

IN THE CIRCUIT COURT OF PRESTON COUNTY, WEST VIRGINIA

CHERI LONG and SETH LONG,

Plaintiffs,

v.

Civil Action No. 20-c-38

CLEAR MOUNTAIN BANK, INC.,
WEST VIRGINIA UNIVERSITY HOSPITALS, INC.,
and EDWARD L. HARMAN, JR.,

Defendants.

ORDER

This day came Plaintiffs seeking emergency injunctive relief upon verified complaint in support of their motion and oral and email notice to Defendants and/or their counsel. Upon consideration of this matter this Court **FINDS** and **CONCLUDES** as a matter of law:

1. Plaintiffs are suffering and will continue to suffer immediate and irreparable injury, loss, and damage without issuance of the temporary restraining order. Specifically, Plaintiffs have been deprived without due process of law of funds that are necessary to enable them to maintain the basic necessities of daily life, including access to food, water, medical care, and shelter, which cannot be repaired by an injunction issued at a later date. Further Plaintiffs are likely to be deprived of the federal CARES Act individual payments that are necessary to allow Plaintiffs to support their family during the current state of emergency. Plaintiffs have made a good faith effort to provide notice to Defendants of their motion. A delay in issuance of this order will create irreparable harm for Plaintiffs.

2. Seizure of personal property during the current court closure and stay at home order and related state of emergency in which individuals are advised not to leave their homes unless absolutely necessary violates due process of law, which requires that parties subject to seizure of

personal property be provided adequate notice and an opportunity to be heard and assert their right to exemptions or otherwise object to the seizure. Article III, Section 10, of the West Virginia Constitution; *Vanscoy v. Neal*, 174 W. Va. 53, 322 S.E.2d 37 (1984); W. Va. Code § 38-8-1.

3. Seizure of the Federal CARES Act payments, in contravention of the federal purpose violates Plaintiffs' right to life, liberty, and property, pursuant to Article III, Section 10, of the West Virginia Constitution. Further, the seizure of the funds intended for Ms. Long and her children, without due process, to pay for a third parties' debts violates the West Virginia Constitution.

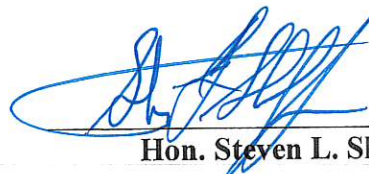
4. Seizure of funds in a joint bank account pursuant to a suggestion of judgment against one owner of the account, without notice and the opportunity to be heard provided to both owners of the account, violates the right to due process set forth in Article III, Section 10, of the West Virginia Constitution.

WHEREUPON, the Court hereby **ORDERS** that Defendants shall immediately release all seized, frozen, or held funds to Plaintiffs, to not seize any funds provided pursuant to the Federal CARES Act and to take no further action on any suggestion of judgment until such time as ~~the~~ *a hearing can be held in this matter.* ~~state of emergency has been lifted.~~ The Court further orders that all requirements set forth in Rule 65 of the West Virginia Rules of Civil Procedure shall be followed in regard to this Order.

The Circuit Clerk shall provide a certified copy of this Order to all parties or their counsel of record.

It is so **ORDERED**.

Entered this APRIL 15, 2020, at 3 : 20 P M.



Hon. Steven L. Shaffer