

FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Dauphin County Lawyer Referral Service
213 North Front Street
Harrisburg, Pennsylvania 17101
(717) 232-7536

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

COMMONWEALTH OF	:		
PENNSYLVANIA, DEPARTMENT OF	:		
HEALTH,	:		
	:		
Petitioner	:		
	:		
v.	:	NO.	M.D. 2020
	:		
	:		
CARLISLE PRODUCTIONS, INC. d/b/a	:		
CARLISLE EVENTS	:		
	:		
Respondent	:		
	:		

NOTICE TO PLEAD

TO: CARLISLE PRODUCTIONS, INC. d/b/a CARLISLE EVENTS

You are hereby notified to file a written response to the enclosed petition for review within thirty (30) days from service hereof or a judgment may be entered against you.



Brian P. Downey (PA 59891)
Justin G. Weber (PA 89266)
PEPPER HAMILTON LLP
100 Market Street, Suite 200
P.O. Box 1181
Harrisburg, PA 17108-1181
717.255.1155
717.238.0575 (fax)
weberjg@pepperlaw.com
Attorneys for Petitioner
Commonwealth of Pennsylvania,
Department of Health

Dated: June 17, 2020

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF HEALTH,	:		
	:		
Petitioner	:		
	:		
v.	:	NO.	M.D. 2012
	:		
CARLISLE PRODUCTIONS, INC. d/b/a CARLISLE EVENTS,	:		
	:		
Respondent	:		
	:		
	:		

**PETITION FOR REVIEW IN THE NATURE
OF A COMPLAINT IN EQUITY**

SARS-CoV-2, which causes Coronavirus disease 2019 (COVID-19), is a highly contagious virus that is a serious threat to public health and that has impacted every part of the globe. Pennsylvania has seen a similar unprecedented burden of COVID-19 and has taken equally unprecedented measures to save lives and reduce the number of deaths caused by the COVID-19 virus. This response has included Orders issued by the Secretary of the Department of Health that, *inter alia*, limit the size of public gatherings to reduce the spread of this virus. And these efforts are succeeding. This decision to respond aggressively has proven to be an essential and effective measure to reduce the spread of COVID-19 and

ultimately save an unrealized number of Pennsylvanians' lives. When individuals choose to ignore those safeguards—such as by holding an event anticipating 100,000 attendees—they put the lives of Pennsylvanians at risk and threaten to reverse the significant progress that has been made to resolve this crisis. That dangerous conduct must be stopped before it can occur. As a result, the Commonwealth of Pennsylvania, Department of Health (“Department of Health” or “Department”), by and through its undersigned counsel, submits this Petition for Review in the Nature of a Complaint in Equity, and in support thereof avers as follows:

STATEMENT OF JURISDICTION

1. This Court has original jurisdiction over this action pursuant to 42 Pa. C.S. § 761(a)(2).

PARTY SEEKING RELIEF

2. The Department of Health is an executive agency of the Commonwealth that is charged by the General Assembly with the responsibility to “protect the health of the people of this Commonwealth, and to determine and employ the most efficient and practical means for the prevention and suppression of disease.” 71 P.S. § 532(a).

3. The Department of Health has the authority to take any disease control measure appropriate to protect the public from the spread of infectious disease. *See* 35 P.S. § 521.5; 71 P.S. § 532(a); 28 Pa. Code § 27.60.

4. The Secretary of Health, who is the head of the Department of Health, “shall . . . exercise the powers and perform the duties by law vested in and imposed upon the department.” 71 P.S. §§ 66, 1401(b).

PARTY WHOSE ACTION IS AT ISSUE

5. Respondent is Carlisle Productions, Inc. d/b/a Carlisle Events, located in Carlisle, Pennsylvania.

6. Respondent operates Spring Carlisle, a car show at the Carlisle, Cumberland County, Pennsylvania fairgrounds that bills itself as one of the largest automotive flea markets in the world.

7. Spring Carlisle is scheduled to take place beginning June 17, 2020 through June 20, 2020.

STATEMENT OF MATERIAL FACTS

COVID-19 CRISIS

8. SARS-CoV-2, which causes (COVID-19), is a highly contagious virus that is a serious threat to public health. A true and correct copy of the Declaration of the Secretary of Health is attached as Exhibit 1.

9. SARS-Cov-2 is spread mainly from person to person from respiratory droplets produced by an infected person, and is spread from both symptomatic and asymptomatic persons.

10. Due to the manner of transmission, spread of SARS-CoV-2 is more likely to occur when people are in close contact with one another, such as within about 6 feet.

11. Current CDC guidelines state that the size of an event or gathering should be determined based on state, local, territorial or tribal safety laws and regulations.

12. Current CDC guidelines state that large-in person gatherings where it is difficult for individuals to remain spaced at least 6 feet apart and attendees travel from outside the local area are the highest risk of spreading COVID-19.

13. As of June 16, 2020, the number of positive or probable cases of COVID-19 is 79,483 and the number of deaths is 6,276.

ORDERS OF THE SECRETARY OF HEALTH

14. As a result of COVID-19, the Secretary of Health issued a series of orders to protect the public health. The Governor and Secretary of Health issued orders on March 19, 2020, April 1, 2020, and May 7, 2020.

15. By Order dated May 27, 2020 (“May 27 Order”), the Secretary issued an order to continue the phased reopening of the Commonwealth. A true and correct copy of the May 27 Order is attached to the Secretary of Health’s declaration as Exhibit A.

