

IN THE SUPREME COURT OF OHIO

State Ex Rel. Ohio Stands Up! 2926 State Road #142 Cuyahoga Falls, Ohio 44223	:	CASE NO: _____
Plaintiff-Relator,	:	Original Action In Prohibition & Mandamus
vs.	:	Writ of Prohibition Requested (Alternate, Peremptory Writs to issue upon emergency basis to prevent child abuse and criminal battery by dangerous poisonous mRNA shots into Ohio's children)
Michael DeWine, Governor of the State of Ohio Riffe Center, 30 <sup>th</sup> Floor 77 South High Street Columbus, OH 43215-6117 and	:	On Application In and for Complaint for A Writ of Prohibition To Prevent Ohio Governor Michael DeWine and the Director of the Office of Budget and Management for the State of Ohio Kimberly Murnieks from Committing Violations of Law and Illegally Spending \$5,000,000.00, and in Mandamus to require Governor to follow Ohio Constitution Article II. Legislative § 22 Appropriations and the ADA, The Rehabilitation Act of 1973, and other federal laws.
Kimberly Murnieks, Director of the Office of Budget and Management for the State of Ohio 30 E. Broad Street, 34 <sup>th</sup> Floor Columbus, OH 43215	:	
Defendants-Respondents.	:	

---

**RELATOR'S APPLICATION IN AND COMPLAINT IN ORIGINAL ACTION  
FOR WRIT OF PROHIBITION & MANDAMUS**

---

\*(COUNSEL OF RECORD)

\*Robert J. Gargas, Esq. (0007136)  
Robert J. Gargas Co., L.P.A.  
1670 Cooper Foster Park Road, Suite C  
Lorain, Ohio 44053  
Phone (440) 960-1670  
fax (440) 960-1754  
rjgargas@gmail.com

COUNSEL FOR PLAINTIFF-RELATOR

\*Dave Yost, Esq.  
Ohio Attorney General  
30 East Broad Street, 16<sup>th</sup> Floor  
Columbus, OH 43215-3428  
Phone (614) 466-2872

COUNSEL FOR RESPONDENTS

**Introduction**  
**Jurisdiction and Nature of the Action**

1. This is an original action commenced pursuant to this Court's original jurisdiction under Article IV, Section 2(B)(1)(b), Section 2(B)(1)(d), and Section 2(B)(1)(f) of the Ohio Constitution. This action is brought in the name of the State of Ohio on the relation of Ohio Stands Up! who is requesting writs of prohibition and mandamus to be issued against Respondents. Relator asserts in this case 'rare and extraordinary' issues described herein that threaten serious public injury to Ohio's Children and Ohio's treasury and such injuries would be even more injurious to children and the disabled of Ohio.
2. Relator asserts taxpayer standing under *State ex rel. Masterson v. Ohio State Racing Comm.* (1954), 162 Ohio St. 366, which reads, "Even in the absence of legislation, a taxpayer has a right to call upon a court of equity to interfere to prevent the consummation of a wrong such as occurs when public officers attempt to make an illegal expenditure of public money, or to create an illegal debt, which he, in common with other property holders of the taxing district, may otherwise be compelled to pay."
3. Relator also has standing by reason of authority found in *State ex rel. Ohio Academy of Trial Lawyers v. Sheward*, 86 Ohio St.3d 451, 1999-Ohio-123, 715 N.E.2d 1062 (1999), where the Ohio Supreme Court articulated a public-right doctrine exception to the personal-stake requirement of traditional standing stating, "[W]hen the issues sought to be litigated are of great importance and interest to the public, they may be resolved in a form of action that involves no rights or obligations peculiar to named parties." *Id.* at 471. To qualify for standing under this public-right doctrine, " a litigant must allege 'rare and extraordinary' issues that threaten serious public injury \* \* \* ." *ProgressOhio.org* at ¶ 9, quoting *Sheward* at 504.

