

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

COUNTY OF BUTLER;	:	CIVIL ACTION
COUNTY OF FAYETTE;	:	
COUNTY OF GREENE;	:	Case No.: 2:20-cv-00677-WSS
COUNTY OF WASHINGTON;	:	
NANCY GIFFORD and MIKE GIFFORD	:	The Hon. William S. Stickman, IV,
husband and wife, d/b/a	:	District Judge
DOUBLE IMAGE STYLING SALON;	:	
PRIMA CAPELLI, INC., a Pennsylvania	:	
Corporation;	:	MOTION FOR ATTORNEYS' FEES
MIKE KELLY;	:	
MARCI MUSTELLO;	:	
DARYL METCALFE;	:	<i>Electronically Filed and Served</i>
TIM BONNER;	:	
STEVEN SCHOEFFEL;	:	
PAUL F. CRAWFORD, t/d/b/a	:	
MARIGOLD FARM;	:	
CATHY HOSKINS, t/d/b/a	:	
CLASSY CUTS HAIR SALON;	:	
R.W. McDONALD & SONS, INC.,	:	
STARLIGHT DRIVE-IN, INC., a Pennsylvania	:	
Corporation; and	:	
SKYVIEW DRIVE-IN, LLC, a Pennsylvania	:	
Limited Liability Company,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
THOMAS W. WOLF, in his official capacity as	:	
Governor of the Commonwealth of	:	
Pennsylvania, and	:	
RACHEL LEVINE, MD, in her official	:	
capacity as Secretary of the	:	
Pennsylvania Department of Health,	:	
	:	
Defendants.	:	
	:	

MOTION FOR ATTORNEYS' FEES

Plaintiffs, NANCY GIFFORD and MIKE GIFFORD husband and wife, d/b/a DOUBLE IMAGE STYLING SALON; PRIMA CAPELLI, INC., a Pennsylvania Corporation; MIKE KELLY; MARCI MUSTELLO; DARYL METCALFE; TIM BONNER; STEVEN SCHOEFFEL; PAUL F. CRAWFORD, t/d/b/a MARIGOLD FARM; CATHY HOSKINS, t/d/b/a CLASSY CUTS HAIR SALON; R.W. McDONALD & SONS, INC., STARLIGHT DRIVE-IN, INC., a Pennsylvania Corporation; and SKYVIEW DRIVE-IN, LLC, a Pennsylvania Limited Liability Company (hereafter the “**Prevailing Plaintiffs**”)¹, by and through their undersigned counsel, file the within Motion for Attorneys’ Fees (the “**Motion**”), and in support thereof, respectfully state the following:

1. On May 7, 2020, the Prevailing Plaintiffs filed a 5 count Complaint (ECF Doc. No. 1) against Defendants under 42 U.S.C.A. § 1983 asserting the following claims:
 - a. Count I – Violation of the Taking Clause,
 - b. Count II – Substantive Due Process,
 - c. Count III – Procedural Due Process,
 - d. Count IV – Violation of the Equal Protection Clause, and
 - e. Count V – Violation of the First Amendment.
2. On May 20, 2020, the Prevailing Plaintiffs filed a “Motion for Speedy Hearing of Declaratory Judgment Action Pursuant to [Federal] Rule [of Civil Procedure] 57” and Brief in Support (ECF Doc. Nos. 10 and 11).
3. On May 27, 2020, this Court held argument on the Prevailing Plaintiffs’ Motion for Speedy Hearing. (ECF Doc. No. 14)

¹ Plaintiffs, County of Butler, County of Fayette, County of Greene, and County of Washington were dismissed from the litigation by this Court and are not parties to the requested relief of this Motion. (ECF Doc. No. 80).

4. On May 28, 2020, the Court issued a “Memorandum Opinion and Order of Court” (ECF Doc. No. 15) granting the Prevailing Plaintiffs’ request for a Speedy Hearing at Count II – Substantive Due Process, Count IV – Violation of the Equal Protection Clause, and Count V – Violation of the First Amendment.

5. The following proceedings were held subsequent to the Court’s Order:

- a. A record of Affidavits and Exhibits was filed by the Prevailing Plaintiffs (ECF Doc. Nos. 24-34, 42, 47, 54, 57, 59, 60, 64, 68, 71, and 73);
- b. Pre-Hearing Briefs were filed (ECF Doc. Nos. 36 and 40);
- c. Hearings were held on July 17 and 22, 2020 (ECF Doc. Nos. 74 and 75);
- d. Post-Hearing Briefs were filed (ECF Doc. Nos. 56, 66, and 69).

6. On September 14, 2020, this Court entered an Order in favor of the Prevailing Plaintiffs (ECF Doc. No. 80).

7. On September 22, 2020, this Court entered a “Final Declaratory Judgment” on Count II – Substantive Due Process, Count IV – Violation of the Equal Protection Clause, and Count V – Violation of the First Amendment (ECF Doc. No. 90).

8. Accordingly, the Prevailing Plaintiffs file the within Motion pursuant to 42 U.S.C.A. § 1988 having prevailed on the merits of their claims.

9. The Prevailing Plaintiffs’ Motion is timely pursuant to Federal Rule of Civil Procedure 54(d)(2).

10. In support of the within Motion, the following documents are submitted separately and contemporaneously herein as Exhibits:

- a. Time records, maintained in the office of the undersigned counsel for the Prevailing Plaintiffs from May 2, 2020 – September 14, 2020 (*See* Exhibit “A”);
- b. An affidavit from the undersigned counsel, and two other attorneys admitted in the Western District of Pennsylvania, regarding the rate of \$175.00/hour, for

attorney's fees in the relevant community for cases by attorneys of similar training, skills, and experience (*See* Exhibit "B"); and

c. The Curriculum Vitae of the undersigned counsel (*See* Exhibit "C").

