

The Honorable Benjamin H. Settle

**UNITED STATES DISTRICT COURT  
 WESTERN DISTRICT OF WASHINGTON  
 AT TACOMA**

CLINT DIDIER, <i>et al.</i> ,  Plaintiff,  vs.  GOVERNOR JAY INSLEE, in his capacity as Governor of the State of Washington,  Defendant.		3:20-cv-05408-BHS  DEFENDANT GOVERNOR JAY INSLEE’S ANSWER TO PLAINTIFFS’ FIRST AMENDED VERIFIED COMPLAINT FOR VIOLATION OF CIVIL RIGHTS  AND  AFFIRMATIVE DEFENSES
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**GENERAL DENIAL**

The Defendant, Jay Inslee, in his official capacity as Governor of the State of Washington, by and through his attorneys, Attorney General Robert W. Ferguson, Assistant Attorneys General Zachary Pekelis Jones and Brendan Selby, and Deputy Solicitors General Jeffrey T. Even and Emma Grunberg, hereby answers Plaintiffs’ First Amended Verified Complaint for Violation of Civil Rights (Complaint). Except as herein expressly admitted or qualified, Defendant denies each and every allegation, statement, or charge contained in the Complaint, and denies that Plaintiffs are entitled to any of the relief requested. The coronavirus disease 2019 (COVID-19) pandemic is an unprecedented state, national, and international emergency that has demanded an unprecedented governmental response to protect public health. Washington State’s “Stay Home, Stay Healthy” and “Safe Start” orders, like other such orders issued by numerous national, state, regional, and local governments around the world, currently represent the best mechanism to mitigate the spread

1 of COVID-19, which has no vaccine and no known cure. These measures are both necessary and  
2 are lawful exercises of the Governor’s emergency powers that infringes none of Plaintiffs’  
3 constitutional rights.

4 Defendant responds to the numbered allegations in the Complaint as follows:

5 **INTRODUCTION**

6 1. Paragraph 1 asserts legal conclusions and argument to which no response is  
7 required. To the extent a response is required, the allegations are denied.

8 **I. PARTIES**

9 2. Defendant is without information sufficient to form a belief as to the truth of the  
10 allegations in Paragraph 2, and therefore denies the same.

11 3. Defendant is without information sufficient to form a belief as to the truth of the  
12 allegations in Paragraph 3, and therefore denies the same.

13 4. Defendant is without information sufficient to form a belief as to the truth of the  
14 allegations in Paragraph 4, and therefore denies the same.

15 5. Defendant is without information sufficient to form a belief as to the truth of the  
16 allegations in Paragraph 5, and therefore denies the same.

17 6. Defendant is without information sufficient to form a belief as to the truth of the  
18 allegations in Paragraph 6, and therefore denies the same.

19 7. Defendant is without information sufficient to form a belief as to the truth of the  
20 allegations in Paragraph 7, and therefore denies the same.

21 8. Defendant is without information sufficient to form a belief as to the truth of the  
22 allegations in Paragraph 8, and therefore denies the same.

23 9. Defendant is without information sufficient to form a belief as to the truth of the  
24 allegations in Paragraph 9, and therefore denies the same.

25 10. Defendant is without information sufficient to form a belief as to the truth of the  
26 allegations in Paragraph 10, and therefore denies the same.

11. Defendant admits that he is the Governor of Washington, that he resides in Thurston County, and that he swore the oath of office. The remainder of Paragraph 11 consists of legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.

**II. JURISDICTION AND VENUE**

12. Defendant admits that this lawsuit raises a federal question under 28 U.S.C. § 1331. The remainder of Paragraph 12 consists of legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.

A. Paragraph 12(A) asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

B. Paragraph 12(B) asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

C. Paragraph 12(C) asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

(i) Paragraph 12(C)(i) asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

(ii) Paragraph 12(C)(ii) asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

(iii) Paragraph 12(C)(iii) asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

D. Paragraph 12(D) asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

E. Paragraph 12(E) asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

(i) Paragraph 12(E)(i) asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

1 F. Paragraph 12(F) asserts legal conclusions to which no response is  
2 required. To the extent a response is required, it is denied.

3 (i) Paragraph 12(F)(i) asserts legal conclusions to which no response  
4 is required. To the extent a response is required, it is denied.