4. Relator asserts that in this case it meets traditional standing requirements as well. Traditional standing " require[s] litigants to show, at a minimum, that they have suffered '(1) an injury that is (2) fairly traceable to the defendant's allegedly unlawful conduct, and (3) likely to be redressed by the requested relief.'" *Id.*, quoting *Moore v. City of Middletown*, 133 Ohio St.3d 55, 2012-Ohio-3897, 975 N.E.2d 977, ¶ 22. "Standing does not depend on the merits of the plaintiff's claim." *Id.*, citing *Moore* at ¶ 23. " Rather, standing depends on whether the plaintiff has alleged such a personal stake in the outcome of the controversy that it is entitled to have a court hear the case." *Id.*, citing *Clifton v. Vill. of Blanchester*, 131 Ohio St.3d 287, 2012-Ohio-780, 964 N.E.2d 414, ¶ 15, and *State ex rel. Dallman v. Franklin Cty. Court of Common Pleas*, 35 Ohio St.2d 176, 178-179, 298 N.E.2d 515 (1973).
5. Relator is a taxpayer who will be harmed and who seeks to prevent the continued and further abuse of corporate power of the state and the loss of the public fund and treasury by misfeasance of the governor as he abuses the authority of his office and the state's treasury while all of those around him are apparently asleep at the switch. Auditor, Attorney General, Inspector General, Treasurer are all failing to act and perform their respective jobs/duties as Governor DeWine has them miraculously somehow compromised or politically neutered.
6. This action is brought in the name of the State of Ohio on the relation of Ohio Stands Up! ("Relator") who is requesting writs of prohibition to be issued to prevent Respondents from illegally expending from the public treasury the sum of \$5,000,000.00 on an unlawful scheme devised by the governor without the aid or assistance of the General Assembly that he dubbed the "Vax-a-Million lottery"; and more significantly, a writ of

prohibition to prevent child abuse and the criminal battery of children in Ohio by dangerous experimental and untested DNA altering poisonous mRNA shots. Governor Michael DeWine in directing and overseeing these matters is out of control and must be confined by the bounds of the Constitution and the law. Relator asserts that seeking these writs of Prohibition and an Orders of Mandamus are the only means available to prevent and stop his tyranny and plundering, Relator has no adequate remedy at law.

7. "Acquiescence for no length of time can legalize a clear usurpation of powers, where the people have plainly expressed their will in the constitution and appointed judicial tribunals to enforce it. A power is frequently yielded to merely because it is claimed, and it may be exercised for a long period, in violation of the constitutional prohibition, without the mischief which the constitution was designed to guard against appearing, or without any one being sufficiently interested in the subject to raise the question; but these circumstances cannot be allowed to sanction a clear infraction of the constitution." Constitutional Limitations (7 ed.), 106.

### **CLAIMS FOR RELIEF**

#### **FIRST CLAIM**

1. The allegations of paragraphs 1. through 7. are fully incorporated herein as if fully rewritten herein.
2. Relator represents to this Court that Ohio Governor Michael DeWine has engaged in a series of unlawful and illegal violations of law and has most recently publicly declared that he will illegally expend from the public treasury the sum of \$5,000,000.00 on a self-acknowledged and declared scheme he devised without the aid or assistance of the General Assembly that he dubbed the "Vax-a-Million lottery".

3. Defendants-Respondents have by virtue of their office a duty to propose a budget to for fiscal expenditure to the General Assembly. Concerning the “Vax-a-Million lottery” program this was not properly accomplished especially as an encouragement to cause mRNA experimental gene therapy DNA damaging EUA shots to be administered to Ohio’s children and Citizens. Such fiscal expenditure illegality is nothing but a political bribery stunt and a further power play to destroy the finances of Ohio and its economy by his participation in the fraudulent globalist plandemic.
4. Ohio Constitution Article II. Legislative § 22 Appropriations, reads:  
**“No money shall be drawn from the treasury, except in pursuance of a specific appropriation, made by law; and no appropriation shall be made for a longer period than two years.”**
5. Unless enjoined and prohibited by this Court, Governor Michael DeWine intends to violate Ohio Constitution Article II. Legislative § 22 Appropriations by his unlawful expenditure from the public treasury of \$5,000,000.00 on a self-acknowledged and declared scheme he devised without the aid or assistance of the General Assembly that he dubbed the “Vax-a-Million lottery”.
6. Further, Governor Michael DeWine has declared that he intends to continue to accomplish these unconstitutional acts as is evidenced by his Orders, declarations, and behaviors intending to “without providing Informed Consent” permanently restructure the DNA of Ohio’s children with mRNA shots and give away \$5,000,000.00 in an illegal and unauthorized Vax-a-Million lottery. No authorization for such a Vax-a-Million lottery exists from the General Assembly and his expenditure is in violation of the clear provisions of the Ohio Constitution and represents an abuse of power.

