

STATE OF MINNESOTA  
COUNTY OF WABASHA

DISTRICT COURT  
THIRD JUDICIAL DISTRICT

State of Minnesota, by its Attorney General,  
Keith Ellison,

Plaintiff,

vs.

House of Iron, LLC d/b/a Plainview Wellness  
Center,

Defendant.

Case Type: Civil

Court File No. 79-CV-20-829  
Judge Christopher A. Neisen

**CONSENT JUDGMENT**

WHEREAS, on March 13, 2020, as a result of the ongoing COVID-19 pandemic, Minnesota Governor Tim Walz declared a peacetime emergency, which was most recently extended until at least through March 15, 2021, pursuant to Executive Order 21-08. From March 2020 through November 2020, the governor attempted to slowly and safely reopen the Minnesota economy, placing restrictions on businesses to slow the community spread of COVID-19. By November 18, 2020, however, Minnesota reported over 240,000 confirmed cases of COVID-19 in the state, with 100,000 of those cases being added in only 41 days. Thus, on November 18, 2020, Governor Walz issued Executive Order 20-99, “implementing a four week dial back on certain activities to slow the spread of COVID-19”;

WHEREAS, in relevant part, Executive Order 20-99 ordered that “gymnasiums, fitness centers, recreation centers, . . . and exercise studios are closed to ingress, egress, use, and occupancy by members of the public” from November 20, 2020 at 11:59 until at least December 18, 2020 at 11:59 p.m.;

WHEREAS, House of Iron, LLC d/b/a Plainview Wellness Center (“Plainview Wellness Center”), a Minnesota fitness center, remained open to the public for access to individual and group fitness from November 20, 2020 through December 2, 2020;

WHEREAS, the AGO alleges that Plainview Wellness Center in remaining opening to the public for access to individual and group fitness, violated Minnesota Executive Order 20-99;

WHEREAS, on November 24, 2020, Plaintiff, State of Minnesota, by its Attorney General Keith Ellison (“the State” or “Attorney General”), filed a Complaint against House of Iron d/b/a Plainview Wellness Center (“Plainview Wellness Center”) alleging Plainview Wellness Center remained open to the public through providing access to members for individual and group fitness in violation of Governor Walz’s Emergency Executive Order 20-99;

WHEREAS, on November 25, 2020, the State filed an emergency *Ex Parte* Motion for a Temporary Restraining Order and Temporary Injunction seeking an order that Defendant close to the public in compliance with Executive Order 20-99 and comply with any future Executive Orders applicable to the business;

WHEREAS, on December 2, 2020, the Court granted the State’s Motion issuing a Temporary Injunction ordering Plainview Wellness Center close and comply with Executive Order 20-99 and comply with any future Executive Orders applicable to the business;

WHEREAS, the State and Plainview Wellness Center have agreed to resolve the State’s claims raised in the Complaint by entering into this Consent Judgment;

NOW, THEREFORE, in the interest of resolving the State’s Complaint against Plainview Wellness Center, the Parties hereby stipulate and consent to entry of this Consent Judgment and Order as set forth below:

### **REPRESENTATION AND WARRANTIES**

1. On February \_\_, 2021, Plainview Wellness Center provided the Attorney General with a declaration averring that Plainview Wellness Center's total profits it received for its fitness center operations from November 21, 2020 through December 2, 2020, amounted to \_\_\_\_\_. The State has relied on Plainview Wellness Center's representations in its investigation and resolution of this matter.

### **INJUNCTIVE RELIEF**

2. Plainview Wellness Center, including its principals, employees, agents, independent contractors, affiliates, and other persons in active concert or participation with Plainview Wellness Center who receive actual notice of this Order shall fully comply with Executive Orders 20-99; 20-103; 21-01; and any future Executive Orders issued by the Governor, approved by the Executive Council, and filed in the Office of the Secretary of State in accordance with Minnesota Statutes Chapter 12 that apply to gymnasiums, fitness centers, recreation centers and exercise studios while those Executive Orders are effective.

### **MONETARY PAYMENT**

3. After the Court's entry of the Consent Judgment, Plainview Wellness Center shall make six installment payments to the Attorney General pursuant to Minn. Stat. § 8.31 and Executive Order 20-99, by check payable to the State of Minnesota and mailed to the Attorney General's Office, care of Assistant Attorney General Elizabeth Odette, 445 Minnesota Street, Suite 1400, St. Paul, Minnesota 55101, totaling the sum of \$5,000 (the "Settlement Sum"). Plainview Wellness Center's first installment payment of \$2,500 shall be made on or before March 1, 2021, and each of its remaining five installment payments of \$500 shall be made on the first of the month, in April, May, June, July and August, 2021. The Settlement Sum funds received by the Attorney

General shall be remitted to the general fund of the State pursuant to Minn. Stat. §§ 8.31 and 16A.151.

#### **STAYED CIVIL PENALTY**

4. Upon application to the Court and a showing by the Attorney General that Plainview Wellness Center has violated any of the terms of this Consent Judgment and Order, including but not limited to any breach of its representations as described in paragraph 1 above, Plainview Wellness Center shall pay a stayed civil penalty of \$25,000 to the State. The Court shall decide whether the stayed civil penalty shall be imposed and may hold an evidentiary hearing if it deems such hearing necessary. The release in Paragraph 6 does not prevent the Attorney General from moving for, or collecting the stayed civil penalty described in this Paragraph.

