IN THE COURT OF COMMON PLEAS
ERIE COUNTY, OHIO

LMV DEV SPE, LLC, DBA KALAHARI RESORTS & CONVENTIONS, *et al.*,	:	**Case No. 2020-CV-201**
	:	**Judge Binette**
Plaintiffs	:	
v.	:	
AMY ACTON, *et al.*,	:	
Defendants.	:	

RESPONSES OF DEFENDANT STEPHANIE MCCLOUD[1]
TO PLAINTIFFS' DISCOVERY REQUESTS

Defendant Stephanie McCloud, Director of Ohio Department of Health ("Defendant"), responds to Plaintiffs' Discovery Requests ("Requests") as follows:

GENERAL OBJECTIONS

1. Defendant reserves all proper objections to the materiality, relevance, and/or admissibility of the subject matter of the responses provided to these Requests. All responses and answers herein are with the express reservation of these General Objections as well as the specific objections listed in the individual responses. Defendant's decision to respond to these Requests is not a waiver of any applicable objections.

2. Defendant objects to the instructions to the extent they exceed the obligations imposed by the Ohio Rules of Civil Procedure ("Rules"). Defendant will comply with the Rules in responding to the Requests.

[1] Defendant McCloud was automatically substituted pursuant to Civil Rule 25 for former ODH Director Amy Acton whom Plaintiffs originally named as a party Defendant.

3. Defendant objects to the Requests as overly broad, unduly burdensome, and seeking irrelevant and non-proportional information to the extent they call for information beyond the scope of Plaintiffs' claims.

4. Defendant objects to each of the Requests to the extent that Plaintiffs seek information protected from disclosure by the attorney-client privilege, the executive privilege, the work-product doctrine, or any other rule of privilege or confidentiality provided by law. Defendant will not produce documents or provide information so protected. Inadvertent disclosure of such information or any such document is not intended to be a waiver (in whole or in part) of the applicable privilege, protection, or immunity.

5. Defendant objects to the production of documents requested by Plaintiff to the extent that the Requests call for the production of email or other electronically stored information that is not reasonably accessible from routinely maintained files because such requests are overbroad and would impose undue burden and cost on Defendant.

6. Defendant objects to the production of documents requested by Plaintiffs to the extent that the Requests purport to require the production of documents that are publicly available or that are in the possession of third persons, Plaintiffs, or Plaintiffs' counsel.

7. Defendant further objects to the production of documents requested by Plaintiffs to the extent that the search for information and documents in this matter is continuing and that additional information and/or documents responsive to the Requests might be discovered in the future. Defendant will supplement its responses as required by the Rules and reserves the right to use or introduce at trial any information and/or documents discovered subsequent to the date of its initial responses and production.

8. Defendant's failure to object to any request on a particular ground or grounds shall not be construed as a waiver of its right to object on any additional applicable grounds.

9. Defendant reserves its right to amend and/or supplement its responses and objections to the Requests, consistent with further investigation and discovery and as required by the Rules.

10. Defendant objects to the Requests to the extent they seek "all" evidence, reasons, information, documents or communications relating to a particular subject on the grounds that they are (i) overbroad, (ii) unduly burdensome, and (iii) seek information that is not relevant to any party's claim or defense and not proportional to the needs of the case. See, e.g., In re Kulzer, 2009 WL 961229, at *5-6 (N.D. Ind., Apr. 8, 2009) (rejecting request that effectively sought "every document" concerning company's business dealings with another company"); U.S. v. Int'l Longshoremen's Ass'n, AFL-CIO, 2006 WL 2014093, at *3 (E.D.N.Y., July 18, 2006) (court deemed unduly burdensome on their face requests from parties demanding agency "essentially every document … which relate[s] to any of" the requesting parties); Editel, New York v. Liberty Studios, Inc., 557 N.Y.S.2d 21, 22 (App. Div. 1990) (quashing discovery request that would require company to produce "every document … relating to anything alleged in any of the counterclaims"). Additionally, Defendant objects to any Request seeking the production or identification of "all" evidence, reasons, information, documents or communications under circumstances in which the production of a subset of "all" would be sufficient to provide the pertinent information. Defendant further objects to any Request seeking the production of "all" documents or communications on the grounds that Defendant cannot ensure that she has produced or identified all evidence, reasons, information, documents or communications

responsive to a particular Request. Defendant will provide responses that are reasonable under the circumstances.

11. Defendant objects to the Requests to the extent they call for discovery of information irrelevant to the pertinent legal standard, which is satisfied if rational speculation offering conceivable support for Defendant's actions exists. See League of Indep. Fitness Facilities & Trainers, Inc., v. Whitmer, 2020 U.S. App. LEXIS 19691 at *6 (6th Cir., June 24, 2020).