7. Governor DeWine's attempted circumvention of Ohio's Constitutional protection of the public treasury by his unilateral decision to spend \$5,000,000.00 without legislative approval by the General Assembly is in some measure a repeat of historic principles of JOHN FORDYCE vs. JAMES H. GODMAN, 20 Ohio St. 1 (Ohio 1870). It has long been established that Public monies cannot be paid out of the State treasury till allowed by the concurrent votes of two-thirds of the members elected to each branch of the general assembly. Syllabus 2. "Upon the question whether such claims have been allowed by the number of members required by the constitution, the legislative journals must furnish the appropriate evidence." **Without legislative action Governor DeWine has no authority to expend public funds and must be proscribed.**
8. Every Ohio Citizen will be fiscally injured and suffers similarly like Relator from DeWine's unconstitutional orders and mandates.
9. Governor DeWine exercises Administrative quasi-judicial powers illegally and in an unconstitutional and damaging way to the Relator and Citizens of Ohio.
10. Governor DeWine's exercise of such power is unauthorized by law.
11. The refusal of this writ will result in fiscal and constitutional injury for which there is no other adequate remedy.
12. **Relator demands that this Court issue a Writ of Prohibition against Ohio Governor Michael DeWine to prevent this illegal expenditure and issue a writ of Mandamus to compel performance of his duty to seek the General Assembly's approval of all expenditures as required by Ohio Constitution Article II. Legislative § 22 Appropriations.**

## SECOND CLAIM

1. Each allegation contained above is incorporated as if fully rewritten herein.
2. Relator represents to this Court that Ohio Governor Michael DeWine has violated the principles of the Nuremberg Code (1947) and accepted standards of international common law and treaties by mandating vaccination of children with experimental and untested and unsafe mRNA vaccines that are harmful and dangerous and modify human DNA.
3. Governor Michael DeWine has engaged in a series of unconstitutional, unlawful, and illegal violations of law and has unconstitutionally ordered the use of medical devices 'masks' and the masking of Citizens [despite his not being a medical doctor nor licensed to practice medicine] preventing healthy citizens from breathing freely and exhaling as God intended unobstructed.
4. Governor Michael DeWine has made the Relator members and Citizens subjects to his dictatorial rules and mandates including lockdowns, shamed for rejections of injections of poisons masquerading as vaccines that they are not! Relator represents to this Court that Ohio Governor Michael DeWine has by his declarations threatened citizens and employers who are now worried about loss of business and job loss.
5. Relator represents to this Court that Ohio Governor Michael DeWine has created a new class of discrimination and pollution of those who are vaccinated with mRNA (these people emit spiked protein cells that infect the unvaccinated and are essentially a biological weapon delivery system to the unvaccinated and are gravely ill who unless treated will sustain serious damage and illness due to the consequences of the mRNA poison they have been injected with) and those who are not. DeWine along with his globalist cohorts should be thought of as a war criminal and provided the status of Dr. Mangala.

6. Relator represents to this Court that Ohio Governor Michael DeWine must be prohibited from causing these mRNA DNA altering shots from being injected into Ohio's Children as he has begun to do and has planned to do. This Court will have blood on its hands if it allows the injury to occur to these children. The writ must issue!