5. If Plainview Wellness Center does not cure a failure to comply with the payment schedule specified in Paragraph 3, Plainview Wellness Center consents to and authorizes the AGO to, *ex parte*, immediately file with the Court the Confession of Judgment that Plainview Wellness Center has executed in relation to this Consent Judgment pursuant to Minn. Stat. § 548.22, thereby rendering Plainview Wellness Center immediately liable for the entire Settlement Sum, minus any amounts already paid by Plainview Wellness Center pursuant to this Consent Judgment. Plainview Wellness Center consent to the Court Administrator or Clerk of Court entering the Confession of Judgment forthwith without any additional notice or other action.

#### **GENERAL TERMS**

6. Nothing in this Consent Judgment shall relieve Plainview Wellness Center of its obligation to comply with all applicable Minnesota and federal laws and regulations.

7. In consideration of the stipulated relief and contingent upon the Court's entry of this Consent Judgment and Order, the Attorney General and Plainview Wellness Center, by

execution of this Consent Judgment, hereby fully and completely release the other party of any and all claims raised or which could have been raised by the Parties connected with or arising out of the allegations contained in the State's Complaint, up to and including the date of this Consent Judgment and Order, including claims that relate to the conduct of the Attorney General or Plainview Wellness Center. The Attorney General through this Consent Judgment does not settle, release, or resolve any claims, and remedies, including, but not limited to, private causes of action, claims, or remedies provided for under Minn. Stat. § 8.31. This release does not apply in any way to claims of any other Minnesota state agency, department, official, or division.

8. This Consent Judgment may be executed in counterparts, each of which constitutes an original, and all of which shall constitute one and the same agreement. This Consent Judgment may be executed by facsimile or electronic copy in any image format.

9. This Consent Judgment constitutes the full and complete terms of the agreement entered into by Plainview Wellness Center and the Attorney General.

10. The Parties agree that this Consent Judgment, including any issues related to interpretation or enforcement, shall be governed by the laws of the State of Minnesota.

11. The Wabasha County District Court shall retain jurisdiction of this matter for purposes of enforcing this Consent Judgment and Order. The Attorney General may make such application as appropriate to enforce or interpret the provisions of this Consent Judgment and Order or, in the alternative, maintain any action within his legal authority for such order and further relief as he determines is proper and necessary for the enforcement of this Order. The Parties agree that, in any action brought by the Attorney General to enforce the terms of this Consent Judgment and Order, the Court shall have the authority to award equitable relief, including specific performance.

12. The failure of a party to exercise any rights under this Consent Judgment and Order shall not be deemed to be a waiver of any right or any future rights.

13. Nothing in this Consent Judgment and Order shall be construed to limit the power or authority of the State of Minnesota or the Attorney General except as expressly set forth herein.

14. Plainview Wellness Center understands that if a Court of competent jurisdiction holds that Plainview Wellness Center has committed a violation of this Consent Judgment and Order, that such violation may subject Plainview Wellness Center to sanctions for contempt pursuant to Minn. Stat. § 8.31, subdivision 2b, and that the Attorney General may thereafter, in his sole discretion, initiate legal proceedings against Plainview Wellness Center for any and all violations of this Consent Judgment and Order.

15. Each party shall perform such further acts and execute and deliver such further documents as may reasonably be necessary to carry out this Consent Judgment and Order.

16. Plainview Wellness Center shall notify its officers, agents, employees, attorneys, and any other person in active concert with Plainview Wellness Center's activities of the obligations, duties and responsibilities imposed on them by this Consent Judgment and Order.

17. Plainview Wellness Center shall not state or imply, directly or indirectly, that the State of Minnesota or the Attorney General have approved of, condone, or agree with any conduct or actions by Plainview Wellness Center.

18. Service of notices required by this Consent Judgment and Order shall be served on the following persons, or any person subsequently designated by the Parties to receive such notices:

Elizabeth Odette, Assistant Attorney General  
Office of the Minnesota Attorney General  
445 Minnesota Street, Suite 1400  
St. Paul, Minnesota 55101

Vince Fahnlunder  
Mohrman, Kaurdal & Erickson, P.A.  
150 South Fifth Street, Suite 3100  
Minneapolis, MN 55402

19. The Parties consent to entry of the foregoing judgment, which shall constitute a final judgment. The judgment shall take effect immediately upon entry by the clerk of this Court.

KETH ELLISON  
Attorney General  
State of Minnesota

Dated: 3/1/2021

By: *Elizabeth Odette*  
ELIZABETH ODETTE  
Assistant Attorney General  
On behalf of State of Minnesota

Dated: *2/24/2021*

By: *[Signature]*  
BRANDON REITER  
Owner for House of Iron, LLC d/b/a Plainview  
Wellness Center

**ORDER**

Based upon the foregoing Consent Judgment, it is SO ORDERED.

Date: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF DISTRICT COURT

THERE BEING NO CAUSE FOR FURTHER DELAY, LET JUDGMENT BE ENTERED IMMEDIATELY.