

IN THE SUPREME COURT OF PENNSYLVANIA

FRIENDS OF DANNY DEVITO,	:
KATHY GREGORY,	:
B&J LAUNDRY, LLC	: No. 68 MM 2020
BLUEBERRY HILL PUBLIC GOLF	:
COURSE & LOUNGE, and	:
CALEDONIA LAND COMPANY,	:
Petitioners	: APPLICATION
	: FOR RELIEF - SUPPLEMENTAL
	: BY FRIENDS OF DANNY DEVITO
	:
v.	:
	:
TOM WOLF, GOVERNOR	:
AND RACHEL LEVINE,	:
SECRETARY OF PA.	:
DEPARTMENT OF	:
HEALTH,	:
	:
Respondents	:

SUPPLEMENTAL APPLICATION BY FRIENDS OF DANNY DEVITO
TO SUPPLEMENT THE RECORD
WITH AN ADDITIONAL AVERMENT OF FACT

COMES NOW Petitioner, Friends of Danny Devito, by and through his attorneys, Scaringi Law, pursuant to Rule 123 of the Pennsylvania Rules of Appellate Procedure, and respectfully represent:

1. On March 24, 2020, Petitioners filed their Emergency Application for Extraordinary Relief (the Petition), challenging Governor Tom Wolf’s order of March 19, 2020 barring most businesses in Pennsylvania from accessing their physical locations (the Order).
2. On March 26, 2020, the Governor filed his Answer.

3. On March 26, 2020, Petitioners filed an Ancillary Application for Relief requesting expedited briefing and oral arguments.
4. On March 26, 2020, Petitioners filed a Supplemental Application for Relief renewing their request for briefing.
5. On March 27, 2020, this Court granted Petitioners' request for briefing and set briefing deadlines.
6. On March 31, 2020, Petitioners filed their Brief.
7. On April 2, 2020 Petitioners Blueberry Hill Public Golf Course & Lounge and Kathy Gregory filed Supplemental Applications for Relief.
8. On April 3, Respondents filed their Brief.
9. On April 3, the City of Philadelphia filed an Application for Leave to file Amicus Brief and corresponding Brief.
10. On April 3, 2020 the Pennsylvania Association of Realtors filed an Application for Leave to File Amicus Curiae Brief and corresponding Brief.
11. On April 3, 2020, Respondents filed an Answer to Petitioners' Supplemental Applications for Relief.
12. On April 6, 2020, the City of Pittsburgh filed an Application for Leave to File Nunc Pro Tunc Amicus Brief.
13. On April 6, 2020, this Honorable Court issued an Order granting the City of Pittsburgh's Application and receiving its Brief.

14. Since the filing of the Petitioners' Petition on March 24, 2020, new facts have arisen that are material and relevant thereto.

15. Petitioners reported in their Brief that Friends of Danny DeVito had submitted a waiver request to the Department of Community and Economic Development (DCED) on March 31, 2020.¹ See Petitioners' Brief Page 8.

SUPPLEMENTAL AVERMENT OF FACT

16. Petitioner Friends of Danny DeVito's request for a waiver from Governor Wolf's Executive Order dated March 19, 2020 was denied by DCED on April 3, 2020. A true and correct copy of said denial is set forth in the footnote below.²

¹ Upon review, Petitioner Friends of Danny DeVito believes and therefore avers the actual date it submitted the waiver was March 30, 2020.

² RE: Request # 6ab63958-c4c8-41ac-83a6-2b278ccb5409

Dear Daniel DeVito

By Executive Order dated March 19, 2020, and pursuant to powers granted to him by law, Governor Tom Wolf has ordered that no person or entity shall operate a place of business that is not a life-sustaining business, regardless of whether the business is open to members of the public. The Secretary of the Pennsylvania Department of Health has issued a similar order pursuant to powers granted to her by law. These orders (the "COVID-19 Orders") are necessary to stop the spread of the novel coronavirus COVID-19.

In response to your request for an exemption from the applicability of the COVID-19 Orders, pursuant to the powers granted by law to the Governor and Secretary of Health to cope with the present disaster emergency and to prevent and control the spread of disease, it has been determined that the business identified above must remain closed.

WHEREFORE, Petitioner Friends of Danny DeVito requests that the record in this matter be supplemented accordingly.

Respectfully submitted,

/s/ Marc A. Scaringi

Marc A. Scaringi, Esq.

Supreme Court ID No. 88346

Brian C. Caffrey, Esq.

Supreme Court ID No. 42667

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April 7, 2020

VERIFICATION

I, Daniel DeVito, of Friends of Danny DeVito, hereby swear or affirm that the above-written statements of fact in the SUPPLEMENTAL APPLICATION BY FRIENDS OF DANNY DEVITO TO SUPPLEMENT THE RECORD WITH AN ADDITIONAL AVERMENT OF FACT are true and correct to the best of my knowledge, information and belief and that I make said statements of fact subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification of authorities.

April 7, 2020

Date



Daniel DeVito, Candidate
Friends of Danny DeVito

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Respondents :

ORDER

AND NOW on this this _____ day of April, 2020, this Court hereby
accepts the attached SUPPLEMENTAL APPLICATION BY FRIENDS OF
DANNY DEVITO TO SUPPLEMENT THE RECORD WITH AN ADDITIONAL
AVERMENT OF FACT and Orders and Decrees that the record is hereby
supplemented accordingly.

BY THE COURT,

J.

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DEPARTMENT OF :
HEALTH, :
Respondents :

CERTIFICATE OF SERVICE

I, Deborah A. Black, Paralegal for Scaringi Law, do hereby certify that I served a true and correct copy of the *Supplemental Application to Supplement the Record with an Additional Averment of Fact*, in the above-captioned action, upon the following via PACfile System, to:

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Date: April 8, 2020

/s/ Deborah A. Black
Deborah A. Black, Paralegal
For Marc A. Scaringi, Esquire and
Brian C. Caffrey, Esquire

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CERTIFICATE OF COMPLIANCE

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

Submitted by: Petitioners' Counsel

Signature: /s/ Marc A. Scaringi

Name: Marc A. Scaringi, Esquire

Attorney No. (if applicable): 88346

Date: April 8, 2020