12. Defendant objects to the Requests on the grounds that they are not proportional to the needs of this case inasmuch under the relevant legal standard, the Court must afford substantial deference to Defendant's actions. As recently explained by the Twelfth District in an opinion reversing the enjoining of an Ohio health order:

> [W]hen applying the rational-basis test to a state action, a distinction between those within a designated class and those who are not, "'must be upheld against equal protection challenge if there is any reasonably conceivable state of facts that could provide a rational basis for the classification.'" American Assn. of Univ. Professors v. Central State Univ., 87 Ohio St.3d 55, 586 (1999), quoting Fed. Communications Comm. v. Beach Communications, Inc., 508 U.S. 307, 313, 113 S.Ct. 2096 (1993). It is only where a distinction is wholly arbitrary that the scrutiny applied under a rational-basis review fails. Pickaway Cty. Skilled Gaming, L.L.C. v. Cordray, 127 Ohio St.3d 104, 2010-Ohio-4908, ¶ 41, citing New Orleans v. Dukes, 427 U.S. 297, 304, 96 S.Ct. 2513 (1976).
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> A court must grant substantial deference to the state when conducting a rational-basis review of a state's distinction (or classification) that is being challenged on equal protection grounds. State v. Burkhart, 12th Dist. Clermont No. CA2015-01-004, 2015-Ohio-3409, ¶ 12, citing Williams, 2020-Ohio-2453 at ¶ 40. Therefore, under the rational-basis test, reviewing a state's action "'is not subject to courtroom fact-finding and may be based on rational speculation unsupported by evidence or empirical data.'" State v. Batista, 151 Ohio St.3d 584, 2017-Ohio-8304, ¶ 22,

> quoting Beach Communications, 508 U.S. at 315. Accordingly, given that courts must grant substantial deference to the state, which is even more true during times of a public health emergency like the COVID-19 pandemic, it is only where the court "can find no set of facts which could possibly support the distinction drawn by the state" that the court will overturn the state action. Carlisle v. Martz Concrete Co., 12th Dist. Warren No. CA2006-06-067, 2007-Ohio-4362, ¶ 41, citing McGowan v. Maryland, 366 U.S. 420, 426, 81 S.Ct. 1101 (1961).
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> [S.W. Ohio Basketball, Inc. v. Himes, 2021-Ohio-415 (12th Dist.)]

13. Defendant objects to the Requests on the grounds that they call for discovery of information that would only be relevant to the applicable legal standard if a fundamental right of Plaintiffs were at issue inasmuch as Plaintiffs' claims do not implicate any fundamental rights.

14. Defendant objects to the Requests on the grounds that they seek information irrelevant to Plaintiffs' legal theories—statutory authority, delegation, separation of powers equal protection and due process theories.

15. Defendants object to the Requests on the grounds that Plaintiffs' legal theories have been repeatedly rejected by courts in Ohio and across the country that have upheld public health measures to limit the spread of COVID-19. See, e.g., S.W. Ohio Basketball, Inc. v. Himes, 2021-Ohio-415 (12th Dist.); MFRS LLC dba Diamondback Bar and Grill v. Himes, Lake County Common Pleas Case No. 20 CV 000734; Hartman v. Acton, 2020 U.S. Dist. LEXIS 72068, *34-35 (S.D. Ohio 2020); Amato v. Elicker, 2020 U.S. Dist. LEXIS 87758, at *28-29 (D. Conn. May 19, 2020) ("Jacobson requires that courts refrain from second-guessing state governments' responses [to COVID-19] unless there is 'no real or substantial relation' between the actions and the public health and safety or the action is 'beyond all question, a plain, palpable invasion of rights.' ") (quoting Jacobson); Geller v. De Blasio, 2020 U.S. Dist. LEXIS 87405, at

*7-8 (S.D.N.Y., May 18, 2020) ("Over a century ago, the U.S. Supreme Court taught that 'a community has the right to protect itself against an epidemic of disease which threatens its members.' In such times, judicial scrutiny is reserved for a measure that 'has no real or substantial relation to' the object of protecting 'the public health, the public morals, or the public safety,' or is 'beyond all question, a plain, palpable invasion of rights secured by the fundamental law.' As explained by the Supreme Court, a 'court would usurp the functions of another branch of government if it adjudged, as matter of law, that the mode adopted under the sanction of the state, to protect the people at large was arbitrary, and not justified by the necessities of the case.'") (quoting Jacobson); Altman v. County of Santa Clara, 2020 U.S. Dist. LEXIS 97535, at *18-36 (N.D. Cal., June 2, 2020) (denying preliminary injunction to firearm retailer); Best Supplement Guide, LLC v. Newsom, 2020 U.S. Dist. LEXIS 90608, at *8-14 (E.D. Cal., May 22, 2020) (denying TRO to gym); Benner v. Wolf, 2020 U.S. Dist. LEXIS 89425, at *15-18 (M.D. Pa., May 21, 2020) (denying TRO to business owners and political candidates); Antietam Battlefield KOA v. Hogan, 2020 U.S. Dist. LEXIS 8883, at *3-18 (D. Md., May 20, 2020) (denying TRO and preliminary injunction to numerous parties including a campground and an "adventure park"); Shows v. Cochran, 2020 U.S. Dist. LEXIS 71669, at *3 (W.D.N.C., Apr. 23, 2020) (denying TRO to individual challenging curfew imposed on nonessential businesses); Sh3 Health Consulting, LLC v. St. Louis County Exec., 2020 U.S. Dist. LEXIS 81433, at *16-29 (E.D. Mo., May 8, 2020) (denying TRO to gym and antique store); Geller v. Cuomo, 2020 U.S. Dist. LEXIS 137863, at *2 (S.D.N.Y. Aug. 3, 2020) (denying preliminary injunction enjoining defendants from enforcing restrictions on non-essential gatherings so that plaintiff can organize a protest of between 25-100 people); Vill. of Orland Park v. Pritzker, 2020 U.S. Dist. LEXIS 136833, at *2 (N.D. Ill. Aug. 1, 2020) (denying TRO and preliminary injunction to restaurant