5 (iv) Paragraph 12(F)(iv) asserts legal conclusions to which no  
6 response is required. To the extent a response is required, it is denied.<sup>1</sup>

7 (v) Paragraph 12(F)(v) asserts legal conclusions to which no response  
8 is required. To the extent a response is required, it is denied.

9 13. Defendant admits that venue is proper in this judicial district under 28 U.S.C.  
10 § 1391(b).

11 **III. STATEMENT OF APPLICABLE FACTS**

12 14. Admitted to the extent that Defendant issued Proclamation 20-25, titled “Stay  
13 Home, Stay Healthy,” on March 23, 2020, and that Proclamation 20-25 contains the text quoted  
14 in Paragraph 14. Defendant denies that Proclamation 20-25 is attached to the Complaint.

15 15. Admit. Defendant further affirmatively asserts that Proclamation 20-25 states: “I  
16 continue to order into active state service the organized militia of Washington State to include  
17 the National Guard and the State Guard, or such part thereof as may be necessary in the opinion  
18 of The Adjutant General to address the circumstances described above, to perform such duties  
19 as directed by competent authority of the Washington State Military Department in addressing  
20 the outbreak.”

21 16. Admit, with the limitation that closing quotation marks are omitted after the word  
22 “services.” Defendant further affirmatively asserts that on May 4, 2020, he issued Proclamation  
23 20.25.3, amending and extending the Stay Home, Stay Healthy order until May 31, 2020; that  
24 the Stay Home, Stay Healthy order expired on May 31, 2020; and that on June 1, 2020, the  
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26 <sup>1</sup> The Complaint does not contain paragraphs numbered 12(F)(ii) and (iii).

1 Governor issued Proclamation 20-25.4, providing for a phased county-by-county reopening of  
2 business activity in Washington State.

3 17. Admit that Proclamation 20-25.2 permits hunting, fishing, boating, and outdoor  
4 recreational activities at public parks and public lands, “so long as participants fully comply with  
5 the social distancing and coronavirus related hygiene requirements” specified, and that  
6 Proclamation 20-25.2 provided that “[a]ll other provisions of Proclamation 20-25 and 20-25.1  
7 shall remain in full force and effect.” Defendant affirmatively states that Proclamation 20-25  
8 expressly designated “outdoor exercise activities, such as walking, hiking, running, or biking”  
9 as an “essential activities,” provided that “appropriate social distancing practices are used.”

10 18. Admit that the Complaint refers to Proclamations 20-25, 20-25.1, and 20-25.2 as  
11 the “Inslee Proclamations.”

12 **IV. STATEMENT OF CLAIMS**

13 19. Defendant is without information sufficient to form a belief as to the truth of the  
14 allegations in Paragraph 19, and therefore denies the same.

15 20. Defendant is without information sufficient to form a belief as to the truth of the  
16 allegations in Paragraph 20, and therefore denies the same.

17 21. Defendant is without information sufficient to form a belief as to the truth of the  
18 allegations in Paragraph 21, and therefore denies the same.

19 22. Defendant is without information sufficient to form a belief as to the truth of the  
20 allegations in Paragraph 22, and therefore denies the same.

21 23. Defendant is without information sufficient to form a belief as to the truth of the  
22 allegations in Paragraph 23, and therefore denies the same.

23 24. Defendant is without information sufficient to form a belief as to the truth of the  
24 allegations in Paragraph 24, and therefore denies the same.

25 25. Defendant is without information sufficient to form a belief as to the truth of the  
26 allegations in Paragraph 25, and therefore denies the same.

1 26. Defendant is without information sufficient to form a belief as to the truth of the  
2 allegations in Paragraph 26, and therefore denies the same.

3 27. Defendant is without information sufficient to form a belief as to the truth of the  
4 allegations in Paragraph 27, and therefore denies the same.

5 **CLASS ALLEGATIONS**

6 28. Paragraph 28 asserts legal conclusions to which no response is required. To the  
7 extent a response is required, it is denied.

8 29. Paragraph 29 asserts legal conclusions to which no response is required. To the  
9 extent a response is required, it is denied.

10 30. Paragraph 30 asserts legal conclusions to which no response is required. To the  
11 extent a response is required, it is denied.

12 (a) Paragraph 30(a) asserts legal conclusions to which no response is  
13 required. To the extent a response is required, it is denied.

