

PREPARED BY THE COURT

OCCUPY TRENTON (an unincorporated organization) and **ALEXANDER HIGGINS**,

Plaintiffs,

v.

RAYMOND L. ZAWACKI (in his official capacity as Deputy Commissioner for Veterans Affairs in the Department of Military and Veterans Affairs), **COL. RICK FUENTES** (in his official capacity as the Director of the New Jersey State Police), **JOHN DOES 1-11** (in their official capacities), **DEPARTMENT OF MILITARY AND VETERANS AFFAIRS**, and **NEW JERSEY STATE POLICE**,

Defendants.

**SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION –
GENERAL EQUITY PART
MERCER COUNTY**

DOCKET NO. C-72-11

CIVIL ACTION

ORDER

CLERK OF SUPERIOR COURT
SUPERIOR COURT OF N.J.
MERCER COUNTY
RECEIVED AND FILED

NOV 7 - 2011

Sue Regan

**SUE REGAN
DEPUTY CLERK OF SUPERIOR COURT**

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THIS MATTER having come before the court by Order to Show Cause filed by Bennet D. Zurofsky, Esquire, on behalf of Plaintiffs, Occupy Trenton and Alexander Higgins, on October 26, 2011, to enjoin restrictions issued by Defendants regarding Plaintiffs' ongoing

demonstration in Veterans Park and the seizure and confiscation of Plaintiffs' property; and Plaintiffs having sought a temporary restraining order pending the court's review of this application for a preliminary injunction and other relief; and Defendants having opposed temporary relief and having filed a cross-motion for transfer to the Appellate Division; and the court having heard oral argument on Plaintiffs' application for temporary relief on October 26, 2011; and the court having determined that Plaintiffs have met the standards for the granting of limited temporary relief pending further consideration of the order to show cause; and for good cause shown, as set forth in the Statement of Reasons issued by the court:

IT IS on this 7th day of November, 2011, **HEREBY ORDERED** that:

1. Defendants' motion to transfer Plaintiffs' complaint to the Appellate Division is denied without prejudice.
2. Plaintiffs' motion for temporary restraints is granted in part:
 - a. Pending further court order, Defendants are restrained from enforcing the "rules" contained in DMAVA's letter of October 13, 2011, insofar as those rules affect signs and other personal property, as set forth in paragraphs 1, 2, and 5.
 - b. Defendants shall return Plaintiffs' property to Veterans Park on or before November 14, 2011, at 2:00 p.m.
 - c. The State Police shall give Plaintiffs' counsel 24 hours notice of the date and time during which they will return Plaintiffs' property so that the demonstrators may be present to claim their property.
 - d. Any unclaimed property shall be returned to the Department of Treasury warehouse, where it will be available for pick up by its owners during regular

business hours, until the time of the hearing on the preliminary injunction, at which time the court will address the disposition of any unclaimed property.

- e. Defendants may enforce those aspects of DMAVA's letter of October 13, 2011, that restrict Plaintiffs from erecting structures in the park, from accessing any electrical outlets in Veterans Park and at the World War II Memorial, from using a gas generator in Veterans Park or at the World War II Memorial, and from attaching anything to the walls of the Memorial.
 - f. Plaintiffs remain permitted to maintain a continuous twenty-four hour a day presence in Veterans Park or at the World War II Memorial. However, nothing in this order shall be construed to permit Plaintiffs to sleep in Veterans Park.
- 3. The court will hold a hearing on Plaintiff's request for a preliminary injunction on December 19, 2011 at 10:00 A.M.
 - 4. Plaintiffs may supplement their papers by December 2, 2011. Defendants may reply to that submission by December 12, 2011. Plaintiffs may file a reply by December 16, 2011.
 - 5. The parties shall notify the court by letter by December 12, 2011, if they request the right to offer testimony on the return date.


MARY C. JACOBSON, P.J. Ch.