and bar owner and a village that sought to employ its own plan for reopening its businesses); Slidewaters LLC v. Wash. Dep't of Labor & Indus., 2020 U.S. Dist. LEXIS 125955, at *2 (E.D. Wash. July 14, 2020) (denying motion for preliminary injunction, converted to a request for a permanent injunction to water park owners and dismissing complaint with prejudice); Xponential Fitness v. Arizona, 2020 U.S. Dist. LEXIS 123379, at *2 (D. Ariz. July 14, 2020) (TRO and preliminary injunction denied to owners of boutique fitness studios); Ass'n of Jewish Camp Operators v. Cuomo, 2020 U.S. Dist. LEXIS 117765, at *1 (N.D.N.Y. July 6, 2020) (denying preliminary injunction to operators of overnight camps); Talleywhacker, Inc. v. Cooper, 2020 U.S. Dist. LEXIS 99905, at *3 (E.D.N.C. June 8, 2020) (denying preliminary injunction to owners of entertainment venues that provide dance performances and presentation of live and recorded music presented by singers, bands and or disc jockeys as well as serving alcoholic and non-alcoholic beverages).

16. Each of the following specific responses to the Requests is subject to the foregoing General Objections.

SPECIFIC RESPONSES AND OBJECTIONS

INTERROGATORY NO. 1: Identify the person or persons with the greatest knowledge, as known to you, related to how orders putatively issued to address a pandemic pursuant to R.C. 3701.13 and/or .14 are enforced.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case and seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine. Without waiving the foregoing objections, Defendant responds that it cannot identify a single person or a specific subset of persons inasmuch as orders issued by Ohio Department of Health to address a pandemic are enforced by numerous people including without limitation employees of the Department of Health, local boards of health, local health districts, employers, business owners, courts, prosecutors, sports venue hosts, the retail compliance unit, as well an expectation of self-enforcement.

INTERROGATORY NO. 2: Identify whether any of your administrative orders issued pursuant to R.C. 3701.13 or R.C. 3701.14 since March 1, 2020 are "rules," as that term is defined in R.C. 119.

ANSWER: The health orders issued by ODH have been issued pursuant to R.C. 3701.13 and R.C. 3701.14, not R.C. 119. They are, therefore, not "rules" for purposes of R.C. 119.

INTERROGATORY NO. 3: Identify all evidence that supported the closure of Plaintiffs' businesse(s) for a duration of time in excess of the duration applicable to bars, restaurants, and retail stores.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, seeks information in Plaintiffs' possession, and is overly broad and unduly burdensome in that it seeks identification of "all" evidence on a given subject. Defendant further objects to the relevance of Plaintiffs' request for "all" supporting evidence when the relevant legal standard only requires the government base its actions on rational speculation. Without waiving the foregoing objections, Defendant states that the evidence supporting Ohio's temporary shutting down of certain businesses and activities and phased resumption of activities, subject to social distancing, masking and other safety precautions, included guidance from the CDC, guidance from the White House, statistics of COVID-19 cases, hospitalizations, fatalities, contact-tracing, and scientific and medical publications, input from national experts, industry advisory groups, political leaders, the chief clinical officers of the Cleveland Clinic, University of Cincinnati and the Ohio State Wexner Medical Center, other hospital leaders, local health departments, the Ohio State Medical Association leadership, health officials and medical experts of other states, other state agency leaders and medical staff, and information available at https://coronavirus.ohio.gov/wps/portal/gov/covid-19/resources/public-health-orders/public-health-orders, https://coronavirus.ohio.gov/wps/portal/gov/covid-19/dashboards, https://coronavirus.ohio.gov/wps/portal/gov/covid-19/resources/press-conferences/press-conference-slides, https://www.cdc.gov/coronavirus/2019-ncov/index.html.

INTERROGATORY NO. 4: Identify all evidence that dancing and sitting at tables, as contemplated in Paragraph 3 of your November 15, 2020 mass gatherings Order, as well as cheerleading and dance competitions, are uniquely dangerous with respect to the creation or causation of harm through the spread of Covid-19.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, seeks information in Plaintiffs' possession, is overly broad and unduly burdensome in that it seeks identification of "all" evidence on a given subject, and misrepresents the contents of the referenced health order.