11. Based upon the foregoing, the Prevailing Plaintiffs are entitled to reasonable attorneys' fees and costs.

WHEREFORE, the Prevailing Plaintiffs respectfully request that this Court:

- a. Enter the attached Proposed Order, directing Defendants to pay the sum of \$135,789.80 to the Prevailing Plaintiffs for 776.50 hours of work at a rate of \$175.00/hour for attorneys and \$100.00/hour for paralegals, and costs, within 30 days from September 28, 2020, or within 30 days of the adjudication of Defendants' appeal pending before the United States Court of Appeals for the Third Circuit (ECF Doc. Nos. 92 and 93).

Respectfully Submitted,

**DILLON McCANDLESS KING
COULTER & GRAHAM, LLP**

Dated: September 28, 2020

By: /s/ Thomas W. King, III
Thomas W. King, III (21580)
Ronald T. Elliott (71567)
Thomas E. Breth (66350)
Jordan P. Shuber (317823)
128 West Cunningham Street
Butler, PA 16001
(724) 283-2200 (Phone)
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Email: tking@dmkcg.com
Email: relliott@dmkcg.com
Email: tbreth@dmkcg.com
Email: jshuber@dmkcg.com

Counsel for the Prevailing Plaintiffs

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **MOTION FOR ATTORNEYS' FEES** was served on all counsel of record via CM/ECF, this 28th day of September, 2020.

/s/ Thomas W. King, III

Thomas W. King, III

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

COUNTY OF BUTLER, et al.,	:	NO. 2:20-cv-677-WSS
	:	
Plaintiffs,	:	
	:	
vs.	:	
	:	
THOMAS W. WOLF, et al.,	:	
	:	
Defendants.	:	

ORDER

AND NOW, this ____ day of _____, 20__, after consideration of the Prevailing Plaintiffs Motion for Attorneys' Fees, and any opposition thereto, it is hereby ORDERED that Defendants shall pay the sum of \$135,789.80 to the Prevailing Plaintiffs representing 776.50 hours of work at a rate of \$175.00/hour for attorneys and \$100.00/hour for paralegals, inclusive of the Prevailing Plaintiffs' costs.

BY THE COURT,

WILLIAM S. STICKMAN IV
UNITED STATES DISTRICT JUDGE

**DILSON McCANDLESS KING
COULTER & GRAHAM LLP**128 West Cunningham Street
Butler, PA 16001

724-283-2200

Tax ID #25-1008018

September 28, 2020

*Invoice submitted to:**In Reference To: County of Butler, et al vs Wolf, et al*
Invoice # 108043 2:20- CV-00677-WSS

Professional Services Rendered:

	<u>Hours</u>	<u>Amount</u>
<u>1. Thomas W. King III</u>		
05/02/2020 Work on Butler County v. Wolf matters; pleadings	5.50	962.50
05/03/2020 Work on Butler County v. Wolf matters; pleadings	4.50	787.50
05/04/2020 Work on file	8.00	1,400.00
05/05/2020 Work on Butler County v Wolf matters; pleadings	6.00	1,050.00
Work on file	8.00	1,400.00
05/06/2020 Work on file	8.00	1,400.00
05/07/2020 Work on file	8.00	1,400.00
05/08/2020 Telephone Plaintiffs	1.00	175.00
Work on file	8.00	1,400.00
05/13/2020 Attend Meeting; work on Brief	2.00	350.00
05/19/2020 Prepare Motion to Schedule Hearing	1.50	262.50
05/20/2020 Email to clients regarding pleading for speedy trial	0.25	43.75
05/21/2020 Email to clients w/Order of Court received	0.25	43.75
05/26/2020 Work on Rule 57 Arguments	2.00	350.00
05/28/2020 Review Order; Communications w/clients; prepare for A.G. call	1.00	175.00
06/01/2020 Email to Clients w/Order	0.25	43.75
06/02/2020 Work on case	2.00	350.00
Email to clients regarding disclosure statement; hearing date	0.25	43.75
06/03/2020 Preparation of Disclosure Statements for Counties	0.50	87.50
06/04/2020 Work on disclosures in Federal Court; communications Plaintiffs	3.00	525.00
06/05/2020 Work on Initial Disclosures	1.00	175.00
07/02/2020 Work on affidavits	3.00	525.00

DILLON McCANDLESS KING
COULTER & GRAHAM LLP

	Hours	Amount
07/06/2020 Work on various matters regarding case	8.00	1,400.00
07/07/2020 Work on various matters regarding case	8.00	1,400.00
07/08/2020 Work on Trial documents	3.00	525.00
Work on Trial documents	3.00	525.00
07/09/2020 Work on case	6.00	1,050.00
07/14/2020 Conference w/Court and work on exhibits, research, testimony	6.00	1,050.00
07/16/2020 Telephone w/Prima Capelli	0.25	43.75
Telephone w/Giffords	0.25	43.75
Preparation for Trial	6.00	1,050.00
07/17/2020 Travel & attend Trial	8.00	1,400.00
07/20/2020 Meeting regarding litigation	1.25	218.75
07/22/2020 Perpare for and attend Hearing with Judge Stickman.	8.00	1,400.00
07/23/2020 Work on post-hearing issues	3.00	525.00
Preparation of Motions to Place Admissions	2.00	350.00
07/24/2020 Work on post-hearing issues	2.00	350.00
07/28/2020 Work on case	3.00	525.00
07/29/2020 Work on Brief	2.00	350.00
08/01/2020 Work on Case	4.00	700.00
08/02/2020 Work on case	4.00	700.00
08/03/2020 Work on case	4.00	700.00
08/10/2020 Work on case	4.00	700.00
Preparation of Motion to Supplement Order	1.00	175.00
08/11/2020 Work on case	2.00	350.00
Preparation of Motion pursuant to Federal Rule of Evidence 201 "Judicial Notice of Adjudicative Facts"	3.00	525.00
08/13/2020 Work on Motion	4.00	700.00
08/18/2020 Work on case	6.00	1,050.00
Preparation of Supplement to Second Motion	1.00	175.00
08/21/2020 Work on case	2.00	350.00
08/25/2020 Work on Brief and Motion	6.00	1,050.00
09/01/2020 Preparation of Supplemental Legal Authority pleading	0.50	87.50
09/03/2020 Preparation of Fifth Motion - Rule of Evidence; email to K. Romano	1.00	175.00
SUBTOTAL:	[186.25	32,593.75]