14 (b) Paragraph 30(b) asserts legal conclusions to which no response is  
15 required. To the extent a response is required, it is denied.

16 (c) Paragraph 30(c) asserts legal conclusions to which no response is  
17 required. To the extent a response is required, it is denied.

18 31. Paragraph 31 asserts legal conclusions to which no response is required. To the  
19 extent a response is required, it is denied.

20 32. Paragraph 32 asserts legal conclusions to which no response is required. To the  
21 extent a response is required, it is denied.

22 33. Paragraph 33 asserts legal conclusions to which no response is required. To the  
23 extent a response is required, it is denied.

24 34. Paragraph 34 asserts legal conclusions to which no response is required. To the  
25 extent a response is required, it is denied.

1 (a) Paragraph 34(a) asserts legal conclusions to which no response is  
2 required. To the extent a response is required, it is denied.

3 (b) Paragraph 34(b) asserts legal conclusions to which no response is  
4 required. To the extent a response is required, it is denied.

5 35. Paragraph 35 asserts legal conclusions to which no response is required. To the  
6 extent a response is required, it is denied.

7 36. Paragraph 36 asserts legal conclusions to which no response is required. To the  
8 extent a response is required, it is denied.

9 (a) Paragraph 36(a) asserts legal conclusions to which no response is  
10 required. To the extent a response is required, it is denied.

11 (b) Paragraph 36(b) asserts legal conclusions to which no response is  
12 required. To the extent a response is required, it is denied.

13 (c) Paragraph 36(c) asserts legal conclusions to which no response is  
14 required. To the extent a response is required, it is denied.

15 (d) Paragraph 36(d) asserts legal conclusions to which no response is  
16 required. To the extent a response is required, it is denied.

17 37. Paragraph 37 asserts legal conclusions to which no response is required. To the  
18 extent a response is required, it is denied.

19 38. Paragraph 38 asserts legal conclusions to which no response is required. To the  
20 extent a response is required, it is denied.

21 (a) Paragraph 38(a) asserts legal conclusions to which no response is  
22 required. To the extent a response is required, it is denied.

23 (b) Paragraph 38(b) asserts legal conclusions to which no response is  
24 required. To the extent a response is required, it is denied.

25 (c) Paragraph 38(c) asserts legal conclusions to which no response is  
26 required. To the extent a response is required, it is denied.

1 (d) Paragraph 38(d) asserts legal conclusions to which no response is  
2 required. To the extent a response is required, it is denied.

3 (e) Paragraph 38(e) asserts legal conclusions to which no response is  
4 required. To the extent a response is required, it is denied.

5 **Didier, Thomas, Eymann and Political Class Members**

6 39. Paragraph 39 asserts legal conclusions to which no response is required. To the  
7 extent a response is required, it is denied.

8 40. Paragraph 40 asserts legal conclusions to which no response is required. To the  
9 extent a response is required, it is denied.

10 41. Paragraph 41 asserts legal conclusions to which no response is required. To the  
11 extent a response is required, it is denied.

12 (a) Paragraph 41(a) asserts legal conclusions to which no response is  
13 required. To the extent a response is required, it is denied.

14 (b) Paragraph 41(b) asserts legal conclusions to which no response is  
15 required. To the extent a response is required, it is denied.

16 42. Paragraph 42 asserts legal conclusions to which no response is required. To the  
17 extent a response is required, it is denied.

18 43. Paragraph 43 asserts legal conclusions to which no response is required. To the  
19 extent a response is required, it is denied.

20 44. Paragraph 44 asserts legal conclusions to which no response is required. To the  
21 extent a response is required, it is denied.

22 45. Paragraph 45 asserts legal conclusions to which no response is required. To the  
23 extent a response is required, it is denied.

24 46. Paragraph 46 asserts legal conclusions to which no response is required. To the  
25 extent a response is required, it is denied.  
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(a) Paragraph 46(a) asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

(b) Paragraph 46(b) asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

47. Paragraph 47 asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

48. Paragraph 48 asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

(a) Paragraph 48(a) asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

49. Paragraph 49 asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

50. Paragraph 50 asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

(a) Paragraph 50(a) asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

(b) Paragraph 50(b) asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

(c) Paragraph 50(c) asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

(d) Paragraph 50(d) asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

(e) Paragraph 50(e) asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

**Hatch, Wellsfry, Bernica, and Political Class Members**

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2 51. Paragraph 51 asserts legal conclusions to which no response is required. To the  
3 extent a response is required, it is denied.