Defendant further objects to the relevance of Plaintiffs' request for "all" supporting evidence when the relevant legal standard only requires the government base its actions on rational speculation. Defendant further objects to this interrogatory on the grounds that it seeks information that is irrelevant to the claims set forth in Plaintiffs operative complaint which do not seek relief with respect to the November 15 health order and are unrelated to weddings, dance competitions and cheerleading. Without waiving the foregoing objections, Defendant states that all activities present their own unique level of risk with respect to the spread of COVID-19, with activities that include numerous, prolonged close-proximity exposure of people from different households and geographical areas and increased heavy breathing and loud vocalization (such as dancing activities typical of wedding receptions) being understood to present higher risk of spreading COVID-19 as compared to other activities (such as remaining seated at a table throughout a reception or dancing/cheerleading with members of the same team) which also present their own unique level of risk.

INTERROGATORY NO. 5: Identify with specificity any and all evidence of harm directly caused by Covid-19 originating, emanating, of spreading from one or more of Plaintiffs' operations, including the identity of the individuals harmed and the extend of the harm they suffered.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks protected personal health information, seeks information in Plaintiffs' possession, and is overly broad and unduly burdensome in that it seeks identification of "all" evidence on a given subject. Without waiving the foregoing objections, Defendant states that inasmuch as the transmission of COVID-19, by its very nature as best currently understood, cannot be pinpointed to a precise moment in time and specific location, Defendant cannot identify with the precision requested by this interrogatory which of the thousands upon thousands of COVID-19 cases, hospitalizations and deaths, occurring within and outside of Ohio were caused directly or indirectly by people infected by Plaintiffs' customers, visitors, employees or other invitees or those who came in contact with any of them.

INTERROGATORY NO. 6: Identify all evidence in support of the proposition that the Director's ban on "non-essential business" reduced serious harm that would have otherwise arisen from Covid-19.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome in that it seeks identification of "all" evidence on a given subject. Defendant further objects to the relevance of Plaintiffs' request for "all" supporting evidence when the relevant legal standard only requires the government base its actions on rational speculation. Without waiving the foregoing objections, Defendant identifies the "flattening the curve" models regarding projected COVID-19 cases as compared to actual recorded cases as well as statistics

reflecting increases in COVID-19 cases following re-opening of certain businesses and activities, including information available at https://coronavirus.ohio.gov/wps/portal/gov/covid-19/resources/press-conferences/press-conference-slides.

INTERROGATORY NO. 7: Identify each and every way, and all evidence in support of those ways identified, that banning Plaintiffs' business reduced serious harm that would have otherwise arisen from Covid-19.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome in that it seeks identification of "all" evidence on a given subject. Defendant further objects to the relevance of Plaintiffs' request for "all" supporting evidence when the relevant legal standard only requires the government base its actions on rational speculation. Defendant further objects to the term "banning" inasmuch as it is inconsistent with the terms of the pertinent health orders. Without limiting the foregoing, Defendant states that temporarily limiting businesses and activities, including Plaintiffs' reduced the spread of COVID-19 infections, hospitalizations and death. While Defendant objects to the relevance of Plaintiffs' request for "all" supporting evidence when the relevant legal standard only requires the government base its actions on rational speculation, the supporting evidence may be found at ODH's COVID-19 website which includes information on infections, hospitalizations deaths and other COVID-19 information, the CDC's website, and news media reports regarding COVID-19 including information available at https://coronavirus.ohio.gov/wps/portal/gov/covid-19/resources/public-health-orders/public-health-orders, https://coronavirus.ohio.gov/wps/portal/gov/covid-19/dashboards, https://coronavirus.ohio.gov/wps/portal/gov/covid-19/resources/press-conferences/press-conference-slides, https://www.cdc.gov/coronavirus/2019-ncov/index.html.

INTERROGATORY NO. 8: Identify each and every way, and all evidence in support of those ways identified, that denying "non-essential businesses" the opportunity for a post-deprivation hearing reduced serious harm that would have otherwise arisen from Covid-19.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome in that it seeks identification of "all" evidence on a given subject. Defendant further objects to the relevance of Plaintiffs' request for "all" supporting evidence when the relevant legal standard only requires the government base its actions on rational speculation. Defendant further objects because this interrogatory poses a pure legal question. Defendant further objects because Plaintiffs were not entitled to a post-deprivation hearing, thus rendering this interrogatory a rhetorical question for which no response is necessary.

INTERROGATORY NO. 9: Explain each and every reason in support of your answer to Interrogatory No. 2 above.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Defendant further objects to the relevance of Plaintiffs' request for "all" supporting evidence when the relevant legal standard only requires the government base its actions on rational speculation. Defendant further objects to this interrogatory in that it poses a pure legal question which is not the proper subject of an interrogatory.

INTERROGATORY NO. 10: Identify any and all evidence to support your prior assertions, submitted to federal court under oath, that "approximately 29 percent of confirmed cases result in hospitalizations and approximately 4 percent of confirmed cases result in death."

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome in that it seeks identification of "all" evidence on a given subject. Without waiving the foregoing objections, Defendant identifies the statistics on COVID-19 infections, hospitalizations and deaths available at the time or shortly prior thereto.