2. Thomas E. Breth

05/02/2020 Work on legal issues involved in federal Complaint against Governor and Secretary of Health.	4.00	700.00
Telephone calls with plaintiffs.	0.75	131.25
05/03/2020 Research constitutional issues, work on draft complaint language, review and respond to emails.	5.00	875.00

DILLON McCANDLESS KING
COULTER & GRAHAM LLP

	<i>Page</i> 3
	Hours Amount
05/03/2020 Telephone calls with plaintiffs.	1.00 175.00
05/04/2020 Continue research of legal issues.	4.50 787.50
Telephone calls with clients.	1.00 175.00
05/05/2020 Additional research for Complaint.	4.00 700.00
Communicate with plaintiffs.	0.50 87.50
05/06/2020 Telephone calls with plaintiffs, etc.	0.75 131.25
Work on complaint.	2.00 350.00
05/07/2020 Work on final revisions to federal complaint, etc.	6.50 1,137.50
Telephone calls with Plaintiffs.	1.00 175.00
05/11/2020 Work on research for Injunction, etc.	2.50 437.50
05/19/2020 Work on materials in support of Complaint against Wolf, et al, exchange emails with Deputy AG Karen Romano regarding Waivers of Service of Summons, etc.	4.00 700.00
05/20/2020 Work on matters related to Motion for Speedy Hearing, Order and materials in support of Complaint, exchange emails with Deputy Attorney General Romano, telephone call with Commissioner Osche.	5.50 962.50
05/21/2020 Review Judge Stickman's Order, work on case law and materials for oral argument.	6.00 1,050.00
05/22/2020 Continue to work on materials for case.	2.00 350.00
05/26/2020 Review Attorney General's Response to Motion for Speedy Hearing, research cases cited by A.G.'s office, prepare for Oral Argument with Judge Stickman.	5.50 962.50
05/27/2020 Prepare materials for Oral Argument on Motion for Speedy Hearing, Oral Argument with Judge Stickman.	6.00 1,050.00
05/28/2020 Review Judge Stickman's Opinion and Order, work on Butler County, et al., v. Wolf, et al, matter, exchange emails with Attorney Romano.	4.00 700.00
05/29/2020 Work on items for Speedy hearing, prepare for conference call with Attorney Romano, conference call, work on items requested by Judge Skickman, exchange emails with Attorney Romano..	4.75 831.25
05/30/2020 Work on materials for speedy hearing, email Karen Romano regarding Judge Stickman's order and Governor's response, review and respond to email from DAG Romano.	3.00 525.00
06/01/2020 Work on case and prepare for Conference with Judge.	4.00 700.00
06/02/2020 Prepare for Conference with Judge, conference call, work on case.	5.00 875.00
06/04/2020 Work on disclosures, meet with Plaintiffs.	1.75 306.25
06/05/2020 Work on disclosures and other matters.	3.50 612.50
06/09/2020 Work on draft Discovery Requests.	2.00 350.00
06/12/2020 Review Wolf, et al, answer and initial disclosure, work on issues related to Wolf, et al, defenses.	2.50 437.50
06/16/2020 Work on case, telephone call with Attorney Romano, exchange emails with Attorney Romano regarding discovery.	2.00 350.00
06/29/2020 Work on direct testimony of Plaintiffs, telephone calls with Commissioner Osche, Mr. Manson and Representative Metcalf, work on case.	3.50 612.50

*DILLON McCANDLESS KING
COULTER & GRAHAM LLP*

	<i>Page</i>	<i>4</i>
	<u>Hours</u>	<u>Amount</u>
06/30/2020 Interviews with Plaintiffs, work on direct testimony.	3.50	612.50
07/01/2020 Work on Plaintiffs' Affidavits and legal research of issues.	4.00	700.00
07/02/2020 Review Defendants' Discovery Requests, work on Plaintiffs' Discovery Requests, telephone calls with Plaintiffs.	7.00	1,225.00
07/06/2020 Work on items to be file with court and research.	6.50	1,137.50
07/07/2020 Work on Wolf matter.	6.00	1,050.00
07/08/2020 Work on brief and other materials to be filed on July 9.	7.00	1,225.00
07/09/2020 Work on final versions of Brief, Admissions, Stipulations, etc., and file with Court, telephone calls and emails with Attorney Romano.	7.50	1,312.50
07/10/2020 Review Declarations, etc., filed by Governor Wolf and Secretary Levine, work on issues and research for hearing.	6.00	1,050.00
07/11/2020 Work on Wolf, et al., matter.	2.50	437.50
07/13/2020 Prepare for conference call with Judge and hearing.	5.00	875.00
07/14/2020 Conference call with Judge Stickman, prepare for hearing.	7.00	1,225.00
07/15/2020 Work on Wolf, et al., matter.	6.00	1,050.00
07/16/2020 Prepare for hearing with Judge Stickman.	8.50	1,487.50
07/17/2020 Attend Declaratory Judgment hearing, travel time, exchange emails with Court Reporter regarding transcript.	9.50	1,662.50
07/18/2020 Work on Wolf, et al., case.	3.00	525.00
07/19/2020 Work on the Wolf, et al., case.	1.75	306.25
07/20/2020 Prepare for hearing with Judge Stickman.	6.50	1,137.50
07/22/2020 Hearing with Judge Stickman.	8.00	1,400.00
07/23/2020 Work on post-hearing items.	2.50	437.50
07/27/2020 Work on information for brief.	2.00	350.00
07/28/2020 Work on case law and authority for brief.	5.50	962.50
07/29/2020 Work on brief.	5.50	962.50
07/30/2020 Work on brief.	5.00	875.00
07/31/2020 Work on brief.	4.50	787.50
08/01/2020 Work on brief.	8.00	1,400.00
08/02/2020 Work on brief.	8.00	1,400.00
08/03/2020 Work on finalizing and filing Post-Hearing Brief.	8.00	1,400.00
08/08/2020 Review latest directives, etc., from Governor Wolf, work on Supplement of Record.	1.50	262.50
08/10/2020 Work on Supplemental Record, exchange emails with Attorney Romano, review additional case law.	2.00	350.00
08/11/2020 Work on Wolf matter.	4.00	700.00
08/13/2020 Work on Wolf matter.	2.50	437.50
08/19/2020 Continue work on case, review and respond to emails, conference with Judge, continue work on Reply Brief and other matters.	4.75	831.25
08/20/2020 Work on case law regarding standing and other issues for Reply Brief.	4.50	787.50
08/22/2020 Work on Reply Brief.	2.50	437.50
08/23/2020 Work on Reply Brief and other items.	3.50	612.50

