

April 17, 2020 – FOR IMMEDIATE RELEASE

Media Contact on legal: John Bursch (616) 450-4235, jbursch@burschlaw.com

Media contact on industry: Amy Upton (517-381-0437), amy@mnl.org

**Landscaping, Lawn-Care, and Retail-Garden-Center Businesses File Federal Lawsuit
to Stop Governor Whitmer’s Stay-in-Place Order**

Businesses say Executive Order 2020-42 is unconstitutional

LANSING, Mich. -- The Michigan Nursery and Landscape Association (MNLA), five landscaping, lawn-care, and retail-garden-center businesses, and an employee harmed by the most extreme and unnecessarily broad “stay at home” order in the country filed a class-action lawsuit today in the United States District Court for the Western District of Michigan. The lawsuit adds to a growing number of suits filed around the State related to Governor Whitmer’s Executive Order 2020-42. The businesses ask the Court for an emergency order allowing them to immediately resume services and sales.

“While we fully support the Governor’s focus on keeping people safe, ours is an outdoor industry and one that can get Michiganders back to work safely,” said Amy Upton, MNLA’s Executive Director. “Every state in the nation except Michigan recognizes our ability to work safely and allows our industry to stay open. The other states’ approach makes sense. It’s easy to mow the lawn, trim trees, install plantings, and sell plants and seeds for curbside pickup without person-to-person contact. We can keep workers employed without increasing the public-health risk.”

In addition to easily practicing social distancing, the lawn, landscape, and retail-garden-center industry plays an important public health role, Upton added. “We are a family’s frontline defense against the infestation of fleas, spiders, ticks, and mosquitoes that can spread dangerous diseases such as Lyme, Canine Heartworm, West Nile virus, Zika virus, yellow fever, and encephalitis. At a time when our healthcare providers are taxed with serious cases, we help prevent needless additional cases coming to them.”

Attorney John Bursch, of Bursch Law PLLC, filed the suit on behalf of MNLA and the other plaintiffs. “Public-health protections need to be balanced by common sense,” Bursch said. “The Governor’s order already allows public employees to mow and trim public parks, and homeowners can do the same in their backyards. But an elderly or infirm homeowner cannot hire someone to do this work for them, even if they need it. Yet local governments are now giving citations to such homeowners, calling their overlength grass a public nuisance. What’s more, hundreds of businesses face permanent closure. This has got to stop.”

As the lawsuit explains, the Executive Order’s ban on sales by retail garden centers are equally difficult to understand. Property owners can order plants and seeds online and have them delivered to their home. But the Order prevents brick-and-mortar retail garden centers from selling the exact same products, even for curbside pickup. At the same time, the Order apparently allows curbside pickup of fast food, alcohol, tobacco, and marijuana.

The plaintiffs’ accompanying emergency motion—for an order allowing them to reopen—explains that the Order’s application to businesses in the landscaping, lawn-care, and retail-garden-center industry violates the Commerce Clause and Due Process Clause of the U.S. Constitution. The lawsuit also requests class-action status and damages on behalf of every business in Michigan affected by the shutdown.

###