INTERROGATORY NO. 11: Identify all evidence displaying that Plaintiffs' operations uniquely increase the harm resulting from the Covid-19 virus.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks protected personal health information, seeks information in Plaintiffs' possession, and is overly broad and unduly burdensome in that it seeks identification of "all" evidence on a given subject. Without waiving the foregoing objections, Defendant states that while Defendant is unaware of any evidence "displaying that Plaintiffs' operations uniquely increase the harm resulting from the COVID-19 virus," but all activities are understood to carry some risks. Inasmuch as COVID-19 is understood to spread from person to person by aerosol droplets expelled in the breath of an infected person, the larger the gathering, the less likely any individual will be able to control the environment directly around them. And the larger the group, the greater the number of people at risk of becoming infected by an asymptomatic individual attending the event. The greater the duration of the gathering, the higher the probability of transmission of infection; the wider the geographic dispersion of residence of participants, the greater the risk of spreading the disease back to those locations where the participants reside.

INTERROGATORY NO. 12: Identify any and all evidence in support of the conclusion that your mask and curfew policies are reducing harm that would have otherwise directly resulted from the Covid-19 virus.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks protected personal health information, and is overly broad and unduly burdensome in that it seeks identification of "all" evidence on a given subject. Defendant further objects to the relevance of Plaintiffs' request for "all" supporting evidence when the relevant legal standard only requires the government base its actions on rational speculation. Defendant further objects on the grounds that the referenced orders post-date and are not implicated by Plaintiffs' operative complaint and are thus beyond the scope of proper discovery in this lawsuit. Without waiving the foregoing objections, Defendant states that the evidence includes evidence of reduced COVID-19 cases, hospitalizations, and deaths occurring after mask and curfew orders went into effect. This information is available at https://coronavirus.ohio.gov/wps/portal/gov/covid-19/dashboards.

INTERROGATORY NO. 13: Identify each and every statutory limit, related to scope, timing and duration, or otherwise, on Defendants' authority to issue orders related to a putative pandemic pursuant to R.C. 3701.13 and R.C. 3701.14.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Defendant further objects to this interrogatory in that it poses a pure legal question which is not the proper subject of an interrogatory. Without waiving the foregoing objections, Defendant states that the pertinent case law merely requires that Defendant's actions be conceivably supported by rational speculation:

> [W]hen applying the rational-basis test to a state action, a distinction between those within a designated class and those who are not, "'must be upheld against equal protection challenge if there is any reasonably conceivable state of facts that could provide a rational basis for the classification.'" American Assn. of Univ. Professors v. Central State Univ., 87 Ohio St.3d 55, 586 (1999), quoting Fed. Communications Comm. v. Beach Communications, Inc., 508 U.S. 307, 313, 113 S.Ct. 2096 (1993). It is only where a distinction is wholly arbitrary that the scrutiny applied under a rational-basis review fails. Pickaway Cty. Skilled Gaming, L.L.C. v. Cordray, 127 Ohio St.3d 104, 2010-Ohio-4908, ¶ 41, citing New Orleans v. Dukes, 427 U.S. 297, 304, 96 S.Ct. 2513 (1976).

> A court must grant substantial deference to the state when conducting a rational-basis review of a state's distinction (or classification) that is being challenged on equal protection grounds. State v. Burkhart, 12th Dist. Clermont No. CA2015-01-004, 2015-Ohio-3409, ¶ 12, citing Williams, 2020-Ohio-2453 at ¶ 40. Therefore, under the rational-basis test, reviewing a state's action "'is not subject to courtroom fact-finding and may be based on rational speculation unsupported by evidence or empirical data.'" State v. Batista, 151 Ohio St.3d 584, 2017-Ohio-8304, ¶ 22, quoting Beach Communications, 508 U.S. at 315. Accordingly, given that courts must grant substantial deference to the state, which is even more true during times of a public health emergency like the COVID-19 pandemic, it is only where the court "can find no set of facts which could possibly support the distinction drawn by the state" that the court will overturn the state action. Carlisle v. Martz Concrete Co., 12th Dist. Warren No. CA2006-06-067, 2007-Ohio-4362, ¶ 41, citing McGowan v. Maryland, 366 U.S. 420, 426, 81 S.Ct. 1101 (1961).
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> [S.W. Ohio Basketball, Inc. v. Himes, 2021-Ohio-415 (12th Dist.)]

INTERROGATORY NO. 14: Identify all administrative orders and rules issued pursuant to R.C. 3701.13, 3701.14, and/or R.C. 119.03(G) that abridge Plaintiffs' operations, as those operations were identified at the hearing on Plaintiffs' Motion for Preliminary Injunction in this case, on the date of your response to these Interrogatories.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Defendant further objects to this interrogatory to the extent it purports to impose a duty upon Defendant to identify rules issued by other state agencies pursuant to R.C. 119.03(G). Defendant further objects on the grounds that this interrogatory seeks irrelevant information inasmuch as the issues raised by Plaintiffs' operative complaint relate to health orders in effect at the time of Plaintiffs' operative complaint (and identified in the operative complaint), not health orders that are currently in effect which are irrelevant to the operative complaint which Plaintiffs have deemed fit to neither amend nor supplement.

