

Agudath Israel Sues to Stop Unconstitutional Restrictions on Shul Attendance in New York State

October 8, 2020

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

AGUDATH ISRAEL OF AMERICA, AGUDATH ISRAEL OF
Kew GARDEN HILLS, AGUDATH ISRAEL OF MADISON,
AGUDATH ISRAEL OF BAYSHATEL, RABBI YISROEL
REISMAN, RABBI MENACHEM FEIFER, and STEVEN
SAPPHIRESTEIN,

Plaintiffs,

Civil Action No. 1:20-cv-4834

vs.

ANDREW M. CUOMO, Governor of the State of New York, in
his official capacity,

Defendant.

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

Plaintiffs, by and through their undersigned counsel Troutman Pepper Hamilton Sanders
LLP, respectfully allege as follows:

PRELIMINARY STATEMENT

1. Orthodox Jews celebrate three holidays on October 9, 10, and 11, respectively. These holidays each have special prayers and rituals that are incorporated into worship services.

2. Orthodox Jews will gather at their synagogues for collective prayer, Torah readings, remembrances of deceased loved ones, and other rituals in observance of Hoshanah Rabbah, Simchat Aitzores, and Simchas Torah.

3. Forty-eight hours before the onset of these holidays, Defendant Governor Cuomo issued an Executive Order that singles out and discriminates against all houses of worship—and synagogues in particular—by imposing occupancy and gathering restrictions that make it impossible for Orthodox Jews to comply with both their religious obligations and the Order.

Today, Agudath Israel of America filed a lawsuit in federal court, asking for a temporary restraining order to bar the State of New York from enforcing its limits on house of worship attendance in certain areas of the state. The limits, announced by Governor Andrew Cuomo just two days ago, would cap Shul and other houses of worship attendance in so-called “red zones” to ten individuals.

The memorandum argues that the Executive Order’s restrictions unconstitutionally discriminate against religious practice while simultaneously permitting comparable secular conduct. Moreover, the restrictions violate Free Exercise rights because they appear to target conduct due to their religious motivation.

With Hoshanah Rabbah, Shemini Atzeres, and Simchas Torah holidays beginning tomorrow, October 9th, these limits would, according to just one of

the points made in the lawsuit, disrupt the religious observance of tens of thousands of Orthodox Jews, “depriving them of their religious worship and holiday observance.” This is because, for example, in a synagogue the size of co-plaintiff Agudath Israel of Madison, “the capacity limits would require over twenty such services on Friday morning to serve the entire congregation. That is simply impossible.”

The lawsuit also contends that although the caps apply to all house of worship, and thereby discriminates against all religions, the order disproportionately impacts the religious services of Orthodox Jews who cannot drive to a synagogue out of a “red zone” on Shabbos or holidays such as Shemini Atzeres and Simchas Torah.

The filing requested that the court – in light of the holidays beginning tomorrow – immediately grant a temporary restraining order (TRO) preventing the state government from enforcing the new limits, as well as declaring the executive order unconstitutional.

Other plaintiffs in the filing were Agudath Israel of Kew Garden Hills, Agudath Israel of Bayswater, Congregation Zichron Moshe Dov, Rabbi Yisroel Reisman, Rabbi Menachem Feifer, Rabbi Aaron Stein, and Steven Saphirstein.

“Social distancing, masking, and all health precautions must, of course, be observed,” said Rabbi Chaim Dovid Zwiebel, executive vice president of Agudath Israel. “However, we think that it is possible to stay safe and at the same time have more than ten people in a Shul building that is meant to hold hundreds.”

“This lawsuit is a last resort,” said Agudah’s Chairman of the Board Shlomo Werdiger. “We would have been able to accomplish much more for these critical public health needs had the governor’s administration worked together with us more closely beforehand. We look forward to working with them next time. Unfortunately, the Governor’s new executive order makes it impossible for us to practice our religion, and we really had no choice but to seek relief in the courts.”

Representing Agudath Israel is the law firm Troutman Pepper. The legal team is led by well known attorney Avi Schick.

To read the filing, [click here](#).