7. Parents and Citizens retain their God Given Rights as were not granted to the government. [See: Ninth Amendment and Tenth Amendment Federal Constitution & Ohio Constitution: *Powers Reserved to The People* Article I: Bill of Rights: Section 20, This enumeration of rights shall not be construed to impair or deny others retained by the people, and all powers, not herein delegated, remain with the people.] WE THE PEOPLE (parents) did not give despotic tyrants like governor Michael DeWine the power to shoot up or our children up with poison or mask us or our children so we cannot breathe! Because governor DeWine persists in his unconstitutional mandates and fraud despite no present emergency whatsoever, Relator asks that this Court proscribe and prohibit him, shut down the charade and grant Relator's members and ALL OHIOANS Full Liberty and Freedom from this tyrant governor's tyranny and despotism.

8. Every Ohio Citizen has been injured and suffers similarly like Relator from DeWine's unconstitutional orders and mandates.

9. Governor Michael DeWine seeks to exercise Administrative quasi-judicial powers illegally and in unconstitutional and damaging ways to the Relator and Citizens of Ohio.

10. Governor Michael DeWine's exercise of such power is unauthorized by law.

11. The refusal of this writ will result in injury for which there is no other adequate remedy.

12. Relator demands that this Court issue a Writ of Prohibition against him to prevent this violation of principles of the Nuremberg Code (1947), accepted standards of international



common law, and treaties by his mandating vaccination of children with experimental, untested, and unsafe mRNA gene therapy shots that are harmful, dangerous, and modify human DNA.

13. Relator demands that this Court issue a Writ of Prohibition against him to prevent Governor DeWine from continuing his violation of unconstitutional, unlawful, and illegal adjudication of mandated use and directed ordered use of medical devices 'masks' and the masking of Citizens, preventing healthy citizens from breathing freely, and exhaling as God intended unobstructed.

14. Governor DeWine has made the Relator, its members, and all Ohio's Citizens subject to unconstitutional dictatorial rules and mandates including lockdowns, shaming for rejections of mRNA experimental injections that damage and alter human DNA. Relator asks this Court to issue a writ of Mandamus to compel performance of his duty to faithfully execute the laws of Ohio as exist under the Ohio Constitution and the Constitution of the United States of America.

### **THIRD CLAIM**

1. Each allegation contained above is incorporated as if fully rewritten herein.
2. Relator represents to this Court that Ohio Governor Michael DeWine has engaged in a series of unconstitutional, unlawful, and illegal violations of law and has unconstitutionally ordered the division of the Relator's members between essential and non-essential businesses.
3. By DeWine's hand, the entire state has been imprisoned without due process and with the clear threat to impose such lockdowns again, interstate travel has been severely restricted, privacy rights have been devastated, *numerous business takings without*

*compensation occurred*, businesses were shut down unconstitutionally, and many regulations were implemented without statutory process requirements under the ruse and guise of a health emergency that is roughly as dangerous as a seasonal influenza outbreak.

4. Ohio Governor Michael DeWine by unconstitutional state action has maliciously acted in violation of federal and state Constitutional law to unlawfully take the businesses, destroy their livelihoods, and steal from businessmen their right to earn a living.
5. Ohio Governor Michael DeWine claims a false immunity from liability for this unprecedented violation of Constitutional Rights in Ohio. HE MUST BE PROHIBITED FROM ASSERTING SUCH FALSE IMMUNITY. Defendant Ohio Governor Michael DeWine by falsely claiming immunity from liability demonstrates a callous disregard of injured citizen's rights and a failure to understand government's role in society and that he is not to act as King or a despot but rather to maintain a balance of the Republic and the Sovereignty of its Citizens who retain God Given Rights not granted to the government.
6. This Writ of Prohibition should issue against Governor Michael DeWine as The Ohio Constitution: Article I: Bill of Rights: *Redress for Injury; Due Process*. Section 16, "... Suits may be brought against the state, in such courts and in such manner, as may be provided by law." (1851, am. 1912)]. The Ohio Constitution recognizes that Relator should have redress against a tyrannical governor and his subordinates for their unconstitutional behaviors.
7. Article I: Bill of Rights: *Inalienable Rights*. Section 1, All men are, by nature, free and independent, and have certain inalienable rights, among which are those of enjoying and

defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety.” (1851).