16. The May 27 Order lifted certain prior restrictions for counties identified in Section 1(A) of the Order and provided a variety of restrictions necessary to continue to protect public health.

17. As part of the May 27 Order, in Section 1(G) the Secretary of Health prohibited:

Any gathering for a planned or spontaneous event of greater than 250 individuals is prohibited. This includes, but is not limited to, a concert, fair, festival, conference, sporting event, movie showing, or theater performance.

18. The Secretary of Health amended the May 27 Order on June 11, 2020 (“June 11 Order”) identifying additional counties, including Cumberland County, that would be considered part of Section 1(A) of the May 27 Order but maintained the prohibition on gatherings of greater than 250 individuals. A true and correct copy of the June 11 Order is attached to the Secretary of Health’s declaration as Exhibit B.

THE CAR SHOW ANTICIPATES 100,000 VISITORS

19. Respondent advertises Spring Carlisle as being its “biggest draw of the year with nearly 100,000 enthusiasts converging on the region.”

20. Respondent further provides that Spring Carlisle has “8,100 spaces of vendors selling a vast array of automotive parts.”

21. The Cumberland Valley Visitors Bureau, which is the tourism arm of Cumberland Area Economic Development Corporation, states on its website that “Spring Carlisle plays host to 100,000 collector and classic automotive enthusiasts from around the world who traverse the Carlisle PA Fairgrounds to buy, sell and celebrate all things automotive.”

22. On June 9, 2020, Respondent inquired to the Pennsylvania Department of Community & Economic Development (“DCED”) about a waiver which would have permitted Spring Carlisle to exceed the 250-person limit and permit a crowd of approximately 100,000 people to attend this gathering.

23. DCED informed Respondent that it must follow all green phase guidance issued by the Department of Health, including the limit of no gatherings larger than 250 people at a time.

24. On June 16, 2020, the Department of Health, through its Secretary, sent a letter to Carlisle Events by email reminding it of its obligation to comply with all orders, including the 250-person limitation. A true and correct copy of the June 16, 2020 Letter is attached to the Secretary of Health’s declaration as Exhibit C.

25. The Secretary of Health requested that Respondent respond in writing by 7 p.m. on June 16, to confirm that all event organizers will adhere to all orders, including the 250-person limitation.

26. No response was received. According to Respondent's website, it plans to disregard the Secretary's May 27 Order and to proceed with Spring Carlisle without complying with the attendance limits.

27. Based on the declaration of the Secretary of Health, Spring Carlisle, if allowed to continue without following the Orders of the Secretary, creates a high risk of spreading COVID-19 and is a public health threat.

COUNT I – INJUNCTIVE RELIEF

28. The Department of Health incorporates the foregoing paragraphs as if set forth at length.

29. The Department of Health has the duty to administer the health laws of the Commonwealth. 71 P.S. § 532(a).

30. The Department of Health has no adequate remedy at law to redress its harm as a result of Respondent's anticipated violation of the May 27 Order.

31. Injunctive relief is necessary to prevent the substantial injury and immediate and irreparable harm that the public health interests of the

Department of Health and the Commonwealth would suffer if Respondent is permitted to violate the May 27 Order.

32. A greater injury would occur in refusing the injunction than in granting it because Respondent's imminent actions increase the risk of the spread of COVID-19.

33. The injunction that is requested is limited to compliance with the Department of Health's order and is in the public interest as it is necessary to protect the health and safety of the citizens of the Commonwealth.

WHEREFORE, the Department of Health respectfully requests entry of an order in its favor and against Respondent: (1) requiring that Respondent comply with the Secretary's May 27 Order, including the 250-person limitation and (2) awarding costs, and such other relief as this Court deems appropriate.

Respectfully submitted,



Brian P. Downey (PA 59891)
Justin G. Weber (PA 89266)
PEPPER HAMILTON LLP
100 Market Street, Suite 200
P.O. Box 1181
Harrisburg, PA 17108-1181
717.255.1155
717.238.0575 (fax)
downeyb@pepperlaw.com
weberjg@pepperlaw.com

Attorneys for Petitioner
Commonwealth of Pennsylvania,
Department of Health

Dated: June 17, 2020

VERIFICATION

I, Dr. Rachel Levine, am the Secretary of the Department of Health of the Commonwealth of Pennsylvania, and am authorized to make this verification.

I verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of perjury 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Handwritten signature of Rachel Levine, consisting of stylized cursive letters 'R', 'L', 'L', 'M', 'D' followed by 'MP'.

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

A handwritten signature in black ink, appearing to read 'B.P. Downey', with a stylized flourish at the end.

Brian P. Downey

PROOF OF SERVICE

I hereby certify that on June 17, 2020, I will have the foregoing document upon the persons and in the manner indicated below, which service satisfies the requirement of Pa. R.A.P. 121 and 1514(c).

Service by hand delivery, addressed as follows:

Carlisle Productions, Inc.
1000 Bryn Mawr Road
Carlisle, PA 17013

Based on the nature of the relief requested, I have also served Carlisle Productions, Inc. by serving its CFO and treasurer via email: Harold Brandt

HaroldB@carlisleevents.com



Brian P. Downey (PA 59891)
Justin G. Weber (PA 89266)
PEPPER HAMILTON LLP
100 Market Street, Suite 200
P.O. Box 1181
Harrisburg, PA 17108-1181
717.255.1155
717.238.0575 (fax)
downeyb@pepperlaw.com
weberjg@pepperlaw.com

Date: June 17, 2020

Attorneys for Petitioner
Commonwealth of Pennsylvania,
Department of Health