4 52. Paragraph 52 asserts legal conclusions to which no response is required. To the  
5 extent a response is required, it is denied.

6 53. Paragraph 53 asserts legal conclusions to which no response is required. To the  
7 extent a response is required, it is denied.

8 (a) Paragraph 53(a) asserts legal conclusions to which no response is  
9 required. To the extent a response is required, it is denied.

10 (b) Paragraph 53(b) asserts legal conclusions to which no response is  
11 required. To the extent a response is required, it is denied.

12 54. Paragraph 54 asserts legal conclusions to which no response is required. To the  
13 extent a response is required, it is denied.

14 55. Paragraph 55 asserts legal conclusions to which no response is required. To the  
15 extent a response is required, it is denied.

16 (a) Paragraph 55(a) asserts legal conclusions to which no response is  
17 required. To the extent a response is required, it is denied.

18 56. Paragraph 56 asserts legal conclusions to which no response is required. To the  
19 extent a response is required, it is denied.

20 57. Paragraph 57 asserts legal conclusions to which no response is required. To the  
21 extent a response is required, it is denied.

22 (a) Paragraph 57(a) asserts legal conclusions to which no response is  
23 required. To the extent a response is required, it is denied.

24 (b) Paragraph 57(b) asserts legal conclusions to which no response is  
25 required. To the extent a response is required, it is denied.

1 (c) Paragraph 57(c) asserts legal conclusions to which no response is  
2 required. To the extent a response is required, it is denied.

3 (d) Paragraph 57(d) asserts legal conclusions to which no response is  
4 required. To the extent a response is required, it is denied.

5 (e) Paragraph 57(e) asserts legal conclusions to which no response is  
6 required. To the extent a response is required, it is denied.

7 **Hatch, Wellsfry, Bernica, and Political Class Members**

8 58. Paragraph 58 asserts legal conclusions to which no response is required. To the  
9 extent a response is required, it is denied.

10 59. Paragraph 59 asserts legal conclusions to which no response is required. To the  
11 extent a response is required, it is denied.

12 60. Paragraph 60 asserts legal conclusions to which no response is required. To the  
13 extent a response is required, it is denied.

14 (a) Paragraph 60(a) asserts legal conclusions to which no response is  
15 required. To the extent a response is required, it is denied.

16 (b) Paragraph 60(b) asserts legal conclusions to which no response is  
17 required. To the extent a response is required, it is denied.

18 61. Paragraph 61 asserts legal conclusions to which no response is required. To the  
19 extent a response is required, it is denied.

20 62. Paragraph 62 asserts legal conclusions to which no response is required. To the  
21 extent a response is required, it is denied.

22 (a) Paragraph 62(a) asserts legal conclusions to which no response is  
23 required. To the extent a response is required, it is denied.

24 63. Paragraph 63 asserts legal conclusions to which no response is required. To the  
25 extent a response is required, it is denied.  
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1 64. Paragraph 64 asserts legal conclusions to which no response is required. To the  
2 extent a response is required, it is denied.

3 (a) Paragraph 64(a) asserts legal conclusions to which no response is  
4 required. To the extent a response is required, it is denied.

5 (b) Paragraph 64(b) asserts legal conclusions to which no response is  
6 required. To the extent a response is required, it is denied.

7 (c) Paragraph 64(c) asserts legal conclusions to which no response is  
8 required. To the extent a response is required, it is denied.

9 (d) Paragraph 64(d) asserts legal conclusions to which no response is  
10 required. To the extent a response is required, it is denied.

11 (e) Paragraph 64(e) asserts legal conclusions to which no response is  
12 required. To the extent a response is required, it is denied.

13 **COUNT I**

14 **Plaintiffs Didier, Eyman and Thomas, and Similarly Situated Political Class Members**

15 **v.**

16 **Defendant**

17 **VIOLATION OF THE FREE ASSEMBLY CLAUSE OF THE FIRST AMENDMENT –**  
18 **42 U.S.C. § 1983**

19 **Inslee’s Proclamations are an Impermissible Barrier to Expression Protected by the First**  
20 **Amendment**

21 65. Defendant incorporates by reference his answers to the preceding paragraphs.

22 66. Paragraph 66 asserts legal conclusions to which no response is required.

