

**IN THE CIRCUIT COURT  
FOR THE SEVENTH JUDICIAL CIRCUIT  
SANGAMON COUNTY, ILLINOIS**

Kirk Allen, John Kraft,	)	
	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No. 2021-MR-_____
	)	
Governor Jay Robert Pritzker,	)	
in his official capacity.	)	
	)	
Defendant.	)	

**VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT**

COMES NOW Plaintiffs, Kirk Allen and John Kraft, (hereinafter collectively referred to as “Plaintiff”) by and through their attorneys, Thomas G. DeVore and the Silver Lake Group, Ltd., and for their Verified Complaint for Declaratory Judgment against Defendant, Governor Jay Robert Pritzker (hereinafter referred to as “Pritzker”), in his official capacity, hereby alleges as follows:

**FACTUAL BASIS**

1. Pritzker has at all times relevant been the duly elected Governor of the State of Illinois.
2. Plaintiff has at all times relevant been citizens of the State of Illinois.
3. As a result of the COVID-19 virus, Pritzker issued numerous disaster proclamations beginning March 09, 2020.
4. Pritzker has issued the proclamations pursuant to the alleged authority granted him under the Illinois Emergency Management Agency Act. (See 20 ILCS 3305 *et seq.*, hereinafter referred to as the “IEMAA”)

5. In the event of a disaster, as defined in Section 4, the Governor may, by proclamation declare that a disaster exists. (See Section 7 of the IEMAA)

6. Disaster means an occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from any natural or technological cause, including but not limited to fire, flood, earthquake, wind, storm, hazardous materials spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, extended periods of severe and inclement weather, drought, infestation, critical shortages of essential fuels and energy, explosion, riot, hostile military or paramilitary action, public health emergencies, or acts of domestic terrorism. (See Section 4 of the IEMAA)

7. On March 09, 2020, Pritzker issued a proclamation, pursuant to Section 7 of the of the IEMAA, declaring as of that date, a disaster existed within Illinois as a result of the COVID-19 virus. (See Exhibit 1)

8. On April 01, 2020, Pritzker issued a proclamation, pursuant to Section 7 of the of the IEMAA, declaring as of that date, a disaster existed within Illinois as a result of the COVID-19 virus. (See Exhibit 2)

9. On April 30, 2020, Pritzker issued a proclamation, pursuant to Section 7 of the of the IEMAA, declaring as of that date, a disaster existed within Illinois as a result of the COVID-19 virus. (See Exhibit 3)

10. On May 29, 2020, Pritzker issued a proclamation, pursuant to Section 7 of the of the IEMAA, declaring as of that date, a disaster existed within Illinois as a result of the COVID-19 virus. (See Exhibit 4)

11. On June 26, 2020, Pritzker issued a proclamation, pursuant to Section 7 of the of the IEMAA, declaring as of that date, a disaster existed within Illinois as a result of the COVID-19 virus. (See Exhibit 5)

12. On July 24, 2020, Pritzker issued a proclamation, pursuant to Section 7 of the of the IEMAA, declaring as of that date, a disaster existed within Illinois as a result of the COVID-19 virus. (See Exhibit 6)

13. August 21, 2020, Pritzker issued a proclamation, pursuant to Section 7 of the of the IEMAA, declaring as of that date, a disaster existed within Illinois as a result of the COVID-19 virus. (See Exhibit 7)

14. September 18, 2020, Pritzker issued a proclamation, pursuant to Section 7 of the of the IEMAA, declaring as of that date, a disaster existed within Illinois as a result of the COVID-19 virus. (See Exhibit 8)

15. October 16, 2020, Pritzker issued a proclamation, pursuant to Section 7 of the of the IEMAA, declaring as of that date, a disaster existed within Illinois as a result of the COVID-19 virus. (See Exhibit 9)

16. November 13, 2020, Pritzker issued a proclamation, pursuant to Section 7 of the of the IEMAA, declaring as of that date, a disaster existed within Illinois as a result of the COVID-19 virus. (See Exhibit 10)

17. December 11, 2020, Pritzker issued a proclamation, pursuant to Section 7 of the of the IEMAA, declaring as of that date, a disaster existed within Illinois as a result of the COVID-19 virus. (See Exhibit 11)

18. January 08, 2021, Pritzker issued a proclamation, pursuant to Section 7 of the of the IEMAA, declaring as of that date, a disaster existed within Illinois as a result of the COVID-19 virus. (See Exhibit 12)

