



West Virginia E-Filing Notice

CC-24-2025-C-208

Judge: Matthew S. Delligatti

To: Joseph David Garcia
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NOTICE OF FILING

IN THE CIRCUIT COURT OF MARION COUNTY, WEST VIRGINIA

Mary DeVito v. Patrick Morrissey

CC-24-2025-C-208

The following order - case was FILED on 10/24/2025 12:02:40 PM

Notice Date: 10/24/2025 12:02:40 PM

Mary Allen
CLERK OF THE CIRCUIT COURT
Marion County
219 Adams St Room 211
FAIRMONT, WV 26554

(304) 367-5360
Mary.Allen@courtsww.gov

In the Circuit Court of Marion County, West Virginia

Mary DeVito,
Plaintiff,

v.

Patrick Morrissey,
Michael Caruso,
Defendants

Case No. CC-24-2025-C-208
Judge Matthew S. Delligatti

ORDER GRANTING TEMPORARY RESTRAINING ORDER AND NOTICE OF HEARING

On the 23rd day of October, 2025, came the Plaintiff, Mary DeVito, by counsel, Joseph D. Garcia, Esq. and *Garcia Law PLLC*, and Brandon S. Flower, and *Funkhouser & Smith, PLLC*, and filed a *Motion for Temporary Restraining Order* asking the Court for an Order providing emergency injunctive relief temporarily enjoining Defendants Governor Patrick Morrissey and Secretary Michael Caruso from completing the proposed sale of the John Manchin Sr. Health Care Center (“John Manchin facility”) between the State of West Virginia Department of Health Facilities and Marx Development Group LLC, which the Defendants intend to finalize on October 31, 2025 at 12:01 a.m., and prohibiting the transfer of operations and of the assets used in connection with the John Manchin facility.

West Virginia courts apply the “clearer alternative standard” when evaluating requests for temporary restraining orders and preliminary injunctions, which differs from Fourth Circuit federal standards. *Justice v. W. Virginia AFL-CIO*, 246 W. Va. 205, 212, 866 S.E.2d 613, 620 (2021). This standard requires that courts “[M]ust consider, in ‘flexible interplay,’ the following four factors in determining whether to issue a preliminary injunction: (1) the likelihood of irreparable harm to the plaintiff without the injunction; (2) the likelihood of harm to the defendant with an injunction; (3) the plaintiff’s likelihood of success on the merits; and (4) the

public interest.”

The Court **FINDS** that Plaintiff will likely suffer irreparable harm if the sale of the John Manchin facility is finalized and assets and operations are transferred to Marx Development Group, based on concerns including, but not limited to, quality and availability of care for residents, the future location of the John Manchin facility, and staffing issues. The Court further **FINDS** there is likely further irreparable harm as the state will no longer have control over the assets and operations of the John Manchin facility after the sale, and it would be practically impossible to unwind the transaction of the assets and operations back to the control of the State of West Virginia Department of Health Facilities. Additionally, the Court **FINDS** that the likelihood of irreparable harm to the Plaintiff without an injunction outweighs the likelihood of harm to the Defendant with an objection. Finally, the Court **FINDS** that there is a significant public interest in this matter considering John Manchin Sr. Healthcare Center provides important and necessary services to its patients.

For good cause shown, this Court hereby **GRANTS** *Petitioner’s Motion for Temporary Restraining Order* and hereby **ORDERS** that Defendants Governor Patrick Morrisey and Secretary Michael Caruso are hereby temporarily restrained from (1) completing the proposed sale of the John Manchin Sr. Health Care Center between the State of West Virginia Department of Health Facilities and Marx Development Group, LLC and (2) transferring operations and assets used in connection with the John Manchin Sr. Health Care Center to Marx Development Group, LLC until further ruling from the Court so that it may consider the *Plaintiff’s Verified Complaint and Petition for Mandamus and Injunctive Relief*.

The Court further **ORDERS** that the parties appear for a hearing on the *Plaintiff’s Verified Complaint and Petition for Mandamus and Injunctive Relief* in the above-styled matter on **TUESDAY, OCTOBER 28, 2025 at 3:30 p.m.**, before Judge Matthew S. Delligatti, Circuit Court of Marion County, West Virginia. This hearing will take place on the 3rd floor of

the Marion County Courthouse.

The Circuit Clerk of Marion County is hereby directed to provide certified copies of this Order to all counsel of record; with a copy to be also provided to Defendants Governor Patrick Morrisey and Secretary Michael Caruso via West Virginia Attorney General John B. McCuskey, State Capitol Complex, Building 1, Rm E-26, 1900 Kanawha Blvd., East, Charleston, WV 25305.

Order prepared, in part, by:

/s/ Joseph D. Garcia

Joseph D. Garcia (WV Bar No. 11097)

Garcia Law PLLC

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Counsel for Plaintiff Mary DeVito

ENTER this 24th day of October, 2025.

/s/ Matthew S. Delligatti

Circuit Court Judge

20th Judicial Circuit

Note: The electronic signature on this order can be verified using the reference code that appears in the upper-left corner of the first page. Visit www.courtswv.gov/e-file/ for more details.