 35-4-115(a)(i) sets forth certain criteria that MUST be met to invoke the authority of emergency powers. The Petitioners further contend that not a single one of the criteria set forth in Wyoming § 35-4-115(a)(i) existed within Wyoming on March 13, 2020; nor has ever existed to present.

For example, the first criteria listed is that there has be be an "occurrence", which was not present on March 13, 2020; or an imminent threat of an illness or health condition ***caused by an epidemic*** or pandemic[1] disease.

First and foremost, decisions must be made pursuant to the statutory criteria based on actual factual data/documentation – **NOT** on outlandish computer models; or what the World Health Organization does or says; or what a U.S. President does or says; or what other States are doing. It must be based upon what the condition/situation is in Wyoming. An epidemic is defined as a disease affecting *many persons at the same time*, and spreading from person to person in a locality where the disease *is not permanently prevalent*; a *temporary prevalence* of a disease. To this point, Respondent Gordon stated that such was temporarily necessary to "flatten the curve". And most Wyoming citizens were willing to give Respondent Gordon the benefit of the doubt. But such quickly changed as the Respondents and the media began a campaign of getting use to a "new normal" - meaning a permanent change to our entire structure of society. To this point, Petitioners assert that the purpose of Wyoming § 35-4-115(a)(i) is intended to be a *temporary* measure to address a real health threat; not a means to make permanent changes to the foundation structure of society.

Second, even if it is assume for the sake of argument that Covid-19 was a "novel" virus in 2019, Petitioners assert that it's novelty has a shelf life. Assuming, for the sake of

1 The definition of a pandemic is an epidemic that has spread to several countries. Thus, epidemic is the central point of focus.

argument, that the Covid-19 virus was first known in November of 2019 (as seems to be the generally accepted time frame and publicly stated by many), it is now more than a year old. During that time, thousands of scientific, medical personal, researchers and experts have studied the virus. As such, Petitioners thus assert that it can no longer hold the status of being "novel".

Third, the next criteria that can be used to invoke the authority of Wyoming § 35-4-115(a)(i) is a ***novel*** and highly fatal infectious agent or a biological toxin ***that poses a substantial risk of a significant number of human fatalities*** or incidents of permanent or long-term disability. As to the virus being "novel", Petitioners assert that corona viruses have been around for a very long time – more than 50 years; as well as the knowledge and means to medically treat them. The so-called virus being referred to as Covid-19/SARS-CoV-2 is nothing more than a mutation of a KNOWN virus. All viruses mutate. Flu viruses mutate. Cold viruses mutate. The very designation/classification – SARS-CoV-2 – shows that it is not a new virus – but rather a mutation of a known virus.

Finally, it has been demonstrated that a range of pre-existing memory $CD4^+$ T cells that are cross-reactive with comparable affinity to SARS-CoV-2 and the common cold coronaviruses HCoV-OC43, HCoV-229E, HCoV-NL63, or HcoV-HKU1.

Furthermore, in addition to being novel, such infectious agent or a biological toxin MUST ALSO ***pose a substantial risk of a significant number of human fatalities*** or

incidents of permanent or long-term disability. Using the Respondents very own alleged case numbers of fatalities, at no time has the virus ever posed ***a substantial risk of a significant number of human fatalities*** or incidents of permanent or long-term disability to Wyoming citizens generally.[2]

19. To maintain the illusion that there is a severe health issue throughout Wyoming, the Respondents have and continue to put forth alleged numbers of cases and deaths without any meaningful context. According the the Census Bureau, Wyoming has an estimated population of 563,000. As of January 21, 2021, The State Health Department alleges that there are 50,424 cases of Covid-19 and 550 deaths. Using the Health Dept's numbers, that means that only about 8 percent[3] of Wyoming's population has been affected by the Covid-19 virus. That comes to a fatality of less than 1/10 of one percent. But none of the Respondents have ever made neither of these points. None of the Respondents have ever put the alleged case and death numbers into meaningful context. On the contrary, the Wyoming Dept of Health runs and maintains public service announcements to scare citizens into believing that a virus that has only affected a small percentage of Wyoming citizens and a death rate that is all but nil, is worse than the black death.