19. February 05, 2021, Pritzker issued a proclamation, pursuant to Section 7 of the of the IEMAA, declaring as of that date, a disaster existed within Illinois as a result of the COVID-19 virus. (See Exhibit 13)

20. March 05, 2021, Pritzker issued a proclamation, pursuant to Section 7 of the of the IEMAA, declaring as of that date, a disaster existed within Illinois as a result of the COVID-19 virus. (See Exhibit 14)

21. April 02, 2021, Pritzker issued a proclamation, pursuant to Section 7 of the of the IEMAA, declaring as of that date, a disaster existed within Illinois as a result of the COVID-19 virus. (See Exhibit 15)

22. Upon information and belief, on or before May 02, 2021, Pritzker will issue yet another disaster proclamation pursuant to Section 7 of the of the IEMAA as a result of the COVID-19 virus.

23. Pritzker declared the same COVID-19 virus to be either an epidemic or a public health emergency in each of the (15) fifteen proclamations of disaster.

24. Each of the (15) fifteen separate proclamations of disaster contained a (30) thirty-day expiration date.

25. There is no statutory provision within the IEMAA which requires a disaster proclamation to have an expiration date.

26. Section 7 of the IEMAA expressly states: “Upon such proclamation, the Governor shall have and may exercise for a period not to exceed 30 days the following emergency powers.... (See 20 ILCS 3305/7)

27. Since March 09, 2020, Pritzker has issued (76) seventy-six executive orders pursuant to Section 7 of the IEMAA.

28. Pritzker issued the serial disaster proclamations every (30) thirty-days for the purpose of continually wielding the delegated emergency powers of section 7 of the IEMAA. (See Section 1 of Exhibit 2) <sup>1</sup>

**COUNT I**  
**DECLARATORY JUDGMENT FINDING**  
**EACH SUBSEQUENT DISASTER PROCLAMATION WAS VOID FOR FAILING TO**  
**MEET THE DEFINITION OF A DISASTER AS DEFINED IN THE IEMAA**

29. Plaintiff incorporates paragraphs 1-28 as if more fully stated herein.

30. In the event of a disaster, as defined in Section 4, the Governor may, by proclamation declare that a disaster exists. (See 20 ILCS 3305/7)

31. Section 4 defines a disaster as follows:

“Disaster” means an occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from any natural or technological cause, including but not limited to fire, flood, earthquake, wind, storm, hazardous materials spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, extended periods of severe and inclement weather, drought, infestation, critical shortages of essential fuels and energy, explosion, riot, hostile military or paramilitary action, public health emergencies, or acts of domestic terrorism.”

32. Thus, under Section 4, a “disaster” exists only if there exists an occurrence or threat of one of the enumerated matters of concern on the date of the issuance of the proclamation.

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<sup>1</sup> While Pritzker has since taken this language out of his disaster proclamations, he unwittingly admitted in this proclamation the purpose of the issuance of serial proclamations was to create the fiction required to wield the delegated emergency powers longer than the 30-day limitation provided in the IEMAA. He expressly stated in the April 01, 2020 proclamation it was for the purpose of continuing to wield emergency power.

33. For purposes of this action, Plaintiffs need not dispute whether on March 09, 2020 an occurrence or threat of an epidemic or public health emergency existed due to COVID-19.

34. However, each and every subsequent disaster proclamation (“Serial Proclamations”), evidenced as Exhibits 2 through 15, must satisfy the same threshold definition of a disaster outlined in Section 4 of the IEMAA.

35. The Serial Proclamations were issued due to the same COVID-19 virus which served as the basis of the issuance of the first proclamation.

36. On the date of issuance of each Serial Proclamation, the only relevant fact or circumstance which existed on that date requiring the issuance of the subsequent disaster proclamation was the termination date unnecessarily added to the previous disaster proclamation.

37. There was no threat or occurrence which existed anew that would satisfy the definition of Section 4 of the IEMAA on each of the dates of issuance of the Serial Proclamations.

38. Simply put, the occurrence which existed requiring the issuance of the Serial Proclamations were the artificial termination dates added in the prior proclamations.<sup>2</sup>

39. Such an occurrence does not meet the definition of a disaster as defined in Section 4 of the IEMAA.

40. Plaintiffs have a right to insist Pritzker not issue disaster proclamation which do not meet the definition of disaster as defined in Section 4 of the IEMAA.

