

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF KENTUCKY  
AT COVINGTON**

**ALLISON S. ALESSANDRO**  
c/o Santen & Hughes, LPA  
600 Vine Street, Suite 2700  
Cincinnati, OH 45202

Plaintiff,

vs.

**ANDREW BESHEAR,**  
**in his official capacity as**  
**Governor of Kentucky,**  
700 Capitol Avenue, Suite 100  
Frankfort, Kentucky 40601

and

**DANIEL CAMERON,**  
**in his official capacity as**  
**Attorney General of Kentucky,**  
700 Capital Avenue, Suite 118  
Frankfort, Kentucky 40601,

Defendants.

: Case No. \_\_\_\_\_

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: Judge \_\_\_\_\_

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: **VERIFIED COMPLAINT FOR**  
: **INJUNCTIVE, DECLARATORY**  
: **RELIEF, AND ATTORNEY FEES**

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Now comes the Plaintiff, Allison S. Alessandro, by and through her counsel, Santen & Hughes, LPA, and for her Complaint against Governor Andrew Beshear and Attorney General Daniel Cameron hereby alleges as follows:

**INTRODUCTION**

1. This emergency action seeks injunctive and declaratory relief against Governor Andrew Beshear and Attorney General Daniel Cameron for the unconstitutional infringement on the right of every Kentuckian to travel to other states in the United States of America.

2. As explained below, the right to interstate travel is a fundamental right firmly embedded in this nation's jurisprudence.

3. On March 30, 2020, the Governor of Kentucky, Andrew Beshear, signed and issued Executive Order 2020-258 (“the Travel Ban”), an unprecedented and illegal order that prohibits residents of Kentucky from travelling outside of the Commonwealth of Kentucky except for certain enumerated reasons. The Travel Ban further requires Kentuckians who were physically located outside of the Commonwealth of Kentucky on March 30, 2020 to undergo a 14-day quarantine upon their return to the Commonwealth.

4. By this Complaint, Plaintiff challenges the constitutionality of the Travel Ban (both on its face and as applied to her) as infringing on individuals’ fundamental rights to travel and to procedural due process. Plaintiff seeks a declaration that the Travel Ban is unconstitutional, as well as preliminary and permanent injunctive relief prohibiting its enforcement.

### **JURISDICTION AND VENUE**

1. Because this matter presents a claim under a federal statute, 42 U.S.C. § 1983, and raises issues over rights arising out of the Fourteenth Amendment of the U.S. Constitution, this Court has subject-matter jurisdiction under 28 U.S.C. §§ 1331.

2. This Court has personal jurisdiction over all of the parties. All parties reside in the Commonwealth of Kentucky. Governor Andrew Beshear and Attorney General Daniel Cameron hold political offices and transact business in the Commonwealth of Kentucky.

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391 in that a substantial part of the events giving rise to the claim occurred in this district, and the Defendants are domiciled and have their official office in this district.

### **THE PARTIES**

4. Plaintiff is a citizen of Campbell County, Kentucky. Plaintiff has family members who resides in states other than Kentucky, including Ohio.

5. Defendant Governor Andrew Beshear is, and at all times relevant to this Complaint was, the Governor of the Commonwealth of Kentucky. In his capacity as Governor of the Commonwealth of Kentucky, Governor Beshear is the commander-in-chief of Kentucky's forces and he is empowered to enforce all laws of the state.

6. Defendant Governor Andrew Beshear is sued in his official capacity as the Governor of the Commonwealth of Kentucky.

7. Defendant Attorney General Daniel Cameron is, and at all times relevant to this Complaint was, the Attorney General of the Commonwealth of Kentucky. In his capacity as Attorney General of the Commonwealth of Kentucky, Attorney General Cameron is empowered to enforce all laws of the state.

8. Defendant Attorney General Daniel Cameron is sued in his official capacity as the Attorney General of the Commonwealth of Kentucky.

9. On March 20, 2020, Attorney General Cameron stated that his office is pursuing and prosecuting persons suspected of violating Executive Orders "during these challenging times for the Commonwealth and the nation."

### **STATEMENT OF THE FACTS**

10. Following the introduction of COVID-19 into the United States, both state and federal governments have enacted various measures regarding the spread of the virus.

11. While the federal government has issued restrictions on international travel and taken other action to combat the spread of COVID-19, the federal government has not banned interstate travel. See Government Information and Services, *Government Response to Coronavirus, COVID-19*, <https://www.usa.gov/coronavirus> (accessed April 1, 2020).