INTERROGATORY NO. 15: Identify each and every circumstance, including any applicable metrics or benchmarks, under which the Defendant will again impose the "non-essential business" ban or any other shutdown of Plaintiffs' operations based on the identity of their industry group or other classification.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Defendant further objects to the relevance of Plaintiffs' request for "all" supporting evidence when the relevant legal standard only requires the government base its actions on rational speculation. Without waiving the foregoing objections, Defendant states that the COVID-19 pandemic is a fluid situation and as a result Defendant cannot predict with precision each and every circumstance that will lead further health orders or each and every benchmark or factor that may be considered. Factors currently under review are COVID-19 infections, hospitalizations, deaths, hospital capacity, hospital staffing capacities, virus variants and rnaught.

INTERROGATORY NO. 16: If Defendant would not again impose the "non-essential business" ban (or other shutdown of Plaintiffs' operations based on their classification or industry rather than individualized safety considerations) in the future, identify each and every reason why Defendant would not do so.

ANSWER: See objections and response to Interrogatory Number 15.

INTERROGATORY NO. 17: Identify each and every reason why a significant increase in the daily rate of positive Covid-19 cases occurred subsequent to the Department of Health's implementation of a statewide mask mandate.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Defendant further objects to the relevance of Plaintiffs' request for "all" supporting evidence when the relevant legal standard only requires the government base its actions on rational speculation. Defendant further objects to this interrogatory to the extent that the statewide mask health order is not at issue in Plaintiffs' operative complaint which Plaintiffs have deemed fit to neither amend nor supplement. Without waiving the foregoing objections, Defendant states that the exact reason cannot be pinpointed with the precision requested by this Interrogatory but Defendant notes that the statewide mask order was put in place as COVID-19 cases were increasing, and due to the very nature of the manner in which highly contagious viruses spread, where each infected individual is able to pass the virus onto many other individuals, and given the fact that symptoms of COVID-19 are understood to appear after a few days after infection and given that Ohio continued to "re-open" around the time of the statewide mask mandate with increased participation in sports and schools reopening, it is not surprising that daily cases continued to increase before decreasing.

INTERROGATORY NO. 18: Identify the process by which Defendants' orders are drafted and codified, including, specifically, who drafts and who reviews each draft of each order that has been issued putatively pursuant to R.C. 3701 since March 1, 2020.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome.

INTERROGATORY NO. 19: Identify all protocols necessary to render Plaintiffs' operations safe, with respect to an acceptable level of amelioration of Covid-19-related harm.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Defendant further objects on the grounds that the interrogatory is vague and ambiguous in many respects rendering it unanswerable in its current form. What is "safe" and "acceptable" with respect to COVID-19 risk may depend on the time and the person as demonstrated by Plaintiffs' apparent desire to elevate profitability over the health and lives of its employees and patrons.

INTERROGATORY NO. 20: Identify the percentage of Covid-19 cases that result in hospitalization.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Defendant further objects because the percentage of COVID-19 cases resulting in hospitalization has differed depending on timeframe and location. Data on COVID-19 cases, hospitalizations and deaths are available at https://coronavirus.ohio.gov/wps/portal/gov/covid-19/dashboards.

INTERROGATORY NO. 21: Identify the percentage of Covid-19 cases that result in death.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Defendant further objects because the percentage of COVID-19 cases resulting in death has differed depending on timeframe and location. Data on COVID-19 cases, hospitalizations and deaths are available at https://coronavirus.ohio.gov/wps/portal/gov/covid-19/dashboards.

INTERROGATORY NO. 22: Identify any and all evidence in support of treating all amusement parks, water parks, bars, restaurants, and gyms the same, based on the identify of their industry, rather than individually, based on the level of safety they exhibit or are willing to exhibit.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Defendant further objects to the relevance of Plaintiffs' request for "all" supporting evidence when the relevant legal standard only requires the government base its actions on rational speculation. Defendant further objects to this interrogatory on the ground that it is based upon the false assumption that Ohio should have taken an individualized, business-by-business approach to the reopening of Ohio's businesses based upon which safety precautions each particular business was supposedly "willing to exhibit."

INTERROGATORY NO. 23: Identify specific metrics and benchmarks that constitute an "overwhelming" of Ohio's health care system, as that term has been used by you.

ANSWER: Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Defendant further objects to what specific use of the term "overwhelming" is being cited. Without waiving the foregoing objections, Defendant is searching for the specific context and will supplement this response.

INTERROGATORY NO. 24: Identify any and all evidence in support of suspending the operations of an otherwise lawful business when it is able to operate in accordance with all safety protocols provided by you.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Defendant further objects to the relevance of Plaintiffs' request for "all" supporting evidence when the relevant legal standard only requires the government base its actions on rational speculation. Defendant further objects as this Interrogatory requests "any and all" evidence regarding a purely abstract question.