*DILLON McCANDLESS KING
COULTER & GRAHAM LLP*

	<u>Hours</u>	<u>Amount</u>
08/24/2020 Work on finalizing and filing Reply Brief.	7.00	1,225.00
08/25/2020 Work on outstanding items and file.	2.75	481.25
09/14/2020 Review Opinion and Orders from Judge Stickman, exchange emails and telephone calls with Clients.	5.50	962.50
	<hr/>	<hr/>
SUBTOTAL:	[293.25	51,318.75]

3. Ronald T. Elliott

05/02/2020 Draft Complaint;	5.00	875.00
05/03/2020 Work on Complaint; Research;	7.50	1,312.50
05/04/2020 Work on Complaint; Research;	4.25	743.75
05/07/2020 Work on File; Revise Complaint; File Complaint;	6.50	1,137.50
05/08/2020 Work on File Regarding filing Appearances, Communications with Pennsylvania Attorney General's Office regarding service; Review Documents;	2.50	437.50
05/11/2020 Research;	3.25	568.75
05/12/2020 Work on Injunction Motion; Research;	3.50	612.50
05/13/2020 Work on Motion for Preliminary Injunction; Work on Brief in Support; Research;	6.50	1,137.50
05/14/2020 Research; Work on Brief; Communications with Court; Communications with Middle District of Pennsylvania; Work on Butler County, et al, v. Wolf, et al. matter.	5.00	875.00
	3.00	525.00
05/15/2020 Arrange for Service of Process; Research and Work on Brief; Communications with Court; Communications with Clients;	2.75	481.25
05/17/2020 Review Commonwealth Brief in Benner v. Wolf;	1.00	175.00
05/18/2020 Work on Brief in Support of Injunctive Relief;	6.50	1,137.50
05/19/2020 Work on Declaratory Judgment Action and Brief;	5.50	962.50
05/20/2020 Edit and file Motion for Speedy Hearing and Brief in Support; Work on File;	2.50	437.50
05/21/2020 Work on File; Review Benner Decision;	2.50	437.50
05/26/2020 Review Commonwealth Response to Motion for Speedy Trial;	1.00	175.00
05/27/2020 Review Commonwealth's Response to Motion for Declaratory Judgment and Research; Prepare for and Attend Argument;	3.75	656.25
05/28/2020 Work on File and Review Judge Stickman's Opinion and Order;	2.25	393.75
05/29/2020 Research; Work on Initial Disclosures; Conference Call with Counsel for the Government;	5.50	962.50
06/01/2020 Work on Initial Disclosures;	2.50	437.50
06/02/2020 Work on Initial Disclosures; Communications with Clients;	4.25	743.75
06/12/2020 Review Answer and Defendants' Initial Disclosures;	0.50	87.50
07/01/2020 Work on file and Review Osche Affidavit;	1.00	175.00
07/02/2020 Work on Discovery;	2.00	350.00
07/06/2020 Work on File; Work on Discovery; Communications with Clients;	3.50	612.50
07/07/2020 Work on Discovery Matters; Communications with Clients;	1.25	218.75

*DILLON McCANDLESS KING
COULTER & GRAHAM LLP*

	Hours	Amount
07/09/2020 Work on Discovery;	1.50	262.50
07/10/2020 Work on File - Review Discovery Responses; Review Court Opinion; Review Commonwealth Declarations;	2.25	393.75
07/11/2020 Review Documents; Research;	1.25	218.75
07/13/2020 Work on File - Trial Preparation;	2.50	437.50
07/14/2020 Conference Call with Judge Stickman; Prepare for Trial;	1.50	262.50
07/15/2020 Prepare for Trial; Conference Call with TWK, TEB , and Karen Romano;	1.75	306.25
07/16/2020 Review Discovery; Prepare for Trial;	5.75	1,006.25
07/17/2020 Attend Trial	8.00	1,400.00
07/20/2020 Meeting with Commissioners; Review File material and prepare for Trial;	1.25	218.75
07/21/2020 Prepare for Trial;	3.00	525.00
07/22/2020 Attend Trial;	8.50	1,487.50
07/23/2020 Work on Discovery and Post Trial Filings;	1.00	175.00
08/01/2020 Work on Brief;	0.75	131.25
08/03/2020 Work on Brief;	4.00	700.00
08/11/2020 Work on File Regarding: Carlisle Car Show Case; Communications with Attorney Whitaker;	1.25	218.75
08/13/2020 Research/Review Memorandum;	1.00	175.00
09/14/2020 Review Trial Court Opinion;	1.25	218.75
SUBTOTAL:	[141.75	24,806.25]

4. Jordan P. Shuber

05/02/2020 Legal research	2.25	393.75
05/03/2020 Continued legal research	3.00	525.00
05/04/2020 Continue to work on file regarding research	2.00	350.00
05/08/2020 Email exchange regarding service of process	0.25	43.75
05/10/2020 Work on file regarding legal research	2.00	350.00
05/11/2020 Work on file regarding complaint for expedited declaratory relief; Legal research regarding the same; Legal research regarding Rule 57	2.25	393.75
05/16/2020 Legal research regarding North Carolina restrictions on religious services and pleadings	1.50	262.50
05/17/2020 Continued legal research regarding North Carolina restrictions on religious services and pleadings	1.00	175.00
05/18/2020 Work on file regarding Brief in Support of Motion for Preliminary Injunction	3.50	612.50
05/19/2020 Continued to work on file regarding Brief in Support of Motion for Preliminary Injunction; Continued to work on Rule 57 pleadings	3.00	525.00
05/20/2020 Continued to work on file; Research regarding Ohio case regarding Amy Acton	2.50	437.50
05/21/2020 Continued to work on file regarding Rule 57 filings; Read and Review Order regarding Rule 57 hearing	2.25	393.75
05/22/2020 Research regarding middle district order	0.50	87.50

