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**U.S. District Court
Eastern District of New York (Brooklyn)
CIVIL DOCKET FOR CASE #: 1:20-cv-04834-KAM-RML**

Agudath Israel of America et al v. Cuomo
Assigned to: Judge Kiyo A. Matsumoto
Referred to: Magistrate Judge Robert M. Levy
Cause: 42:1983 Civil Rights Act

Date Filed: 10/08/2020
Jury Demand: None
Nature of Suit: 470 Racketeer/Corrupt
Organization
Jurisdiction: Federal Question

Plaintiff**Agudath Israel of America**

represented by **Avi David Schick**
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ATTORNEY TO BE NOTICED

Plaintiff**Agudath Israel of Kew Garden Hills**

represented by **Avi David Schick**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff**Agudath Israel of Madison**

represented by **Avi David Schick**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff**Agudath Israel of Bayswater**

represented by **Avi David Schick**
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ATTORNEY TO BE NOTICED

Plaintiff**Rabbi Yisroel Reisman**

represented by **Avi David Schick**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff**Rabbi Menachem Feifer**

represented by **Avi David Schick**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Steven Saphirstein

represented by **Avi David Schick**
 (See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant**Andrew M. Cuomo**

*Governor of the State of New York, in his
 official capacity*

represented by **Todd Alan Spiegelman**
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Date Filed	#	Docket Text
10/08/2020	<u>1</u> R	COMPLAINT against Andrew M. Cuomo filing fee \$ 400, receipt number ANYEDC-13491523 Was the Disclosure Statement on Civil Cover Sheet completed -YES., filed by Rabbi Menachem Feifer, Agudath Israel of Madison, Steven Saphirstein, Agudath Israel of Kew Garden Hills, Agudath Israel of America, Agudath Israel of Bayswater, Rabbi Yisroel Reisman. (Attachments: # <u>1</u> R Civil Cover Sheet, # <u>2</u> R Proposed Summons) (Schick, Avi) (Entered: 10/08/2020)
10/08/2020	<u>2</u>	Emergency MOTION for Order to Show Cause <i>for Temporary Restraining Order and Preliminary Injunction</i> by Agudath Israel of America, Agudath Israel of Bayswater, Agudath Israel of Kew Garden Hills, Agudath Israel of Madison, Rabbi Menachem Feifer, Rabbi Yisroel Reisman, Steven Saphirstein. (Attachments: # <u>1</u> R [Proposed] Order to Show Cause, # <u>2</u> R Memorandum in Support, # <u>3</u> R Declaration of Avi Schick, # <u>4</u> R Exhibit A, # <u>5</u> R Exhibit B, # <u>6</u> Exhibit C, # <u>7</u> Exhibit D, # <u>8</u> Exhibit E, # <u>9</u> Exhibit F, # <u>10</u> Exhibit G, # <u>11</u> Exhibit H, # <u>12</u> Exhibit I, # <u>13</u> Exhibit J, # <u>14</u> Exhibit K, # <u>15</u> Exhibit L, # <u>16</u> Exhibit M, # <u>17</u> Affidavit of Aharon Weisenfeld, # <u>18</u> Affidavit of Avrohom Weinstock, # <u>19</u> Affidavit of Steven Saphirstein, # <u>20</u> Affidavit of Rabbi Menachem Feifer, # <u>21</u> R Affidavit of Rabbi Yisroel Reisman, # <u>22</u> Declaration of Avi Schick re: Notice, # <u>23</u> Declaration of Plaintiffs' Counsel Pursuant to Local Rule 6.1(d)) (Schick, Avi) (Entered: 10/08/2020)
10/08/2020		Case Assigned to Judge Kiyo A. Matsumoto and Magistrate Judge Robert M. Levy. Please download and review the Individual Practices of the assigned Judges, located on our <u>website</u> . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. (Davis, Kimberly) (Entered: 10/08/2020)
10/08/2020	<u>3</u>	In accordance with Rule 73 of the Federal Rules of Civil Procedure and Local Rule 73.1, the parties are notified that <i>if</i> all parties consent a United States magistrate judge of this court is available to conduct all proceedings in this civil action including a (jury or nonjury) trial and to order the entry of a final judgment. Attached to the Notice is a blank copy of the consent form that should be filled out, signed and filed electronically only if all parties wish to consent. The form may also be accessed at the following link: http://www.uscourts.gov/uscourts/FormsAndFees/Forms/AO085.pdf . You may withhold your consent without adverse substantive consequences. Do NOT return