8. Nowhere in the Ohio Constitution did the People give up their Right to breathe freely nor exhale as God designed the human body to operate. Nor did the innate immune system that God created require mRNA poison to be injected into the body.
9. Governor DeWine must be prohibited from his unconstitutional mandates and illegal dictates. **“Neither the legislature nor any executive or judicial officer may disregard the provisions of the constitution in case of emergency”**, *Ex Parte Milligan* (1866) 71 US 2. It is the well-established principle of law that **no** exceptions to the Constitution can be allowed or provided without an express provision to the contrary, *State of Ohio ex rel vs. Spellmire* (1902) 67 OS 77, 90 (“To these claims it is sufficient to say that there is **no** exception to said Sec. 26 of Art. 2 found in the Constitution.
10. The requirement that all laws of a general nature, not some laws, shall have uniform operation. **There is no provision for violating the constitution in an emergency”**), *City of Cincinnati vs. Trustees Cincinnati Hospital* (1902) 66 OS 440, Syllabus 3 (“The comprehensive terms of this section do **not** admit of **any exception on account of any supposed or real emergency”**).
11. Relator asserts Governor DeWine has failed to uphold his oath of office to support and defend the Constitution of the United States of America and the Constitution of the State of Ohio and that this is demonstrated by his past conduct and behaviors toward Ohio’s Citizens.
12. Every Ohio Citizen suffers daily and similarly like Relator from DeWine’s unconstitutional orders and mandates.

13. Governor DeWine seeks to exercise Administrative quasi-judicial powers illegally and in unconstitutional and damaging ways to the Relator and Citizens of Ohio.
14. Governor DeWine's exercise of such power is unauthorized by law.
15. The refusal of this writ will result in injury for which there is no other adequate remedy.

#### **FOURTH CLAIM**

1. Each allegation contained above is incorporated as if fully rewritten herein.
2. A Writ of Prohibition should issue against Respondent Defendant Governor Michael DeWine as he has violated Title II of the ADA and such violation likewise gives rise to claims and relief under Section 504 of the Rehabilitation Act 1973 and pursuant to 42 U.S.C. § 12133(b) Enforcement and 28 C.F.R. 35.103 Relationship to other laws, a Title II ADA claim likewise gives rise to claims and relief under Section 504 of the Rehabilitation Act 1973 codified at 29 U.S.C. § 794 (a). In addition, "discrimination and associational discrimination", is expressly prohibited by Title II of the ACT under 42 U.S.C. § 12132 Discrimination and 28 C.F.R. § 35.130(g) General Prohibitions Against Discrimination.
3. A Writ of Prohibition should issue against Respondent Defendant Governor Michael DeWine as Relator asserts, he is in violation of the Americans with Disabilities Act (1990) and the Nuremberg Code (1947).
4. Both the Ohio Supreme Court, The State of Ohio are undeniably Public Entities as defined under the Americans with Disabilities Act pursuant to Title II 42 U.S.C. § 12131 et seq.; Respondent Governor Mike DeWine is obligated to faithfully execute and administer all laws including the Americans with Disabilities Act (1990) and the Nuremberg Code (1947). Yet he violates them!

