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THE SENATE
STATE OF NEW YORK



ROBERT G. ORTT
SENATOR, 62ND DISTRICT

ALBANY OFFICE:
617 LEGISLATIVE OFFICE BUILDING
ALBANY, NEW YORK 12247
(518) 455-2024

DISTRICT OFFICE:
175 WALNUT STREET, SUITE 6
LOCKPORT, NEW YORK 14094
(716) 434-0680

April 3, 2020

Governor Andrew Cuomo
NYS Capitol Building
Albany, NY 12224

Dear Governor Cuomo:

We are deeply troubled by your Executive Order mandating the seizure and redistribution of ventilators and PPE in New York State. This Order poses a significant risk to the people of Upstate New York.

The semantics of "sharing" may render this Order more acceptable to the general public. But, we need to call it what it is: state seizure of private property (private hospitals) because the state feels it knows best how to use it. We believe this is a grave mistake that raises legitimate 4th and 5th Amendment concerns.

It is clear that New York City has become the American epicenter of COVID-19, and there is no denying that the NYC region needs all the help it can get. We joined you in calling for financial, supply, and workforce assistance to those inundated by the pandemic. However, the fact is that COVID-19 has spread to every county in our state. People in every corner of New York will contract this disease and need ventilators.

You have indicated that this Order should be acceptable to hospitals because you will replace the ventilators when NYC is done with them. However, returning the ventilators to upstate hospitals after the crisis subsides is little consolation to upstate residents who will invariably need ventilators *during* the crisis, but will not be able to get them because they have been moved downstate.

We also believe that this Order is based on the premise that upstate communities have plenty of "spare" PPE and ventilators because there are fewer confirmed COVID-19 cases in our communities. However, the state has directed almost all COVID tests downstate, so upstate communities likely have significantly more positive cases than we have positive test results. Because the state has deprived upstate communities of proper testing, we have no way of knowing how much the virus has spread. This creates the illusion that medical resources are only needed in New York City, but our communities know better.

We have also seen how rapidly this virus spreads. Counties with a few dozen cases will have a few hundred soon; and a few hundred can become a few thousand. Even if communities are not using ventilators now, they may need them in another week. Your Executive Order does not make it clear

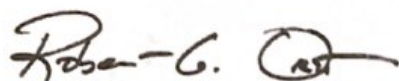
when the ventilators will be returned, so hospitals who move them downstate could be out of luck when COVID peaks in their communities. We would respectfully request further clarification on what constitutes "extra" PPE and ventilators as well as the process of returning them to their facility of origin.

Sadly, this order simply places more value on downstate lives than upstate lives. Upstate residents currently need and will continue to need ventilators to weather this pandemic. Upstate medical personnel need and will continue to need PPE. While shifting these supplies downstate will assuredly save lives downstate, they will come at the cost of lives upstate.

We understand the significant strain all of our medical facilities are under, and we share your desire to make sure any New Yorker who needs a ventilator will have it. But, depriving some hospitals who are in need to minimize the blow to other hospitals in need is not the way to do it.

One's odds of beating COVID-19 should not depend on their county of residence. We urge you to repeal this Order and allow hospitals to keep their equipment and continue to work in partnership with our state as opposed to under the direction of our state. Please contact our offices if you wish to discuss this further.

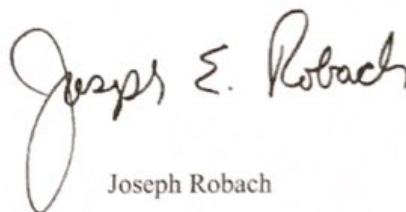
Sincerely,



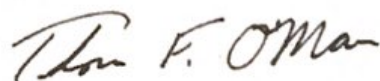
Robert G. Ort
Senator, 62nd District



Rich Funke
Senator, 55th District



Joseph Robach
Senator, 56th District



Thomas O'Mara
Senator, 53rd District



Fred Akshar
Senator, 52nd District



Pamela Helming
Senator, 54th District



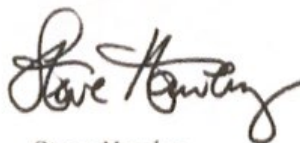
George Borello
Senator, 57th District



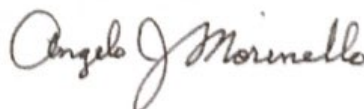
Michael Ranzenhofer
Senator, 61st District



Michael Norris
Assemblyman, 144th District



Steve Hawley
Assemblyman, 139th District



Angelo Morinello
Assemblyman, 145th District