23 67. Paragraph 67 asserts legal conclusions to which no response is required.

24 68. Paragraph 68 asserts legal conclusions to which no response is required.

25 69. Paragraph 69 asserts legal conclusions to which no response is required.

26 70. Admit that Defendant issued Proclamation 20-25 which contains the text quoted  
in Paragraph 70, with the limitation that closing quotation marks are omitted after the word  
“services.” Defendant affirmatively asserts that Proclamation 20-25 expired on May 31, 2020.

1 71. Paragraph 71 asserts legal conclusions to which no response is required. To the  
2 extent a response is required, it is denied.

3 72. Admit that Defendant issued Proclamations 20-25, 20-25.1, and 20-25.2 to serve  
4 a public purpose. The remainder of Paragraph 72 consists of legal conclusions to which no  
5 response is required. To the extent a response is required, the allegations are denied.

6 73. Paragraph 73 asserts legal conclusions to which no response is required. To the  
7 extent a response is required, it is denied.

8 74. Paragraph 74 asserts legal conclusions to which no response is required. To the  
9 extent a response is required, it is denied.

10 75. Paragraph 75 asserts legal conclusions to which no response is required. To the  
11 extent a response is required, it is denied.

12 **COUNT II**

13 **Plaintiffs, and Similarly Situated Business Class Members v. Defendant**

14 **VIOLATION OF THE TAKINGS CLAUSE – 42 U.S.C. § 1983**

15 **Inslee Proclamations are an Unconstitutional Regulatory Taking of Plaintiffs' and**  
16 **Business Class Members' Property Without Just Compensation in Violation of the Fifth**  
**Amendment's Takings Clause as Incorporated Under the Fourteenth Amendment**

17 76. Defendant incorporates by reference his answers to the preceding paragraphs.

18 77. Paragraph 77 asserts legal conclusions to which no response is required.

19 78. Paragraph 78 asserts legal conclusions to which no response is required.

20 79. Paragraph 79 asserts legal conclusions to which no response is required.

21 80. Admit that one major reason why Defendant issued Proclamations 20-25, 20-  
22 25.1, and 20-25.2 was to slow the spread of COVID-19. To the extent a further response to  
23 Paragraph 80 is required, it is denied.

24 81. Admit that Defendant issued Proclamations 20-25, 20-25.1, and 20-25.2 to serve  
25 a public purpose. The remainder of Paragraph 81 consists of legal conclusions to which no  
26 response is required. To the extent a response is required, the allegations are denied.

1 82. Paragraph 82 asserts legal conclusions to which no response is required. To the  
2 extent a response is required, it is denied.

3 83. Paragraph 83 asserts legal conclusions to which no response is required. To the  
4 extent a response is required, it is denied.

5 84. Paragraph 84 asserts legal conclusions to which no response is required. To the  
6 extent a response is required, it is denied.

7 85. Paragraph 85 asserts legal conclusions to which no response is required. To the  
8 extent a response is required, it is denied.

9 86. Paragraph 86 asserts legal conclusions to which no response is required.

10 87. Paragraph 87 asserts legal conclusions to which no response is required.

11 88. Paragraph 88 asserts legal conclusions to which no response is required. To the  
12 extent a response is required, it is denied.

13 89. Paragraph 89 asserts legal conclusions to which no response is required. To the  
14 extent a response is required, it is denied.

15 90. Paragraph 90 asserts legal conclusions to which no response is required. To the  
16 extent a response is required, it is denied.

17 91. Paragraph 91 asserts legal conclusions to which no response is required. To the  
18 extent a response is required, it is denied.

19 92. Paragraph 92 asserts legal conclusions to which no response is required. To the  
20 extent a response is required, it is denied.

21 93. Paragraph 93 asserts legal conclusions to which no response is required. To the  
22 extent a response is required, it is denied.

23 94. Paragraph 94 asserts legal conclusions to which no response is required. To the  
24 extent a response is required, it is denied.

25 95. Paragraph 95 asserts legal conclusions to which no response is required. To the  
26 extent a response is required, it is denied.

1 96. Paragraph 96 asserts legal conclusions to which no response is required. To the  
2 extent a response is required, it is denied.

3 97. Defendant is without information sufficient to form a belief as to the truth of the  
4 allegations in Paragraph 97, and therefore denies the same.