12. On March 30, 2020, the Governor of Kentucky, Defendant Andrew Beshear, signed and issued the Executive Order referred to herein as the Travel Ban. A true and correct copy is attached to this Complaint as **Exhibit A**.

13. The Travel Ban imposes the following restrictions:

- a. Kentuckians are prohibited from traveling to any other state, except (1) when required by employment; (2) to obtain groceries, medicine, or other necessary supplies; (3) to seek or obtain care by a licensed healthcare provider; (4) to provide care for the elderly, minors, dependents, persons with disabilities, or other vulnerable persons; or (5) when required by court order.
- b. Kentuckians who were physically located outside of the Commonwealth of Kentucky on March 30, 2020 were ordered to undergo a 14-day quarantine upon their return to the Commonwealth.

14. Governor Beshear imposed the Travel Ban as a state of emergency declaration pursuant to his executive powers under the Constitution of Kentucky and Chapter 39A of the Kentucky Revised Statutes.

15. The Travel Ban has the force and effect of law.

16. The Travel Ban makes no mention of the United States Constitution or federal statutes or regulations.

17. The Travel Ban provides no right or opportunity for the individual Kentuckian to be heard if the individual is ordered to be quarantined, or detained, or otherwise punished for violating the Travel Ban.

18. The Travel Ban does not provide the individual Kentuckian with a right to be heard by a fair and independent tribunal if the citizen is ordered to be quarantined, or detained, or otherwise punished for violating the Travel Ban.

19. The Travel Ban provides no right to appeal a quarantine, detention, or punishment pursuant to the Travel Ban, or to appeal an order to quarantine pursuant to the Travel Ban.

20. During the COVID-19 outbreak, Governor Beshear and Attorney General Cameron have actively enforced the Governor's Executive Orders, including ordering sheriff's deputies to forcibly quarantine at least one Kentuckian who attempted to travel.

**THE EFFECT OF THE TRAVEL BAN ON THE PLAINTIFF**

21. Plaintiff is a citizen of Kentucky who regularly travels to Ohio and visits friends and family in Ohio.

22. As a result of the Travel Ban, Plaintiff has been unable to travel to the State of Ohio for the purpose of associating at a safe distance with her friends and family who reside there.

23. As a result of the Travel Ban, Plaintiff has been unable to travel to the State of Ohio to enjoy Ohio's parks and other public areas in a manner permitted under current Ohio and local government law while maintaining social distancing recommendations.

24. Plaintiff fears and has curtailed travel to Ohio due to uncertainty over whether she will be detained or otherwise punished as a result of the Travel Ban.

**THE FUNDAMENTAL RIGHT TO INTERSTATE TRAVEL**

25. Despite political currents or even pandemics, American courts have long recognized the right to interstate travel is a fundamental right embedded in the U.S. Constitution.

26. The United States Supreme Court held that the “constitutional right to travel from one State to another” is firmly embedded in this nation’s jurisprudence. *Saenz v. Roe*, 526 U.S. 489, 498 (1999) (citing *U.S. v. Guest*, 383 U.S. 747, 757 (1966)).

27. In 1958, the United States Supreme Court found that “The right to travel is a part of the liberty of which the citizen cannot be deprived without due process of law under the Fifth Amendment.” *Kent v. Dulles*, 357 U.S. 116, 125 (1958).

28. “The constitutional right of interstate travel is virtually unqualified.” *Califano v. Aznavorian*, 439 U.S. 170, 176 (1978) (citing *United States v. Guest*, 383 U.S. 745, 757-758 (1966); *Griffin v. Breckenridge*, 403 U.S. 88, 105-106 (1971)).

29. “[T]he constitutional right to travel from one State to another, and necessarily to use the highways and other instrumentalities of interstate commerce in doing so, occupies a position fundamental to the concept of our Federal Union.” *United States v. Guest*, 383 U.S. 745, 748 n.1 (1966).

30. “For all the great purposes for which the Federal government was formed, we are one people, with one common country. We are all citizens of the United States; and, as members of the same community, must have the right to pass and repass through every part of it without interruption, as freely as in our own States.” *Smith v. Turner*, 48 U.S. 283, 492 (1849) (Taney, C.J., dissenting).

**COUNT I – 42 U.S.C. § 1983**  
**VIOLATION OF THE RIGHT TO INTERSTATE TRAVEL**

31. Plaintiff incorporates all of the preceding allegations as if fully restated herein.

32. The Travel Ban violates the right to substantive due process as guaranteed by the Fourteenth Amendment to the United States Constitution in that the Travel Ban, both on its face

and as it would be applied to Plaintiff, and impinges upon the fundamental liberty interest in one's right to interstate travel. *See U.S. v. Guest*, 383 U.S. 747 (1966).