DILLON McCANDLESS KING
COULTER & GRAHAM LLP

	Hours	Amount
05/26/2020 Continued legal research regarding North Carolina Order of Court regarding religious restrictions	0.50	87.50
05/28/2020 Read and Review Memorandum Opinion and Order	0.50	87.50
07/07/2020 Work on file regarding revising affidavits	1.00	175.00
07/09/2020 Continued to work on file regarding revising affidavits, Revised stipulation regarding joint exhibit list; Electronically filed exhibit list and exhibits	6.00	1,050.00
07/12/2020 Read and Review Governor discovery responses	0.50	87.50
07/16/2020 Read and Review pleadings for remote witness testimony	0.50	87.50
07/17/2020 Attended hearing with remote zoom witnesses	6.00	1,050.00
07/20/2020 Legal research	2.00	350.00
07/29/2020 Work on file regarding Atlantic article	1.00	175.00
07/31/2020 Work on file regarding brief	1.00	175.00
08/07/2020 Work on file regarding motions to supplement the record	1.50	262.50
08/10/2020 Continued to work on file regarding motions for judicial notice	1.00	175.00
08/19/2020 Read and Review Brief in Opposition	0.50	87.50
08/22/2020 Work on reply brief	4.50	787.50
08/23/2020 Continued to work on reply brief	2.00	350.00
08/24/2020 Revised and finalized section of Reply Brief	3.50	612.50
09/03/2020 Filed fifth motion for judicial notice	0.25	43.75
09/14/2020 Drafted Motion for Attorneys' Fees and Brief in Support; Prepared Exhibits for Motion	3.00	525.00
	[]
SUBTOTAL:	61.25	10,718.75]

5. Paralegal

05/02/2020 Telephone calls;	3.00	300.00
Researched Pennsylvania Stay at Home Order, challenges to other states' Stay at Home orders, and free exercise challenge to Stay at Home orders.	2.00	200.00
05/03/2020 Research Pennsylvania Stay at home order, challenges to other states' stay at home orders, and free exercise challenge to Stay at home orders.	4.00	400.00
05/05/2020 Wolf Lawsuit - Researched Gov. Wolf's phases of reopening Pennsylvania	1.00	100.00
05/20/2020 Wolf Lawsuit - Researched comparisons between Wolf's COVID response and Opioid response	4.50	450.00
05/21/2020 Wolf - Researched comparisons of Gov. Wolf's response to Opioid Disaster and COVID-19	3.50	350.00
05/26/2020 Wolf - Continued research on developments of COVID-19 restrictions	1.00	100.00
05/27/2020 Wolf - Researched specific restrictions in Gov.'s Green Phase	0.50	50.00
06/01/2020 Wolf - Continued research on Gov. Wolf shut-down and closure of businesses	2.00	200.00
06/05/2020 Wolf - Researched businesses that were granted exceptions	2.00	200.00
06/08/2020 Research Qualified & Sovereign Immunity; draft memo applying research to case	3.50	350.00

DILLON McCANDLESS KING
COULTER & GRAHAM LLP

	<i>Page</i>	<i>8</i>
	<u>Hours</u>	<u>Amount</u>
06/23/2020 Called party members to set up meeting; prepared Affidavit(s) for speedy hearing	2.00	200.00
06/24/2020 Continue drafting affidavits for parties; draft question list for client meetings	3.75	375.00
06/29/2020 COVID-19 - Compiled all Governor Wolf's Orders	0.50	50.00
07/06/2020 Reviewed Requests for Admissions. Drafted Responses for each request. Edited requests.	3.00	300.00
07/07/2020 Drafted Response to Request for Admissions for The Hon. Tim Bonner. Received verification from Elizabeth Walker of Skyview Drive-In. Prepared Response to Request for Admissions Directed to Skyview Drive-In for filing. Drafted e-mail to Chris Young of Prima Capelli attaching Verification for signature.	0.75	75.00
COVID-19 - Researched news articles related to Gov. Wolf's Shut Down Orders	1.00	100.00
07/08/2020 Received verifications for Steve Schoeffel, Tim Bonner, and Marigold Farms. Prepared Responses for Request for Admissions for same. Reviewed file	0.75	75.00
COVID-19 - Drafted Joint Stipulations	7.00	700.00
07/09/2020 Telephone conversations with Cathy Hoskins of Classy Cuts. Sent e-mails to Ms. Hoskins attaching Verification and Affidavit for her signature. Drafted e-mail to Donald Spaccio of Cronk Printing attaching Response to Request for Admissions Directed to Double Image Salon. Telephone conversation with Mr. Spaccio regarding same. Telephone conversation with Nancy Gifford. Received verifications and prepared Response to Request for Admissions Directed to Double Image Salon. Telephone conversation with Beth Chiesa at Starlight Drive-In. Exchanged e-mails with Beth Chiesa and John Manson at Starlight and received verification. Prepared Response to Request for Admissions regarding same. Drafted e-mail to Karen Romano enclosing Responses to Request for Admissions Directed to The Hon. Tim Bonner, Daryl Metcalfe, Mike Kelly, and Marci Mustello; Skyview Drive-In; Steven Schoeffel; Double Image Styling Salon; Marigold Farms; Prima Capelli; R.W. McDonald & Sons; Classy Cuts; and Starlight Drive-In.	2.75	275.00
Organized Joint Stipulations	6.00	600.00
Organized Joint Exhibits	2.00	200.00
07/10/2020 Research on State's response to pandemic	4.00	400.00
07/14/2020 Scheduled Plaintiffs to prepare for testimony	3.00	300.00
07/15/2020 Research on State's response to COVID-19	2.00	200.00
07/16/2020 Created binders for trial	2.00	200.00
07/17/2020 Assisted Plaintiffs participating via zoom trial	8.00	800.00
07/20/2020 Organized file	1.00	100.00
Researched Defendants' witnesses	2.00	200.00
07/22/2020 Assisted Attorneys in hearing	8.00	800.00
07/24/2020 Continued research for Brief	1.00	100.00
08/03/2020 Received and reviewed brief and made edits to same. Drafted Table of Authorities.	3.50	350.00

