

Massachusetts Supreme Judicial Court to Hear Case Challenging Baker's COVID-19 Orders

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The state's highest court will hear arguments in September in a lawsuit brought against Gov. Charlie Baker challenging his authority to declare a COVID-19 state of emergency and to issue the emergency orders that have shaped life in Massachusetts for the last four months.

Justice Barbara Lenk, sitting as part of a single-justice session, ordered a lawsuit brought by the New Civil Liberties Alliance to be transferred to the Supreme Judicial Court for arguments in September. The suit revolves around whether a governor can use the powers afforded under the Civil Defense Act to declare an emergency around public health.

"The Governor's orders are invalid because the COVID-19 pandemic is not a 'civil defense emergency.' The Civil Defense Act is a 1950's-era statute designed to protect the Commonwealth from foreign invasions, armed insurrections, and civil unrest associated with natural disasters. It has never before been invoked for a health emergency," the plaintiffs said. "On the other hand, the legislature passed the Public Health Act explicitly to empower health authorities to control and prevent transmission of infectious diseases dangerous to public health. Under the Public Health Act, principal responsibility for disease control lies with local boards of health, not with the Governor."

The plaintiffs include business owners in Hubbardston,

Lexington, Burlington, and Marlborough, the pastors of churches in Westfield and Medford, and Ben Haskell, headmaster of Trinity Christian Academy in Hyannis.

Both the New Civil Liberties Alliance and the Baker administration asked for a single justice of the SJC to review the complaint.

“Due to the nature of the questions raised, and the multiple pending cases in State and Federal courts related to these issues of State-wide significance, the parties’ motion to transfer is the most expeditious way to resolve the questions presented in the petitioner’s complaint,” Lenk wrote in her order.

The governor has said that he was mindful to not trample upon anyone’s constitutional rights when imposing virus mitigation measures. For example, Baker has said repeatedly that he did not think he had the authority to order residents to stay in their homes, and he opted instead to advise people that they would be safer at home.

The Massachusetts Fiscal Alliance, which is not a plaintiff in the suit but supports the action, celebrated Lenk’s order on Tuesday.

“It looks like the plaintiffs and all those who care about keeping state government accountable will have their day in court – the state’s highest court. This case is not an attack on the Governor and makes no judgement as to whether his policies are good or bad,” Paul Craney, spokesman for the Fiscal Alliance, said. “What this case hopes to clarify is whether the Governor has the legal authority to impose so many far reaching executive orders or should he abide by the provisions set forth by the legislature in state’s Public Health Act.”