5. Relator by this Writ for Prohibition seeks to prohibit Respondent Governor Michael DeWine from causing a continuing disability and the prevention of relief from disability and associational discrimination in violation of Title II of the Americans' With Disabilities Act 1990 (as amended) ("ACT"), 42 U.S.C. § 12101 et seq.; 42 U.S.C. § 12131 et seq., 28 C.F.R. §35 [Title II regulations governing State and Local Government ("public entity"); and, under the anti-retaliation and coercion provisions of the Act expressly provided by Congress in and under Title V of the ACT at, 42 U.S.C. § 12203.
6. Governor Michael DeWine must be prohibited from implementing his \$5,000,000 vax-lottery as it discriminates against the disabled in violation of the ADA requirements of equal and non-disparate treatment.
7. Governor Michael DeWine must be prohibited from continuing to violate federal law as he has opened himself, both in his elected capacity, and in his individual capacity, and has opened-up the State, and the Ohio Department of Health to claims under the ADA, The Rehabilitation Act of 1973, and other federal claims 42 U.S.C. Section 1983 through 1988, by his actions, which are discriminatory, and without proper authority.
8. Governor Michael DeWine and his subordinate state actors, agents, and employees, have regarded the Relator, its members, and the entire State of Ohio as having a disability of a contagious disease, to wit COVID-19, as it is commonly referred to, and has prescribed mitigating measures of masking, which has created more disabilities, and now has further prescribed being injected with the experimental mRNA patented technology.
9. Federal law 21 U.S.C. §360bbb-3(e)(1)(ii) requires that Appropriate "conditions must exist that are designed to ensure that individuals to whom the product (emergency use

vaccines) is administered are informed of the option to accept or refuse administration of the product.”

10. Governor Michael DeWine and his subordinate state actors, agents, and employees, have failed or refused to give this informed choice to those who accept his bribe of \$5,000,000.00, and if a Relator or citizen refuses administration of the mRNA injection, then refusal would amount to denial of equal access to the “programs, services, and activities” of the Governor’s unauthorized, illegal bribery scheme he has coined as a “Vax-a-Million lottery”.
11. 21 U.S.C. §360bbb-3(e)(1)(ii)(III) requires that: “a person who carries out any activity for which the authorization is issued, establish such conditions on an authorization under this section as the Secretary finds necessary or appropriate to protect the public health, including the following:” “to ensure that individuals to whom the product is administered are informed... ..of the option to accept or refuse administration of the product, of the consequences, if any, of refusing administration of the product, and **of the alternatives to the product that are available and of their benefits and risks.** (Edited/emphasis Added).
12. Governor Michael DeWine, with his \$5,000,000.00 of bribery monies, has offered these illegal bribes to ONLY persons who assume the risk of the “vaccine”, without offering any alternative to the product, or any inclusion for disabled persons who cannot equally participate in this illegal scam.
13. Title II of the ADA, 28 C.F.R. §35.108(c)(1) lists many major life activities, while clearly stating that the list offered is not exhaustive of all major life activities. These major life activities include “Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing,

learning, reading, concentrating, thinking, writing, communicating, interacting with others, and working”.

14. Title II of the ADA also lists “The operation of a major bodily function, such as the immune system, neurological, brain, respiratory, circulatory, cardiovascular, lymphatic, musculoskeletal, and reproductive systems, to name a few. “The operation of a major bodily function includes the operation of an individual organ within a body system.
15. Governor Michael DeWine, in addition to regarding the entire State of Ohio as having COVID-19, has additionally, through his executive orders, has also created several disabilities, to wit: Governor Michael DeWine has created physical and mental impairments that substantially limit the major life activities of (a) caring for oneself, (b) performing manual tasks, (c) seeing, (d) hearing, (e) eating, (f) sleeping, (g) speaking, (h) breathing, (i) concentrating, (j) thinking, (k) communicating, (l) interacting with others, and (m) working. **Each of these items “a” through “m” are claimed jointly and severally as disabilities, as defined under the ADA,** and these disabilities have been and are effected by the proximate cause of the Defendant-Respondent Governor Michael DeWine taking acts against the Relator and citizens of Ohio without regard for the rights of those affected, or the consequences of his actions.
16. Governor Michael DeWine, in his Executive Order 2020-01D (incorporated hereon by reference) admits that “Covid-19 is a respiratory disease”; and
17. Defendant in his Executive Order 2020-01D, did “order and direct that: A state of emergency is declared for the entire State to protect the well-being of the citizens of the Ohio from the dangerous effects of COVID-19”; and