DILLON McCANDLESS KING
COULTER & GRAHAM LLP

	<u>Hours</u>	<u>Amount</u>
08/12/2020 Filed Right-to-Know Request w/Pennsylvania Department of Health for Confidential Carlisle Car Show Agreement	0.50	50.00
08/24/2020 Review Defendants' Reply Brief for information not filed on record	1.50	150.00
Researched articles related to the closure of fairs, farm shows, carnivals in local counties	0.50	50.00
08/28/2020 Drafted Fourth Motion to Take Judicial Notice of the Facts.	0.50	50.00
	<hr/>	<hr/>
SUBTOTAL:	[94.00	9,400.00]
	<hr/>	<hr/>
Total professional services rendered	776.50	\$128,837.50
Costs Advanced by Firm:		
 <u>1. Thomas W. King III</u>		
05/30/2020 Westlaw research charges		280.04
Westlaw research charges		2,351.09
06/30/2020 Westlaw research charges for June		1,409.19
07/17/2020 Parking		13.00
07/21/2020 County of Butler v. Wolf		1,258.95
Check # 74340		
Deborah Ann Betzler, RPR, FCRR		
07/28/2020 County of Butler - Wolf		819.00
Check # 74367		
Deborah Ann Betzler, RPR, FCRR		
07/31/2020 Copies Made		139.20
08/24/2020 TWK - County of Butler		59.95
Check # 75030		
Deborah Ann Betzler, RPR, FCRR		
08/31/2020 Westlaw research charges		621.88
		<hr/>
SUBTOTAL:		[6,952.30]
		<hr/>
Total costs		\$6,952.30
		<hr/>
Total amount of this bill		\$135,789.80
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TOTAL BALANCE DUE		<u>\$135,789.80</u>

Please include your invoice number on your payments. Thank you for your business.

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

COUNTY OF BUTLER, et al.,	:	No. 2:20-cv-677-WSS
Plaintiffs	:	
	:	JUDGE WILLIAM S. STICKMAN IV
vs.	:	
	:	Electronically Filed
THOMAS W. WOLF, et al.,	:	
Defendants	:	

AFFIDAVIT OF THOMAS W. KING, III, ESQUIRE

COMMONWEALTH OF PENNSYLVANIA	:	
	:	SS.
COUNTY OF BUTLER	:	

BEFORE ME, the undersigned authority, appeared **THOMAS W. KING, III, ESQUIRE**, being first duly sworn in accordance to law, deposes and states the following:

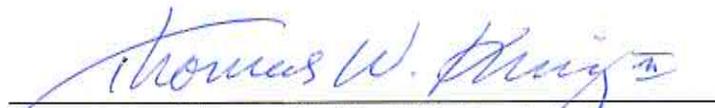
1. My name is Thomas W. King, III. I am an attorney, duly licensed to practice law in the Commonwealth of Pennsylvania, and I am a member of the Bar of this Court.
2. I am fully competent to make this Affidavit, and I have personal knowledge of the facts stated in this Affidavit. To my knowledge, the facts stated in the Affidavit are true and correct.
3. I am a partner in the law firm of Dillon McCandless King Coulter & Graham, LLP, as are Attorneys Thomas E. Breth, Ronald T. Elliott, and our colleague, Jordan P. Shuber, who is an associate in our firm. Our offices are located at 128 West Cunningham Street, Butler, Pennsylvania, 16001, and at 600 Cranberry Woods Drive, Suite 175, Cranberry Township, Pennsylvania, 16066.

4. I make this Affidavit in support of the Motion Attorneys' Fees in the action on behalf of said law firm and the lawyers who are partners or members of said law firm.
5. Regarding this action, our firm performed any and all acts as attorneys for the Prevailing Plaintiffs and rendered various services to the Prevailing Plaintiffs as attorney of record in this matter.
6. Regarding this action, I am familiar with the legal services provided to the Prevailing Plaintiffs, all of which were provided by counsel or with assistance by competent paralegals of the firm. These services are fully and fairly described, as are the costs, in contemporaneous time records maintained in our offices.
7. The hours expended as the Prevailing Plaintiffs' counsel reflected in the time records and based upon the Lodestar are reasonably necessary to obtain the favorable results received, are as follows:

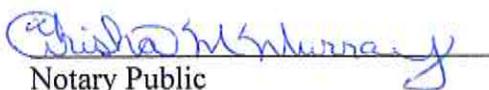
<u>Attorney</u>	<u>Hours</u>	<u>Rate</u>	<u>Lodestar</u>	<u>Time Period</u>
Thomas W. King, III	186.25	\$175/hour	\$32,593.75	5/2/2020-9/14/2020
Thomas E. Breth	293.25	\$175/hour	\$51,318.75	5/2/2020-9/14/2020
Ronald T. Elliott	141.75	\$175/hour	\$24,806.25	5/2/2020-9/14/2020
Jordan P. Shuber	61.25	\$175/hour	\$10,718.75	5/2/2020-9/14/2020
<u>Paralegal</u>	<u>Hours</u>	<u>Rate</u>	<u>Lodestar</u>	<u>Time Period</u>
Paralegal	94.00	\$100/hour	\$9,400.00	5/2/2020-9/14/2020
<u>Costs</u>	N/A	N/A	\$6,952.30	5/2/2020-9/14/2020
<u>Total</u>	776.50		\$135,789.80	

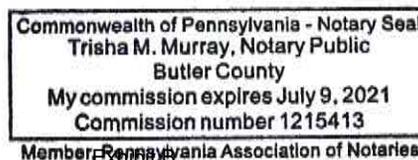
8. The total number of expended hours chargeable to Plaintiffs in this matter total 776.50 hours (and the hourly rate that is charged generally by this firm for special counsel work for the County of Butler and for all matters pertaining thereto is well below that which the members of this firm generally charge in similar circumstances).