33. The rights of adults to engage in interstate travel is a fundamental liberty interest. That right is one that is, objectively speaking, deeply rooted in this nation's history and tradition and one that is implicit in the concept of ordered liberty.

34. The Travel Ban is not narrowly tailored, nor is it the least restrictive means for advancing whatever governmental interest that the Defendant may claim the law advances.

35. The Travel Ban significantly hinders, if not deprives, many individuals from their ability and right to interstate travel.

36. The Travel Ban has and will cause a chilling effect on interstate travel.

37. By issuing and enforcing the Travel Ban, Governor Beshear and Attorney General Cameron, each acting under color of state law, are depriving and will continue to deprive Plaintiff and other similarly situated Kentuckians of rights secured by the United States Constitution, including the Fourteenth Amendment to the United States Constitution, in violation of 42 U.S.C. § 1983.

38. Plaintiff is therefore entitled to a declaration of unconstitutionality, both on its face and as applied, and injunctive relief prohibiting the enforcement of the Travel Ban.

**COUNT II – 42 U.S.C. § 1983  
VIOLATION OF FIFTH AND FOURTEENTH AMENDMENT  
RIGHT TO PROCEDURAL DUE PROCESS**

39. Plaintiff incorporates all of the preceding allegations as if fully restated herein.

40. “[T]here can be no doubt that at a minimum [procedural due process] require[s] that deprivation of life, liberty or property by adjudication be preceded by notice and opportunity

for hearing appropriate to the nature of the case.” *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950).

41. “A fair trial in a fair tribunal is a basic requirement of due process.” *In re Murchison*, 349 U.S. 133, 136 (1955).

42. “Procedural due process rules are meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property. Thus, in deciding what process constitutionally is due in various contexts, the Court repeatedly has emphasized that “procedural due process rules are shaped by the risk of error inherent in the truth-finding process....” *Carey v. Piphus*, 435 U.S. 247, 259 (1978) (citing *Mathews v. Eldridge*, 424 U.S. 319, 344 (1976)).

43. By issuing and enforcing the Travel Ban, Governor Beshear and Attorney General Cameron, each acting under color of state law, are depriving and will continue to deprive Plaintiff and other similarly situated Kentuckians of the right to procedural due process secured by the Fifth and Fourteenth Amendment to the United States Constitution in violation of 42 U.S.C. § 1983, thereby causing them harm.

44. Plaintiff is therefore entitled to a declaration of the unconstitutionality of the Travel Ban, both on its face and as applied, and injunctive relief prohibiting the enforcement of the Travel Ban.

### **IRREPARABLE INJURY**

45. Plaintiff incorporates all of the preceding allegations as if fully restated herein.

46. Plaintiff is now severely and irreparably injured by the Travel Ban, a state law that violates the right to travel and the right to procedural due process. By way of example only, Plaintiff’s injury includes the deprivation of rights guaranteed by the Fourteenth Amendment and

the severe emotional distress, suffering, and psychological harm caused by the Commonwealth of Kentucky's restrictions on Plaintiff's ability to travel interstate to enjoy public facilities and meet friends and family in a safe manner. Plaintiff's injuries will be redressed only if this Court declares the Travel Ban unconstitutional and enjoins Governor Beshear and Attorney General Cameron from enforcing it.

47. An actual and judicially cognizable controversy exists between Plaintiff and Defendants regarding whether the Travel Ban violates Plaintiff's constitutional rights.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays for final judgment as follows:

1. A declaration that Kentucky's Travel Ban, Executive Order 2020-258, is unconstitutional, both facially and as it may be applied against Plaintiff;
2. Preliminary and permanent injunctive relief prohibiting Defendants from enforcing Executive Order 2020-258;
3. An award of reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988; and
4. Any other such award or relief that the Court deems just and proper.

Respectfully submitted,

*/s/ Brian P. O'Connor*

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Brian P. O'Connor

H. Louis Sirkin

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*Attorneys for Plaintiff*

**VERIFICATION**

I, Allison S. Alessandro, based on my personal knowledge and pursuant to 28 U.S.C. § 1746, declare that I have read the foregoing Verified Complaint, and that the factual allegations contained therein are true to the best of my knowledge, information, and belief.

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

Executed on April 2, 2019  
at Fort Thomas, Kentucky

/s/ Allison S. Alessandro \_\_\_\_\_  
Allison S. Alessandro

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