INTERROGATORY NO. 25: Identify each and every reason, if any, why Defendant will or will *not* again close their business due to a pandemic in the future, whether later this year in response to Covid-19, or further into the future in response to another pandemic.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Defendant further objects as this Interrogatory requests "each and every reason" why Defendant will or will not do something in the future which is especially improper with regard to which steps Defendant may or may not take in the future in the midst of the COVID-19 pandemic which continues to evolve with new variants being discovered or in response to another pandemic of an unspecified nature. Without waiving the foregoing objections, Defendant reserves the right to take all necessary and appropriate actions in Defendant's best judgment to protect the health, safety and lives of Ohioans from COVID-19 and any other pandemic conditions based upon all pertinent factors and evidence available at the time which may include factors such as infection rates, hospitalization rates, deaths, severity of illness, new cases per capita, whether the increase in new cases is sustained, the proportion of cases in congregate and non-congregate settings, emergency room visits, outpatient visits, hospitalizations, ICU bed occupancy, contact tracing, tests per capita, and percent positivity.

INTERROGATORY NO. 26: Identify each and every reason why Defendant has regulated businesses on the basis of their identity, *i.e.* essentiality predicated on identify, rather than on the basis of safety alone.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Without waiving the foregoing, Defendant responds that it has not regulated businesses on the basis of their identity but, rather, has imposed health orders based upon, among other factors conduct and activities occurring at businesses including amount and duration of exposure and interactions with others.

INTERROGATORY NO. 27: Identify any and all evidence demonstrating how many additional deaths and/or serious illnesses would have occurred were "non-essential businesses" permitted to operate while adhering to all otherwise applicable social distancing and safety regulations articulated in the Director's Amended Stay at Home Order.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome in that it seeks "all" evidence on a given subject. Defendant further objects to the relevance of Plaintiffs' request for "all" supporting evidence when the relevant legal standard

only requires the government base its actions on rational speculation. Without waiving the foregoing objections, Defendant states that while its curve flattening models did not isolate "additional deaths [or] serious illnesses" based solely upon whether "non-essential businesses" were permitted under specific safety precautions, the number of actual deaths is substantially smaller than the amount predicted if no interventions were implemented.

INTERROGATORY NO. 28: Identify all Covid-19-related harm caused by Plaintiffs since they resumed operations on June 12, 2020.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, seeks information solely within Plaintiffs' possession, and is overly broad and unduly burdensome. Defendant further objects to the relevance of Plaintiffs' request for "all" supporting evidence when the relevant legal standard only requires the government base its actions on rational speculation. Without waiving the foregoing objections, Defendant identifies each of the COVID-19 cases, hospitalizations and deaths resulting directly or indirectly from people infected by Plaintiffs' customers, visitors, employees or other invitees or those who came in contact with any of them.

INTERROGATORY NO. 29: Identify each and every reason why Defendants permitted certain "non-essential" business to open on May 12, 2020.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, seeks information solely within Plaintiffs' possession, and is overly broad and unduly burdensome. Without waiving the foregoing objections, Defendant states that a multitude of factors went into Ohio's phased reopening including the expected likelihood that reopening would increase the number of COVID-19 cases, hospitalizations and deaths, the physical nature of businesses, the conduct that typically applies at locations, the ability to adopt social distancing and safety precautions, the expected number and duration of interactions, data regarding COVID-19 infections, hospitalization, and deaths, and the products and services offered to customers.

INTERROGATORY NO. 30: Identify each and every reason why it was not safe for Plaintiffs' business to open on May 12, 2020.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, seeks information solely within Plaintiffs' possession, and is overly broad and unduly burdensome. Without waiving the

foregoing objections, Defendant states Ohio re-opened using a staggered, phased approach—as opposed to an all-or-nothing approach—to allow ODH to monitor the impact of re-opening and increased activities on the spread of COVID-19 and take necessary actions of COVID-19 cases, hospitalizations, and/or deaths spiked as activities resumed; additionally, ODH worked with several industry task forces to develop industry-specific safety protocols to protect Ohioans from the spread of COVID-19. Indeed, this dimmer switch approach taken by Ohio has been endorsed by courts that have rejected challenges to COVID-19 health and safety measures:

> While plaintiffs effectively point out similarities between their businesses and those allowed to reopen, *a State does not violate the Equal Protection Clause merely because the classifications made by its laws are imperfect*. Indeed, [i]f the classification has some 'reasonable basis,' it does not offend the Constitution simply because the classification is not made with mathematical nicety or because in practice it results in some inequality. … [D]efendant employed a '*dimmer switch*' approach to the reopening of businesses, *gradually easing restrictions on high-risk activities, instead of allowing all businesses to reopen at once*, in order to monitor the spread of COVID-19. This measured approach *is reasonable and rational*, where uncertainties about COVID-19 still loom.
>
> [Talleywhacker, Inc. v. Cooper, 2020 U.S. Dist. LEXIS 99905, at *28-29 (E.D.N.C. June 8, 2020) (quotations, citations omitted; emphasis added)]

INTERROGATORY NO. 31: Identify the specific health data benchmarks that the Director is relying upon to determine whether and which businesses should be open or closed and when.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Without waiving the foregoing objections, Defendant states that the metrics utilized by Defendant include new cases per capita, whether the increase in new cases is sustained, the proportion of cases in congregate and non-congregate settings, emergency room visits, outpatient visits, hospitalizations, ICU bed occupancy, contact tracing, tests per capita, and percent positivity.

INTERROGATORY NO. 32: Identify the capacity, in number of spaces available for individuals, in each hospital or other health-care facility capable of administering care to patients suffering as a direct result of infection with the Covid-19 virus.