		or file the consent <u>unless</u> all parties have signed the consent. (Davis, Kimberly) (Entered: 10/08/2020)
10/08/2020	4	This attorney case opening filing has been checked for quality control. See the attachment for corrections that were made, if any. (Davis, Kimberly) (Entered: 10/08/2020)
10/08/2020	5 R	Summons Issued as to Andrew M. Cuomo. (Davis, Kimberly) (Entered: 10/08/2020)
10/08/2020	6 R	ORDER granting 2 Motion for Order to Show Cause. Show Cause Hearing by video set for 10/9/2020 at 01:30 PM before Judge Kiyo A. Matsumoto. Defendant must submit a brief in response by no later than 10/9/2020 at 11:00 AM; plaintiff may reply no later than 10/9/2020 at 1:00 PM. Plaintiff must immediately serve a copy of this Order and the papers on which it is based on Defendant no later than 5:30 PM on 10/8/2020. See attached Order for further details. Ordered by Judge Kiyo A. Matsumoto on 10/8/2020. (Brasky, Michael) (Entered: 10/08/2020)
10/08/2020		ORDER: The video link for parties and counsel participating in the emergency show cause hearing, scheduled for October 9, 2020, at 1:30 PM, is https://join.uc.uscourts.gov/invited.sf?secret=8n3nB0iOQsw_62kpnxU2A&id=362279320 . Those who wish to listen by phone may dial 571-353-2300 and enter the pin 362279320. Plaintiffs are ordered to immediately serve defendant with a copy of this Order and to note service on the docket. Ordered by Judge Kiyo A. Matsumoto on 10/8/2020. (Brasky, Michael) (Entered: 10/08/2020)
10/08/2020	7	CERTIFICATE OF SERVICE by Agudath Israel of America, Agudath Israel of Bayswater, Agudath Israel of Kew Garden Hills, Agudath Israel of Madison, Rabbi Menachem Feifer, Rabbi Yisroel Reisman, Steven Saphirstein re Order, <i>entered on October 8, 2020, at 6:24 pm EDT</i> (Schick, Avi) (Entered: 10/08/2020)
10/09/2020	8	CERTIFICATE OF SERVICE by Agudath Israel of America, Agudath Israel of Bayswater, Agudath Israel of Kew Garden Hills, Agudath Israel of Madison, Rabbi Menachem Feifer, Rabbi Yisroel Reisman, Steven Saphirstein re 6 R Order on Motion for Order to Show Cause,, 5 R Summons Issued, 2 Emergency MOTION for Order to Show Cause <i>for Temporary Restraining Order and Preliminary Injunction</i> , 1 R Complaint, (Schick, Avi) (Entered: 10/09/2020)
10/09/2020	9 R	NOTICE of Appearance by Todd Alan Spiegelman on behalf of All Defendants (aty to be noticed) (Spiegelman, Todd) (Entered: 10/09/2020)
10/09/2020	10 R	MEMORANDUM in Opposition to Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction filed by Andrew M. Cuomo. (McAlister, Erin) (Entered: 10/09/2020)
10/09/2020	11 R	MEMORANDUM in Opposition to Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction *CORRECTED* filed by Andrew M. Cuomo. (McAlister, Erin) (Entered: 10/09/2020)
10/09/2020	12	DECLARATION re 11 R Memorandum in Opposition to Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction by Andrew M. Cuomo (Attachments: # 1 R Exhibit A, # 2 R Exhibit B, # 3 R Exhibit C, # 4 R Exhibit D, # 5 R Exhibit E, # 6 R Exhibit F, # 7 R Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J, # 11 Exhibit K, # 12 Exhibit L, # 13 Exhibit M, # 14 Exhibit N, # 15 Exhibit O, # 16 Exhibit P, # 17 Exhibit Q, # 18 Exhibit R, # 19 Exhibit S, # 20 Exhibit T, # 21 Exhibit U, # 22 Exhibit V, # 23 Exhibit W, # 24 Exhibit X, # 25 Exhibit Y, # 26 Exhibit Z, # 27 Exhibit AA, # 28 Exhibit BB, # 29 Exhibit CC, # 30 Exhibit DD, # 31 Exhibit EE, # 32 Exhibit FF) (McAlister, Erin) (Entered: 10/09/2020)