20. To further maintain the illusion of a severe health crisis, the Respondents use and rely upon the results of a ***clinical*** tool known as the Real-Time RT-PCR Diagnostic Panel

2 Facilities such as nursing homes and hospitals may be an exception to this. In fact, it seems that at least 90 percent of fatalities have been within such facilities; especially with patients that are 65 or older and/or had other per-existing conditions.

3 This figure includes such individuals as asymptomatic and "probably" cases.

which is better known as and referred to as the RT-PCR test (hereinafter PCR). The Petitioners assert that such use and reliance upon the PCR as a diagnostic test is outside the standards of medical practice and procedures. Petitioners further assert that there are fatal flaws in using the PCR as a diagnostic tool such as:

- The PCR IS NOT, and was never intended to be used as a diagnostic tool as evidenced by the designer of the test. See Petitioners Exhibit 8 (CD) (Discussion with PCR test inventor - Kary Mullis)
- Issues with the RT-PCR Coronavirus Test "RT-PCR testing for the Coronavirus seems to be designed to produce as many positive tests as possible;" See Petitioners Exhibit 9.
- The PCR does not actually test for illness of the Covid-19 virus.
- The PCR is not a true test as it is easily manipulatable. As such, the Respondents can determine at will the number of alleged cases or death of Covid-19 by simply having the testing facilities change the number of cycles of the PCR. Simply put, the Respondents can cause the number of alleged case or deaths to rise or fall at will. For example, if the Respondents want to have evidence that a mask mandate is working, they can, individually or together, have testing facility lower the cycles at witch the PCR is run at. Conversely, if the Respondents want to have evidence that more or continued restrictions are needed, they can, individually or together, have testing facility increase the cycles at which the PCR is run at.

21. One of the critical pieces of information necessary for citizens to be fully informed of is the number of cycles each PCR test is run at. Yet, none of the Respondents have ever publicly released this critical information. The Petitioners assert that they – and all citizens

of Wyoming – have a right to know this critical information. The Petitioners further assert that the Respondents, individually and together, have a duty to fully inform the Petitioners and all citizens of Wyoming regarding ALL necessary aspects regarding the declared emergency including, but not limited to, the bases of the testing procedure. Whether the withholding of this information is intentional or through negligence, the result is that it violates the Petitioners' and all Wyoming citizens' right to be fully informed.

22. Furthermore, based upon what is known about the PCR and how other States have determined the cycles at which the PCR processed, the Petitioners assert that the alleged case and death numbers are at least, and more than likely, 30 percent lower than what the Respondents are presenting publicly.

23. Based upon Respondent Gordon's arbitrarily issued EO of March 13th, county health officers throughout Wyoming began issuing arbitrary health orders of their own, mandating such things as the closing of certain businesses, how close citizens could get to each other, and the mandatory wearing of face coverings; none of which served any medical purpose as to the declared emergency. Moreover, the Laramie county health website (as does the CDC website) makes it plain that it is ***unhealthy*** for healthy individuals to wear face coverings as shown by Petitioners' Exhibit 10 attached hereto and incorporated herein as though set forth in full. As such, Petitioners contend that each and every health order that mandates the wearing of a face covering is not only arbitrary, but contrary to known scientific and medical documentation regarding face coverings. See Exhibits 11, 12, and 13

attached hereto.

24. Petitioners further contend that the purpose of the various orders and public service announcements is to scare citizens into buying the Respondents' solutions without having to fully inform the public of the lack of severity of the true nature of the Covid-19 virus.

25. It has been publicly asserted by dozens of medical personal for at least the last nine months, that asymptomatic individual do not spread the Covid-19 virus. A study of almost ten million people confirm this. See Exhibits 14 and 15 attached hereto.

26. Petitioners assert that they and every citizen has a right to be fully informed as to all aspects and information regarding and relating to any declared emergency. Petitioners assert that each and every Respondent has a duty and responsibility to fully inform the citizens as to all aspects and information regarding and relating to any declared emergency. And that this is especially true when it comes to citizens making health care decisions. By withholding information, the Respondents, together and separately, have failed in their duty and responsibility in their official governmental capacity . The result of Respondents decisions to withhold critical medical and scientific information, whether intentional or through negligence, has lead citizens to make health care decisions based upon misleading and/or false information.