ANSWER: Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Defendant further objects this

information is not in the possession of Defendant. Without waiving the foregoing objections, Defendant refers Plaintiffs to https://coronavirus.ohio.gov/wps/portal/gov/covid-19/dashboards/key-metrics/hospitalizations.

INTERROGATORY NO. 33: Identify specific metrics and results that Defendant will use to determine when Ohio is no longer in a "state of emergency," with respect to Covid-19.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Without waiving the foregoing objections, Defendant states that the Governor, not Defendant, will determine whether the state of emergency he declared with respect to the COVID-19 pandemic remains in place.

INTERROGATORY NO. 34: Identify all adverse public health, private health, and economic harm attributable to the Director's "non-essential business" ban, known to you.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Defendant further objects to this interrogatory to the extent it seeks identification of public and private health harm attributable to the non-essential business restrictions which did not cause public or private health harm. Without waiving the foregoing, Defendant states that it cannot identify economic harm attributable to the "non-essential business" restrictions inasmuch reduced economic activity resulted from the risk of the COVID-19 pandemic itself which is borne out by the fact that Cedar Point operated at a significant reduced schedule after opening, reportedly due to reduced attendance.

INTERROGATORY NO. 35: Identify the age of each individual included in any "death count" resulting from Covid-19 within the State of Ohio.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Without waiving the foregoing objections, Defendant states that age data is available at https://coronavirus.ohio.gov/wps/portal/gov/covid-19/dashboards.

INTERROGATORY NO. 36: Identify the age of each individual included in any data reflecting hospitalizations due to Covid-19 within the State of Ohio.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Without waiving the foregoing objections, Defendant states that age data is available at https://coronavirus.ohio.gov/wps/portal/gov/covid-19/dashboards.

INTERROGATORY NO. 37: Identify any and all data you maintain on the obesity or body mass index of individuals counted by you as deceased or hospitalized as a direct result of Covid-19.

ANSWER: Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Without waiving the foregoing objections, such information was not tracked by Defendant.

INTERROGATORY NO. 38: Identify any and all criteria you use to determine whether a death or hospitalization is proximately caused by the Covid-19 virus.

ANSWER: Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Without waiving the foregoing objections, Defendant states that the data is (a) identified on the death certificate by the person who prepared the death certificate; and (b) identified by hospitals.

INTERROGATORY NO. 39: Identify all evidence that PCR testing is accurate method of determining the risk of harm posed by Covid-19, whether to individuals who test positive or to the general public through assessment of the total number of positive tests during any given period of time.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Defendant further objects to this interrogatory as it is based upon the false assumption that the PCR test is a test for determining "risk of harm posed by COVID-19."

INTERROGATORY NO. 40: Identify with specificity the amount of state or federal funds Ohio hospitals currently receive or have received as a result of each positive Covid-19 diagnosis, each Covid-19 death they report, or each Covid-19 positive patient they treat.

ANSWER: In addition to the foregoing general objections, Defendant objects to this interrogatory on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Without waiving the foregoing objections, Defendant states that Defendant does not maintain this information.

REQUESTS FOR PRODUCTION OF DOCUMENTS

Please produce:

1. For each of the businesses and types of businesses deemed to be "Essential Businesses and Operations" in the Order, all documents (including without limitations correspondence, emails, texts, charts, graphs, memoranda, studies, guidlines) that relate to and/or were relied upon in making such determination of essentiality.

RESPONSE: In addition to the foregoing general objections, Defendant objects to this request on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Without waiving the foregoing objections, responsive documents are available at https://coronavirus.ohio.gov/static/publicorders/DirectorsOrderStayAtHome.pdf.

2. All documents (including without limitations correspondence, emails, texts, memoranda, studies, guidelines) that discussed drafts of the original and amended Stay at Home Orders.

RESPONSE: In addition to the foregoing general objections, Defendant objects to this request on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome.

3. All documents related to the hiring, appointment, and/or payment of Defendants' attorneys in this matter.

RESPONSE: In addition to the foregoing general objections, Defendant objects to this request on the grounds that it is vague and ambiguous, seeks irrelevant information, is not

proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome.

4. All documents relied upon in preparing the answers to the foregoing Interrogatories.

RESPONSE: In addition to the foregoing general objections, Defendant objects to this request on the grounds that it is vague and ambiguous, seeks irrelevant information, is not proportional to the needs of this case, seeks information protected by the attorney-client privilege, executive privilege, and/or the work product doctrine, and is overly broad and unduly burdensome. Without waiving the foregoing, responsive documents are available at https://coronavirus.ohio.gov/wps/portal/gov/covid-19/resources/public-health-orders/public-health-orders, https://coronavirus.ohio.gov/wps/portal/gov/covid-19/dashboards, https://coronavirus.ohio.gov/wps/portal/gov/covid-19/resources/press-conferences/press-conference-slides, https://www.cdc.gov/coronavirus/2019-ncov/index.html.

As to Objections,

DAVE YOST
Ohio Attorney General

/s/ Marion H. Little, Jr.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 26, 2021, the foregoing was served via email on the following counsel of record:

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