9. In my professional opinion, and in the professional opinion of other attorneys who have executed Affidavits in support hereof, the hourly rate for attorneys' fees in this jurisdiction for cases by attorneys of similar experience, training, and skill is far in excess of \$175.00 per hour.
10. In support of this Affidavit, the following are submitted herewith:
 - a. Contemporaneous time records maintained in the office of counsel for the Plaintiffs;
 - b. Affidavits of S. Michael Streib, Esquire, and Marie Milie Jones, Esquire; and,
 - c. Curriculum Vitae of Plaintiffs' lead counsel, Thomas W. King, III, Esquire.
11. I am familiar with the charges made by other attorneys in this Honorable Court and with the hourly rates charged by members of this firm for work performed in this Honorable Court, and I believe that the range of rates typically charged by attorneys for similar work would far exceed the rate proposed in this matter.
12. In rendering its decision, the undersigned respectfully requests that this Court to consider the significance of the matters involved, the expedited nature of the proceedings, and the result achieved.
13. I further request that this Honorable Court consider that the Award to the Plaintiffs was made pursuant to 42 U.S.C.A. § 1988, which specifically provides at 42 U.S.C.A. § 1988(b) for an award of counsel fees to the prevailing party.


Thomas W. King, III, Esquire
PA I.D. No. 21580
128 West Cunningham Street
Butler, PA 16001

Sworn to and subscribed before me
this 28th day of September, 2020.


Notary Public
My Commission Expires:



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

COUNTY OF BUTLER, et al.,	:	No. 2:20-cv-677-WSS
Plaintiffs	:	
	:	JUDGE WILLIAM S. STICKMAN IV
vs.	:	
	:	Electronically Filed
THOMAS W. WOLF, et al.,	:	
Defendants	:	AFFIDAVIT IN SUPPORT OF MOTION
	:	FOR AWARD OF ATTORNEYS' FEES
	:	AND COSTS AS THE PREVAILING
	:	PARTY
	:	
	:	Filed on Behalf of Plaintiffs
	:	
	:	Counsel of Record:
	:	
	:	Thomas W. King, III, Esquire
	:	PA I.D. No. 21580
	:	
	:	Thomas E. Breth, Esquire
	:	PA I.D. No. 66350
	:	
	:	Ronald T. Elliott, Esquire
	:	PA I.D. No. 71567
	:	
	:	Jordan P. Shuber, Esquire
	:	PA I.D. No. 317823
	:	
	:	Dillon McCandless King Coulter &
	:	Graham, LLP
	:	128 West Cunningham Street
	:	Butler, PA 16001
	:	Telephone: (724) 283-2200

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

COUNTY OF BUTLER, et al.,	:	No. 2:20-cv-677-WSS
Plaintiffs	:	
	:	JUDGE WILLIAM S. STICKMAN IV
vs.	:	
	:	Electronically Filed
THOMAS W. WOLF, et al.,	:	
Defendants	:	

AFFIDAVIT OF MARIE MILIE JONES, ESQUIRE

COMMONWEALTH OF PENNSYLVANIA	:	
	:	SS.
COUNTY OF ALLEGHENY	:	

BEFORE ME, the undersigned authority, appeared **MARIE MILIE JONES, ESQUIRE**, being first duly sworn in accordance to law, deposes and states:

1. I am currently licensed as a lawyer in the Commonwealth of Pennsylvania, in good standing, and have practiced law in the County of Allegheny since 1987. I have extensive litigation experience in both the State and Federal Courts in Western Pennsylvania.
2. A large part of my practice has been in the area of litigation. I am admitted to the Bar of this Court, the Third Circuit Court of Appeals, and the Supreme Court of the United States, as well as courts in the State of West Virginia.
3. As a result of my practice and experience with attorneys who litigate significant civil cases in the United States District Court for the Western District of Pennsylvania, I am familiar with the hourly rates charged by lawyers practicing in said Court.

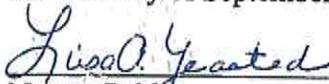
4. I am aware of the skill, reputation, and experience of Thomas W. King, III, Thomas E. Breth, Ronald T. Elliott, and Jordan P. Shuber, and the law firm of Dillon McCandless King Coulter & Graham, LLP.
5. The aforesaid lawyers are regarded among their colleagues, and by me, as skilled and competent practitioners.
6. Based on my knowledge of the aforesaid lawyers' skill, reputation, and experience, it is my opinion that the lawyers requested rate of \$175.00 per hour in this case is not only reasonable but is well below the prevailing hourly rate for attorneys of their caliber in the Western District of Pennsylvania.
7. It is further my opinion that said lawyers requested rate is well below the rates charged by attorneys with their level of skill, experience, and reputation in equally complex areas of the law.

I hereby declare under penalty of perjury that the foregoing is true and correct.

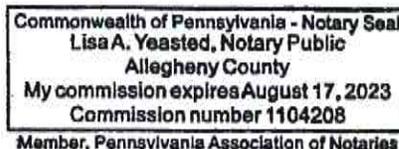
/s/ 

Marie Milie Jones, Esquire
PA I.D. No. 49711
The Gulf Tower - Suite 3410
707 Grant Street
Pittsburgh, PA 15219

Sworn to and subscribed before me
this 28th day of September 2020.


Notary Public

My Commission Expires:



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

COUNTY OF BUTLER, et al.,
Plaintiffs

vs.