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<sup>2</sup> Pritzker could have merely omitted the 30-day termination date in his initial disaster proclamation. If he had done so he could have continued to exercise the powers enumerated under Section 6 of the IEMAA for as long as needed solely based upon the March 09, 2020 disaster proclamation. However, Pritzker desired to wield the much more expansive emergency powers outlined in Section 7 of the IEMAA and as such he needed to create the ruse of artificially terminating the disaster proclamation every 30-days so he could re-energize the emergency powers. Pritzker admits as much in his 2<sup>nd</sup> disaster proclamation. Such gamesmanship does not meet the definition of a disaster sufficient to allow the promulgation of the Serial Proclamations.

41. An actual controversy exists between the parties in regard to the authority of Pritzker to issue Serial Proclamations which do not meet the definition of a disaster as provided in Section 4 of the IEMAA.

42. An immediate and definitive determination is necessary to clarify the rights and interests of the parties.

WHEREFORE, Plaintiffs, Kirk Allen and John Kraft, herein requests that this court enter an Order:

- A. Finding the initial March 09, 2020 disaster proclamation was issued by Pritzker due to the COVID-19 virus which he considered a disaster as defined in Section 4 of the IEMAA;
- B. Finding all Serial Proclamations were issued by Pritzker in regard to the same COVID-19 virus he considered a disaster and which gave rise to the issuance of the initial disaster proclamation;
- C. Finding on the date of issuance of each Serial Proclamation, the 30-Day termination provision added to the previous proclamation was the only occurrence which caused the need for the issuance of the subsequent proclamation;
- D. Declaring each Serial Proclamation invalid for failing to constitute a disaster as defined in Section 4 of the IEMAA;
- E. Awarding Plaintiffs their costs incurred in this matter as may be allowed by law;
- F. That the Court grant such other and further relief as is just and proper.

**COUNT II**  
**DECLARATORY JUDGMENT FINDING PRITZKER HAD NO STATUTORY**  
**AUTHORITY TO UTILIZE EMERGENCY POWERS AFTER APRIL 08, 2020**

43. Plaintiffs restate paragraphs 1-28 as if more fully stated herein.

44. Upon such proclamation, the Governor shall have and may exercise for a period not to exceed 30 days the following emergency powers. (See 20 ILCS 3305/7)

45. Pritzker has by devise been exercising emergency powers under Section 7 of the IEMAA since March 09, 2020.

46. Pritzker has issued (15) fifteen Serial Proclamations from March 09, 2020 through April 02, 2021.

47. Upon information and belief, Pritzker will continue to issue disaster proclamations every 30-days into the foreseeable future.

48. Each time he issues a new proclamation, he contemporaneously issues new executive order(s) under the emergency power of section 7 of the IEMAA.

49. Notwithstanding there is no time limit under the IEMAA as to how long a disaster proclamations is effective, Pritzker has included arbitrary 30-day deadlines in each and every disaster proclamation.

50. In each and every disaster proclamation, Pritzker refers to the same COVID-19 virus as the genesis of his proclaiming a disaster.

51. Pritzker is the first Governor of this state to issue Serial Proclamations back-to-back who has admitted it was for the purpose of continuing to wield the emergency powers delegated by the legislature under the Section 7 of the IEMAA. <sup>3</sup>

52. Using these emergency powers, Pritzker has issued (76) seventy-six executive orders which have impacted the lives of every citizen of this state for over a year.

53. Each Serial Proclamation has been for the exact same COVID-19 threat which gave rise to the initial proclamation.

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<sup>3</sup> Once again Pritzker admitted in his 2<sup>nd</sup> of his 15 disaster proclamations that it was for the purpose of continuing to exercise the emergency powers delegated by the legislature.



54. Plaintiffs have a right to insist Pritzker not disregard limitations on his delegated authority imposed by the legislature.

55. An actual controversy exists between the parties in regard to the authority of Pritzker to issue serial proclamations for the same disaster for the purpose of continuing to exercise emergency legislative power.

56. An immediate and definitive determination is necessary to clarify the rights and interests of the parties.

WHEREFORE, Plaintiff, Kirk Allen and John Kraft, herein requests that this court enter an Order:

- A) declaring Pritzker has issued all Serial Proclamations for the same COVID-19 virus which gave rise to the issuance of the initial disaster proclamation on March 09, 2020;
- B) declaring Section 7 of the IEMAA does not allow Serial Proclamations to be issued by Pritzker for the same COVID-19 disaster to reset the 30-day emergency provisions;
- C) declaring the 30-days of emergency powers provided under Section 7 of the IEMAA lapsed after 30-days from the issuance of the first COVID-19 disaster proclamation of March 09, 2020;
- D) declaring any executive orders finding their authority under the emergency powers of Section 7 of the IEMAA after this 30-days are void ab initio;
- E) Awarding Plaintiffs their costs incurred in this matter as may be allowed by law;
- F) That the Court grant such other and further relief as is just and proper.