5 98. Defendant is without information sufficient to form a belief as to the truth of the  
6 allegations in Paragraph 98, and therefore denies the same.

7 99. Paragraph 99 asserts legal conclusions to which no response is required. To the  
8 extent a response is required, it is denied.

9 100. Paragraph 100 asserts legal conclusions to which no response is required. To the  
10 extent a response is required, it is denied.

11 **COUNT III**

12 **Plaintiffs, and Similarly Situated Business Class Members v. Defendants [sic]**

13 **SUBSTANTIVE DUE PROCESS – 42 U.S.C. § 1983**

14 **Inslee’s Proclamations Deprives [sic] Plaintiffs and Business Class Members of Life,**  
15 **Liberty, and/or Property Without Due Process of Law in Violation of the Fourteenth**  
16 **Amendment**

17 101. Defendant incorporates by reference his answers to the preceding paragraphs.

18 102. Paragraph 102 asserts legal conclusions to which no response is required. To the  
19 extent a response is required, Defendant is without information sufficient to form a belief as to  
20 the truth of the allegations in Paragraph 102, and therefore denies the same.

21 103. Paragraph 103 asserts legal conclusions to which no response is required. To the  
22 extent a response is required, it is denied.

23 104. Paragraph 104 asserts legal conclusions to which no response is required.

24 105. Paragraph 105 asserts legal conclusions to which no response is required.

25 106. Paragraph 106 asserts legal conclusions to which no response is required.

26 107. Paragraph 107 asserts legal conclusions to which no response is required.

1 108. Paragraph 108 asserts legal conclusions to which no response is required. To the  
2 extent a response is required, it is denied.

3 109. Paragraph 109 asserts legal conclusions to which no response is required. To the  
4 extent a response is required, it is denied.

5 110. Paragraph 110 asserts legal conclusions to which no response is required. To the  
6 extent a response is required, it is denied.

7 112. Paragraph 112 asserts legal conclusions to which no response is required. To the  
8 extent a response is required, it is denied.<sup>2</sup>

9 113. Admit that Defendant implemented Proclamations 20-25, 20-25.1, and 20-25.2  
10 for the purpose of preserving public health, safety, and welfare. The remainder of Paragraph 113  
11 asserts legal conclusions to which no response is required. To the extent a response is required,  
12 it is denied.

13 114. Paragraph 114 asserts legal conclusions to which no response is required. To the  
14 extent a response is required, it is denied.

15 115. Paragraph 115 asserts legal conclusions to which no response is required. To the  
16 extent a response is required, it is denied.

17 116. Paragraph 116 asserts legal conclusions to which no response is required. To the  
18 extent a response is required, it is denied.

19 117. Paragraph 117 asserts legal conclusions to which no response is required. To the  
20 extent a response is required, it is denied.

21 **COUNT IV**

22 **Wilson, Ransier, and Similarly Situated Employee Class Members v. Defendants [sic]**

23 **SUBSTANTIVE DUE PROCESS – 42 U.S.C. § 1983**

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<sup>2</sup> The Complaint does not contain a Paragraph 111.



1 **Inslee’s Proclamations Deprive Wilson, Ransier, and Employee Class Members of Life,**  
2 **Liberty and/or Property Without Due Process of Law in Violation of the Fourteenth**  
3 **Amendment**

4 118. Defendant incorporates by reference his answers to the preceding paragraphs.

5 119. Paragraph 119 asserts legal conclusions to which no response is required. To the  
6 extent a response is required, it is denied.

7 120. Paragraph 120 asserts legal conclusions to which no response is required. To the  
8 extent a response is required, it is denied.

9 121. Paragraph 121 asserts legal conclusions to which no response is required. To the  
10 extent a response is required, it is denied.

11 122. Paragraph 122 asserts legal conclusions to which no response is required.

12 123. Paragraph 123 asserts legal conclusions to which no response is required. To the  
13 extent a response is required, it is denied.

14 124. Paragraph 124 asserts legal conclusions to which no response is required. To the  
15 extent a response is required, it is denied.

16 125. Paragraph 125 asserts legal conclusions to which no response is required. To the  
17 extent a response is required, it is denied.

18 126. Paragraph 126 asserts legal conclusions to which no response is required. To the  
19 extent a response is required, it is denied.

20 127. Paragraph 127 asserts legal conclusions to which no response is required. To the  
21 extent a response is required, it is denied.