THOMAS W. WOLF, et al.,
Defendants

No. 2:20-cv-677-WSS

JUDGE WILLIAM S. STICKMAN IV

Electronically Filed

AFFIDAVIT IN SUPPORT OF MOTION
FOR AWARD OF ATTORNEYS' FEES
AND COSTS AS THE PREVAILING
PARTY

Filed on Behalf of Plaintiffs

Counsel of Record:

Thomas W. King, III, Esquire
PA I.D. No. 21580

Thomas E. Breth, Esquire
PA I.D. No. 66350

Ronald T. Elliott, Esquire
PA I.D. No. 71567

Jordan P. Shuber, Esquire
PA I.D. No. 317823

Dillon McCandless King Coulter &
Graham, LLP
128 West Cunningham Street
Butler, PA 16001
Telephone: (724) 283-2200

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

COUNTY OF BUTLER, et al.,	:	No. 2:20-cv-677-WSS
Plaintiffs	:	
	:	JUDGE WILLIAM S. STICKMAN IV
vs.	:	
	:	Electronically Filed
THOMAS W. WOLF, et al.,	:	
Defendants	:	

AFFIDAVIT OF S. MICHAEL STREIB, ESQUIRE

COMMONWEALTH OF PENNSYLVANIA	:	
	:	SS.
COUNTY OF ALLEGHENY	:	

BEFORE ME, the undersigned authority, appeared S. MICHAEL STREIB, ESQUIRE, being first duly sworn in accordance to law, deposes and states:

- I. I am currently licensed as a lawyer in the Commonwealth of Pennsylvania, in good standing, and have practiced law in the Counties of Allegheny and Butler since 1980. I have considerable litigation experience in both the State and Federal Courts in Western Pennsylvania.
2. A large part of my practice has been in the area of litigation. I am admitted to the Bar of this Court and the Third Circuit Court of Appeals, and United States Supreme Court.
3. As a result of my practice and experience with attorneys who litigate significant civil cases in the United States District Court for the Western District of Pennsylvania, I am familiar with the hourly rates charged by lawyers practicing in the Court.

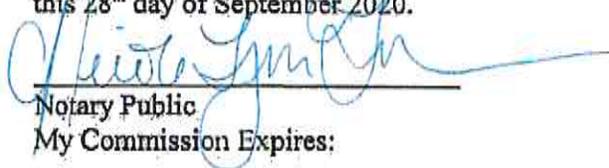
4. I am also aware of the skill, reputation, and experience of Thomas W. King, III, Thomas E. Breth, Ronald T. Elliott, and Jordan P. Shuber, and the law firm of Dillon McCandless King Coulter & Graham, LLP.
5. The above-mentioned lawyers are regarded among their colleagues, and by me, as skilled and competent practitioners.
6. Based on my knowledge of the skill, reputation, and experience of those lawyers, it is my opinion that the requested rate of \$175.00 per hour in this case is not only reasonable but is well below the prevailing hourly rate for attorneys of their caliber in the Western District of Pennsylvania.
7. It is further my opinion that the requested rate is well below the rates charged by attorneys with their level of skill, experience, and reputation in equally complex areas of the law.

I hereby declare under penalty of perjury that the foregoing is true and correct.

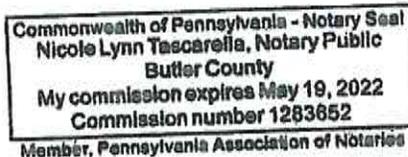
/s/


S. Michael Streib, Esquire
PA I.D. No. 30376
300 Oxford Drive, Suite 75
Monroeville, PA 15146

Sworn to and subscribed before me
this 28th day of September 2020.


Notary Public

My Commission Expires:



Curriculum Vitae

Thomas W. King, III, Esquire

Tking@dmkcg.com

Business Addresses:

DILLON McCANDLESS KING COULTER & GRAHAM L.L.P.

128 West Cunningham Street
Butler, PA 16001
Telephone: 724/283-2200
Cell Phone: 724/679-1019
Facsimile: 724/283-2298

600 Cranberry Woods Drive
Suite 175
Cranberry Twp., PA 16066
Telephone: 724/776-6644
Facsimile: 724/776-6608

- Admitted to bar, 1975, Pennsylvania, U.S. Supreme Court, Pennsylvania Supreme Court, Commonwealth Court of Pennsylvania, Superior Court of Pennsylvania, Third Circuit, U.S. District Court for the Western District of Pennsylvania, and U.S. Court of Appeals for the Third Circuit
- Education: University of Virginia (B.A., 1972); Dickinson School of Law (J.D., 1975).
- General Counsel Republican Party of Pennsylvania
- Named a "Pennsylvania Super Lawyer" every year from 2004 thru 2020.
- Rated "A" by Martindale-Hubbell Lawyer Rating Service – 1986 thru 2020
- Governor Thornburg appointed Member, 1983, and Chairman, 1986 – Trial Court Nominating Commission for Butler County
- Governor Ridge appointed Co-Chair, Trial Court Nominating Commission for Butler County, 1996
- Member, Federal Judicial Nomination Committee
- Member of the Butler County (President, 1992), Pennsylvania, and American Bar Associations
- Fellow of the American College of Trial Lawyers since 2005; Member, Admissions Committee
- Panelist & Member - National Association of Educational Negotiators
- General Counsel - Pennsylvania Sheriffs' Association
- Former Member & Chair - Hearing Committee, Disciplinary Board of the Supreme Court of Pennsylvania (6 years – 2 three-year terms)
- General Counsel, AgChoice Farm Credit, ACA (Pennsylvania and West Virginia)
- Counsel to and Chief Negotiator for numerous employers in the nursing home, hospital, mining, ceramics, refractory, and other manufacturing concerns, regarding labor and business-related legal matters
- Firm is Solicitor to the Butler Area, Mars Area, Karns City Area, South Butler County, and Slippery Rock Area School Districts and Butler County Area Vocational-Technical School, and the Butler County Community College
- Firm is Labor Counsel to numerous municipal entities and private businesses
- Defense Counsel for School Services Insurance Trust (sponsored by P.S.B.A.) and Butler County