**COUNT III  
DECLARATORY JUDGMENT THAT SECTION 7 OF THE IEMAA  
VIOLATES THE ILLINOIS CONSTITUTION**

57. Plaintiffs restate paragraphs 1-28 as if more fully stated herein.

58. The power to make laws is a sovereign power vested in the legislature.

59. Pritzker has been exercising emergency legislative power delegated to him by the legislature under Section 7 of the IEMAA since March 09, 2020.

60. Under Section 7 of the IEMAA, Pritzker has issued (15) fifteen serial disaster proclamations from March 09, 2020 through April 02, 2021.

61. In reliance upon these serial disaster proclamations, for well over one year, Pritzker has issued (76) seventy-six executive orders finding their authority in Section 7 of the IEMAA.

62. Pritzker has wielded this emergency legislative power via executive orders by, *inter alia*, directing administrative agencies such as the DCEO and IDPH to create “guidance” which citizens and businesses were mandated to follow.

63. The legislature provides no course of procedure or rules of decision within Section 7 of the IEMAA as to how Pritzker, or the administrative agencies under his control, were to utilize this legislative power.

64. While the legislature attempted to provide a 30-day limitation of the utilization of the powers contained in Section 7 of the IEMAA, Pritzker has latched onto an ambiguity in the statutory limitation by issuing serial disaster proclamations every 30 days just so he can continue to utilize the emergency legislative power.

65. Those executive orders over the last (12) twelve months have, *inter alia*, closed churches, closed businesses, suspended legislative action<sup>4</sup>, prohibited the movement and activities of citizens, and on and on and on.

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<sup>4</sup> Pritzker has suspended the forcible entry and detainer act prohibiting property owners from seeking possession of their real property for over a year. Assuming in arguendo the legislature ever intended to delegate to the executive such authority to vitiate statutes, this is arguably a violation of the separation of powers of the Illinois Constitution as the executive cannot suspend legislation which impacts substantive rights of people without providing any due process of law.

66. These executive orders of Pritzker, and the resulting actions of the administrative bodies under his control, have been tantamount to legislative action.

67. This legislative action has been undertaken without providing any due process of law to the citizens of the State of Illinois.

68. As such, Section 7 of the IEMAA on its face was a pure delegation of legislative power in violation of the separation of powers of the Illinois Constitution.

69. And/or, as applied by Pritzker using his admitted Serial Proclamation ruse, Section 7 of the IEMAA is being utilized in such a way as to be an excessive delegation of legislative power.

70. Plaintiffs have a right to insist the legislature not create provisions in a statute which are on their face, or as applied, in violation of the separation of powers of the Illinois Constitution.

71. An actual controversy exists between the parties in regard to constitutionality of Section 7 of the IEMAA.

72. An immediate and definitive determination is necessary to clarify the rights and interests of the parties.

WHEREFORE, Plaintiffs, Kirk Allen and John Kraft, herein request that this court enter an Order:

- A. Declaring Section 7 of the IEMAA delegated legislative power to the executive branch;
- B. Declaring the legislature failed to sufficiently include any course of procedure or rules of decision within Section 7 of the IEMAA;
- C. Declaring Section 7 of the IEMAA was on its face an unconstitutional delegation of legislative power in violation of the Illinois Constitution;

- D. And/or, declaring Section 7 of the IEMAA is, as applied by Pritzker, an excessive delegation of legislative power in violation of the Illinois Constitution;
- E. Awarding Plaintiffs their costs incurred in this matter as may be allowed by law;
- F. That the Court grant such other and further relief as is just and proper.

Respectfully submitted,

By: /s/ Thomas Devore  
Thomas G. DeVore  
IL Bar Reg. No. 6305737  
**Silver Lake Group, Ltd.**  
Attorneys for Plaintiff  
118 N. 2nd St.  
Greenville, IL 62246  
Telephone - 618-664-9439  
[tom@silverlakelaw.com](mailto:tom@silverlakelaw.com)

### VERIFICATION

Under penalties of perjury as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct except as to matters therein stated to be on information and belief, if any, and as to such matters the undersigned certifies as aforesaid that the undersigned verily believes the same to be true.

By: /s/ Kirk Allen

Kirk Allen

### VERIFICATION

Under penalties of perjury as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct except as to matters therein stated to be on information and belief, if any, and as to such matters the undersigned certifies as aforesaid that the undersigned verily believes the same to be true.

By: /s/ John Kraft

John Kraft