22 128. Paragraph 128 asserts legal conclusions to which no response is required.

23 129. Paragraph 129 asserts legal conclusions to which no response is required. To the  
24 extent a response is required, it is denied.

25 130. Paragraph 130 asserts legal conclusions to which no response is required. To the  
26 extent a response is required, it is denied.

1 131. Paragraph 131 asserts legal conclusions to which no response is required. To the  
2 extent a response is required, it is denied.

3 132. Paragraph 132 asserts legal conclusions to which no response is required. To the  
4 extent a response is required, it is denied.

5 133. Paragraph 133 asserts legal conclusions to which no response is required. To the  
6 extent a response is required, it is denied.

7 **COUNT V**

8 **Hatch, and Similarly Situated Business Class Members v. Defendants [sic]**

9 **PROCEDURAL DUE PROCESS – 42 U.S.C. § 1983**

10 **Insee’s Proclamations Deprive Hatch, Wellsfry and Business Class Members of Life,**  
11 **Liberty and/or Property Without Due Process of Law in Violation of the Fourteenth**  
12 **Amendment**

13 134. Defendant incorporates by reference his answers to the preceding paragraphs.

14 135. Paragraph 135 asserts legal conclusions to which no response is required. To the  
15 extent a response is required, it is denied.

16 136. Paragraph 136 asserts legal conclusions to which no response is required. To the  
17 extent a response is required, it is denied.

18 137. Paragraph 137 asserts legal conclusions to which no response is required. To the  
19 extent a response is required, it is denied.

20 138. Paragraph 138 asserts legal conclusions to which no response is required. To the  
21 extent a response is required, it is denied.

22 139. Paragraph 139 asserts legal conclusions to which no response is required. To the  
23 extent a response is required, it is denied.

24 140. Paragraph 140 asserts legal conclusions to which no response is required. To the  
25 extent a response is required, it is denied.  
26

**PRAYER FOR RELIEF**

1-9. The nine paragraphs in this part of the Complaint constitute Plaintiffs’ request for relief, to which no response is required. To the extent a response is required, Defendant denies that Plaintiffs are entitled to the relief requested or to any relief whatsoever.

**DEFENDANT’S AFFIRMATIVE DEFENSES**

The Defendant’s affirmative defenses to the Complaint are set forth below. By setting forth the following defenses, Defendant does not assume burden of proof on the matter and issue other than those on which he has the burden of proof as a matter of law. Defendant reserves the right to supplement these defenses.

1. Defendant is immune from suit under the Eleventh Amendment to the U.S. Constitution.
2. Plaintiffs’ damages claims are barred by sovereign immunity.
3. Defendant is entitled to qualified immunity.
4. Plaintiffs have failed to exhaust administrative remedies.
5. Plaintiffs lack standing.
6. Plaintiffs’ claims are moot.
7. Plaintiffs’ claims are unripe.
8. This case is non-justiciable.
9. This Court lacks subject matter jurisdiction.
10. Plaintiffs have failed to state a claim upon which relief may be granted.
11. Plaintiffs have failed to join necessary parties.
12. Abstention doctrines warrant a stay or dismissal of the case.
13. The Proclamations were content neutral, narrowly tailored to serve a significant governmental interest, and leave open ample alternative channels for assembly.

1 14. The Proclamations served compelling state interests unrelated to the suppression  
2 of ideas, speech, association, or assembly, that could not be achieved through  
3 significantly less restrictive means.

4 15. The Proclamations were narrowly tailored to advance a compelling governmental  
5 interest.

6 16. The Proclamations rationally furthered the legitimate goal of combatting the  
7 COVID-19 pandemic.

8 17. The Proclamations were appropriate uses of the state's police power to protect  
9 public health and welfare.

10 18. The Proclamations provided a meaningful mechanism for businesses to request  
11 designation as "essential."

12 **DEFENDANT'S REQUEST FOR RELIEF**

13 Wherefore, Defendant prays that the Court:

- 14 1. Dismiss Plaintiffs' Complaint with prejudice;  
15 2. Deny all relief that Plaintiffs request;  
16 3. Grant Defendant his costs and reasonable attorney fees; and  
17 4. Grant Defendant such other and further relief as the Court may deem just and  
18 proper.

19 DATED this 1st day of June, 2020.

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21 Attorney General

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