18. Defendant's Executive Order "2020-01D" was the basis for the Ohio Department of Health "DIRECTOR'S ORDER" dated July 23, 2020 (incorporated hereon by reference)  
- (See mentions of 2020-01D on pages 5 of 6 and 6 of 6, as basis for authority.
19. The DIRECTOR'S ORDER includes limited exceptions for disability related reasons, without acknowledging that the wearing of a mask is, in and of itself, a disability for many or most Ohioans, in that it physically and/or mentally impairs the major life activities listed in item 6 of this section, listed as "a" through "m".
20. The DIRECTOR'S ORDER, through reliance upon the Defendant's Executive Order 2020-01D, did first admit that "for preventing the spread of contagious or infectious diseases [the Director did] Order the following to prevent the spread of COVID-19 into the State of Ohio".
21. The DIRECTOR'S ORDER subsequently gives a long list of requirements, often seeming arbitrary, which are foisted upon all Ohioans.
22. The irony that an exclusion applies when "A medical condition including those with respiratory conditions that restrict breathing, mental health conditions, or disability contraindicates the wearing of a facial covering" could not be more insulting, because the wearing of a mask has indeed created all these conditions. Any reasonable person would be required to admit that a mask either "restricts breathing", or alternatively that it does not restrict breathing, and if the latter is claimed, then the barrier that is purported to exist by a mask is an impossibility, or a symptom of a mental health condition.
23. The DIRECTOR'S ORDER also orders "Social Distancing Requirements". These are a direct creation of a disability in that the very term "social distancing" axiomatically



creates a physical or mental impairment that substantially limits the major life activity of “interacting with others”.

24. Governor Michael DeWine’s Executive Orders as being used by the Ohio Department of Health to mandate masks is a physical and/or mental impairment that substantially limits the major life activities of (without limitation) caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, speaking, breathing, concentrating, thinking, communicating, interacting with others, and working.
25. Governor Michael DeWine’s Executive Orders being used to cause business closings (by classification of what is, and what is not essential) is a physical and/or mental impairment that substantially limits the major life activities of (without limitation) caring for oneself, performing manual tasks, eating, sleeping, concentrating, thinking, communicating, interacting with others, and working. Gyms and exercise facilities being closed as non-essential discriminates against and creates a disability of a physical and mental impairment that substantially limits the ability to care for oneself, breathing, interacting with others, and other major life activities that are listed in Title II of the ADA.
26. While Public Accommodations are subject to Title III of the ADA, the reason they have been required to close or lose business due to social distancing requirements that ultimately rest on the Defendant Governor Michael DeWine’s shoulders is because of the Defendant Governor Michael DeWine’s acts. Bars and/or restaurants that serve alcohol being closed or subject to curfew as non-essential discriminates against those disabled persons that suffer with alcoholism and have a “learned behavioral modification” of using the local alcohol licensee to mitigate their disability.

27. Governor Michael DeWine's Vax-a-Million lottery scheme is discriminatory, in that it regards the entire populace of Ohio as disabled, and then gives an accommodating offer of the mRNA shot, commonly misnamed as a "vaccine" but definitely a "medication" under 28 C.F.R. §35.108(d)(4)(i), without offering any accommodation or modification to those who are disabled by the Defendant regarding them as such for much longer than the "transitory and minor" computation of time ascribed to the "regarded as" prong of the ADA.

28. Defendant Respondent Governor Michael DeWine, in not disclosing conspicuously, the requirements of Emergency Use Authorization (EUA) requirements under 21 U.S.C. §360bbb-3(e)(1)(ii), nor offering any inclusion in his "Vax-a-Million lottery" for persons who are unwilling to accept the risks of the mRNA "vaccine", and Governor Michael DeWine has no individual product liability for any injury caused by the mRNA "vaccine", and so Governor Michael DeWine is using coercion and bribery to only offer a chance to win the "Vax-a-Million lottery" to persons that choose to accept the risk, without regard or inclusion of those who, by reason of disability, are not able to take any vaccine because of prior injuries from vaccines. Defendant Governor Michael DeWine is disproportionately impacting those who may be with mental health disabilities that cause compulsive gambling, by enticing them with the opportunity to win a million dollars. Governor Michael DeWine must be prohibited from implementing his \$5,000,000 vax-lottery as it discriminates against the disabled in violation of the ADA requirements of equal and non-disparate treatment.