27. To add insult to injury, Respondent Gordon has lowered himself to childish behavior of name calling, referring to individuals and groups such as Love America Laramie and Conservative Corner as “knuckleheads” in an effort to discredit those who are

exercising their rights and publicly putting forth factual information supported by scientific and medical documentation. The purpose of which is to maintain the illusion that there is such a serious health threat to Wyoming citizens that communist tactics must be used and the very fabric of society must be permanently changed.

28. Petitioners believe, and therefore contend that neither the Governor nor any health official can make arbitrary or capricious decisions either outside the statute nor decisions that are not based upon known scientific and medical documentable data. Petitioners further contend that when evaluating health emergency authority, public health decisions must be evaluated and justified under a common legal and ethical standard, including: (1) individuals must pose a significant risk of spreading a dangerous, infectious disease; (2) interventions must be likely to ameliorate risks; (3) actions taken must be narrowly drawn to achieve the stated objective; (4) the action taken must be specific to accomplish a specified outcome; (5) the Respondents must use the least-restrictive means necessary to achieve the stated objectives are required; (6) use of coercion should be proportionate to the risk; and (7) decision/actions must be based on the best available scientific/medical evidence. Petitioners assert that health emergencies do not warrant coercion that is indiscriminate,, excessive, or without evidentiary support. Arbitrary decisions and actions have no authority; they are as unconstitutional as a statute that is violative of constitutional limitations, protection and standards.

In the present instance, this is particularly true regarding Wyoming § 35-4-115(a)(i)

and Article 1, Section 38 of the Wyoming Constitution for two reason. First, the statue must conform to the Constitution from a general point of view. And second, Article 1, Section 38 is the most recent addition/amendment of the two. Simply put, Article 1, Section 38 is the last order given. As such, it is incumbent that all decisions and actions taken by each and every Respondent, even during a health crisis, must not be violative of Article 1, Section 38.

COUNT ONE

Plaintiff incorporates herein as though set forth in full, paragraphs 1-28. Wherefore, based upon the foregoing, the Petitioners moves this Court to issue a Declaratory Injunction against Respondent Gordon declaring that all Executive Orders from March 13th, 2020 to present are without statutory authority; and as such, are null and void.

COUNT TWO

Plaintiff incorporates herein as though set forth in full, paragraphs 1-28. Wherefore, based upon the foregoing, the Petitioners moves this Court to issue a Declaratory Injunction against Respondents Wyoming Dept. of Health, State health officer Alexia Harrist MD, and Michael Ceballes declaring that all health orders from March 13th, 2020 to present are without statutory authority; and as such, are null and void.

COUNT THREE

Plaintiff incorporates herein as though set forth in full, paragraphs 1-28. Wherefore, based upon the foregoing, the Petitioners moves this Court to issue a Declaratory Injunction against all county health officers declaring that all health orders from March 13th, 2020 to

present are without statutory authority; and as such, are null and void.

COUNT FOUR

Plaintiff incorporates herein as though set forth in full, paragraphs 1-28. Wherefore, based upon the foregoing, the Petitioners moves this Court to issue a Declaratory Injunction against all of the Respondents and all facilities that use the RT-PCR test from using the RT-PCR as a means to determine or diagnose whether any individual actually has the Covid-19 (SARS-CoV-2 virus). The Petitioners further move the Court to issue a Writ of mandate that all Covid-19 (SARS-CoV-2 virus) diagnoses be made and supported by a testing method that actually isolates the SARS-CoV-2 virus.

COUNT FIVE

Plaintiff incorporates herein as though set forth in full, paragraphs 1-28. Wherefore, based upon the foregoing, the Petitioners moves this Court to issue a Declaratory Injunction against all of the Respondents from labeling, identifying and/or including any test result, past or future, that was determined by a RT-PCR test that has been or run at a rate of 36 cycles or higher.

COUNT SIX

Plaintiff incorporates herein as though set forth in full, paragraphs 1-28. Wherefore, based upon the foregoing, the Petitioners moves this Court to issue a Declaratory Injunction against Respondents Governor Gordon, Wyoming Dept. of Health, State health officer Alexia Harrist MD, and Michael Ceballes from running any and all marketing campaigns

including public service announcements that contain no meaningful context, false information, or uses virtue signaling.

Petitioners further moves the Court to award reasonable costs and attorney's fees, and such other relief as the Court deems necessary to prohibit and/or deter any and all of the Respondents from acting outside of proper statutory and/or constitutional authority.

Submitted this 26th day of February 2021.

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