

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

KIMBERLY BEEMER, PAUL CAVANAUGH,
and ROBERT MUISE,
Plaintiffs,

v.

GRETCHEN WHITMER, in her official capacity
as Governor for the State of Michigan, ALLEN
TELGENHOF, in his official capacity as
Charlevoix County Prosecuting Attorney, BRIAN
L. MACKIE, in his official capacity as Washtenaw
County Prosecuting Attorney, and WILLIAM J.
VAILLIENCOURT, JR., in his official capacity as
Livingston County Prosecuting Attorney,
Defendants.

No. 1:20-cv-00323

Hon. Paul L. Maloney

U.S. Magistrate Judge Phillip J. Green

**STIPULATED ORDER RESOLVING PLAINTIFFS' MOTION FOR TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

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Plaintiffs Kimberly Beemer, Paul Cavanaugh, and Robert Muise (collectively referred to as “Plaintiffs”), through counsel, Defendant Gretchen Whitmer, through counsel, Defendant Allen Telgenhof, through counsel, Defendant Brian L. Mackie, through counsel, and Defendant William J. Vaillencourt, Jr., through counsel, (collectively referred to as the “parties”) hereby stipulate to the following and to the entry of the attached Order, which will resolve Plaintiffs’ pending Motion for Temporary Restraining Order and Preliminary Injunction (“TRO/PI Motion”) (Doc. No. 7):

1. On April 15, 2020, Plaintiffs filed this lawsuit seeking to enjoin Defendants from enforcing certain measures of Executive Order 2020-42, which was issued on April 9, 2020.

2. On April 20, 2020, Plaintiffs filed their TRO/PI Motion, seeking specific preliminary relief from the challenged measures of Executive Order 2020-42. The Court set a hearing on Plaintiffs’ motion for April 30, 2020. (Doc. No. 15).

3. On April 24, 2020, Defendant Whitmer issued Executive Order 2020-59, which the parties agree applies and will be enforced as follows:

a. Executive Order 2020-59 permits individuals to travel between their own residences and cottages within the State of Michigan, thereby permitting Plaintiff Beemer, along with members of her household, to travel to and from her residence in Saginaw, Michigan and her cottage located in Charlevoix County, Michigan, and permitting Plaintiff Cavanaugh, along with members of his household, to travel to and from his residence in Brighton, Michigan and his cottage located in Charlevoix County, Michigan. This is provided by Executive Order 2020-59, Section 7(b)(3).

b. Executive Order 2020-59 permits the operation of landscaping businesses within the State of Michigan, thereby permitting Plaintiff Cavanaugh to reopen his landscaping business, Cavanaugh’s Lawn Care LLC, subject to the mitigation measures required under Section

11 of the order, including the enhanced social-distancing rules described in section 11(h). This is provided by Executive Order 2020-59, Section 4(c) and Section 10(c).

c. Executive Order 2020-59 permits individuals, including Plaintiffs Beemer and Cavanaugh, to engage in outdoor activities that include using boats with motors for fishing and other similar recreational purposes, consistent with remaining at least six feet from people from outside the individual's household. This is provided by Executive Order 2020-59, Section 7(a)(1).

d. Executive Order 2020-59 permits, insofar as is otherwise permissible under the law, the sale of guns from any store via remote order and curbside pick-up, and the sale of guns in-store from stores that sell necessary supplies as well as guns in their normal course of business, subject to the mitigation measures required by Sections 11 and 12 of the order. The order permits individuals, including Plaintiff Muese, to travel to and from such businesses. This is provided by Executive Order 2020-59, Section 5(c), Section 7(a)(8), Section 10(a), and Section 12(c).

e. Executive Order 2020-59 exempts from penalty religious gatherings at private residences. Accordingly, Plaintiff Muese is not subject to penalty under the order for holding religious gatherings with his immediate family at his private residence located in Superior Township, Michigan. This is provided by Executive Order 2020-59, Section 16.

4. As a result of this stipulation, the TRO/PI Motion is moot because the requested relief is no longer necessary.

So stipulated this 26th day of April 2020.

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ORDER

Pursuant to the stipulation of the parties as set forth above, the provisions of this stipulation are hereby Ordered by the Court, and Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction (Doc. No. 7) is hereby dismissed as Moot.

So Ordered this 27th day of April 2020.

/s/ Paul L. Maloney
Paul L. Maloney
United States District Court Judge