29. *THIS COURT MUST ISSUE THE REQUESTED WRITS TO MAINTAIN THE SOCIAL COMPACT UPON WHICH THIS REPUBLIC WAS FOUNDED.* Aptly stated by a founder of the Constitutional Republic: "Every act of a delegated authority, contrary to

*the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this, would be to affirm, that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid." - Alexander Hamilton*

30. In the last year, under color of delegated authority derived ultimately from the Constitution, faithless servants of the Constitution have stolen and desecrated many of our most fundamental human rights. They hamstrung our freedom to run a business. They strangled the God given right to breathe air freely. They isolated us from each other and made freedom to associate an "emergency" to be feared. Our pursuit of happiness has been replaced with the furtive existence of the fearful. Their premise for doing all of this was a colossal lie. They have allowed even the unelected to torment and twist the American public with unholy declarations that have the appearance of law, and that have the effect of authorizing a police state and a form of tyranny in the name of medical necessity, where no necessity exists. This Court, then, has a legal and a moral duty to uphold the true tenor of the Constitution and to restore truth and meaning, where until now lies and gibberish have been given sway.

31. Ohio Governor DeWine is such a faithless servant to the Constitutions and the Bill of Rights and he must be stopped by the issuance of the requested Writ.

32. Ohio Governor DeWine may not do what is forbidden to him by the Constitution.

## PRAYER FOR RELIEF

Wherefore Relator respectfully prays the Court to grant the following relief:

- A. Issue an Order, Judgment, Peremptory Writ of Prohibition, or Writ of Prohibition prohibiting Respondents Ohio Governor Michael DeWine, and the Director of the Office of Budget and Management for the State of Ohio Kimberly Murnieks from Committing Violations of Law and Illegally Spending \$5,000,000.00 on a Vax-a-Million lottery as has been declared by Respondent Ohio Governor Michael DeWine.
- B. Issue an Order, Judgment, Peremptory Writ of Prohibition, or Writ of Prohibition prohibiting Respondent Ohio Governor Michael DeWine from causing these mRNA “vaccine” shots from being injected into Ohio’s Children as he has begun to do and that he has planned to do for all Ohio school Children “No Exceptions”.
- C. Issue an Order, Judgment, Peremptory Writ of Prohibition, or Writ of Prohibition requiring Respondent Ohio Governor Michael DeWine to honor the Ninth Amendment and Tenth Amendment of the Bill of Rights and made applicable to Ohio by the 14<sup>th</sup> Amendment to the Constitution of The United States of America & The Ohio Constitution: *Powers Reserved to The People* Article I: Bill of Rights: Section 20, and prevent him from unconstitutionally masking citizens and preventing healthy citizens from breathing and exhaling naturally, interfering with the right to earn a living, operate a business, being declared non-essential and illegally ordered by a tyrant to be shut down and ordered imprisoned at home without a right to travel.
- D. Issue an Order, Judgment, Peremptory Writ of Prohibition, or Writ of Prohibition requiring Respondent Ohio Governor Michael DeWine to obey respect and honor the

standards and requirements of the ADA, The Rehabilitation Act of 1973, and other federal laws.

- E. Issue an alternate writ setting an expedited briefing schedule.
- F. Assess the costs of this action against Respondents.
- G. Award Relator its attorney's fees and expenses; and
- H. Award such other relief as may be determined appropriate, including damages under 42 U.S.C. §1983 through 1988.

Respectfully submitted,

*(s) Robert J. Gargas*  
Robert J. Gargas, Esq. (0007136)  
Robert J. Gargas Co., L.P.A.  
1670 Cooper Foster Park Road, Suite C  
Lorain, Ohio 44053  
(440) 960-1670  
fax (440) 960-1754  
rjgargas@gmail.com

COUNSEL FOR PLAINTIFF-RELATOR