10/09/2020	13 R	REPLY in Support of <i>Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction</i> filed by Agudath Israel of America, Agudath Israel of Bayswater, Agudath Israel of Kew Garden Hills, Agudath Israel of Madison, Rabbi Menachem Feifer, Rabbi Yisroel Reisman, Steven Saphirstein. (Schick, Avi) (Entered: 10/09/2020)
10/09/2020		Minute Entry and Order for proceedings held before Judge Kiyo A. Matsumoto: Show Cause Hearing held on 10/9/2020. Appearances: Avi David Schick, Esq. for Plaintiffs; Todd Alan Spiegelman, Esq. for Defendant. For the reasons stated on the record, Plaintiffs' 2 Motion for a Temporary Restraining Order and Preliminary Injunction is DENIED. Plaintiffs failed to show, among other things, a likelihood of success on the merits of their claim that Executive Order 202.68 is unconstitutional or otherwise violates the Free Exercise Clause. A transcript of the hearing record and the court's findings will be filed on the public docket. Ordered by Judge Kiyo A. Matsumoto on 10/9/2020. (Court Reporter Denise Parisi.) (Brasky, Michael) (Entered: 10/09/2020)
10/18/2020	14	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings held on October 9, 2020, before Judge Matsumoto. Court Reporter/Transcriber Denise Parisi, Telephone number 7186132605. Email address: deniseparisi72@gmail.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. File redaction request using event "Redaction Request - Transcript" located under "Other Filings - Other Documents". Redaction Request due 11/9/2020. Redacted Transcript Deadline set for 11/18/2020. Release of Transcript Restriction set for 1/18/2021. (Parisi, Denise) (Entered: 10/18/2020)
10/19/2020	15 R	SUMMONS Returned Executed by Rabbi Menachem Feifer, Agudath Israel of Madison, Steven Saphirstein, Agudath Israel of Kew Garden Hills, Agudath Israel of America, Agudath Israel of Bayswater, Rabbi Yisroel Reisman. Andrew M. Cuomo served on 10/13/2020, answer due 11/3/2020. (Schick, Avi) (Entered: 10/19/2020)
10/19/2020	16 R	NOTICE OF APPEAL by Agudath Israel of America, Agudath Israel of Bayswater, Agudath Israel of Kew Garden Hills, Agudath Israel of Madison, Rabbi Menachem Feifer, Rabbi Yisroel Reisman, Steven Saphirstein. Filing fee \$ 505, receipt number ANYEDC-13542718. (Schick, Avi) (Entered: 10/19/2020)
10/19/2020		Electronic Index to Record on Appeal sent to US Court of Appeals. 16 R Notice of Appeal, Documents are available via Pacer. For docket entries without a hyperlink or for documents under seal, contact the court and we'll arrange for the document(s) to be made available to you. (McGee, Mary Ann) (Entered: 10/19/2020)
10/23/2020	17 R	ORDER of USCA as to 16 R Notice of Appeal, filed by Rabbi Menachem Feifer, Rabbi Yisroel Reisman, Agudath Israel of Bayswater, Agudath Israel of Madison, Agudath Israel of America, Agudath Israel of Kew Garden Hills, Steven Saphirstein. Appellants Agudath Israel of America et al., move for an emergency injunction pending appeal. Appellants seek a decision no later than October 23, 2020 at 5:00 pm. Appellee Andrew M. Cuomo opposes the motion. IT IS HEREBY ORDERED that the request for an administrative stay of the District Court decision denying Appellants' motion for a temporary restraining order and preliminary injunctions is DENIED. The motion is referred to the panel sitting on November 3, 2020. It will be heard in tandem with the motion seeking similar relief filed in The Roman Catholic Diocese of Brooklyn v. Governor Andrew M. Cuomo, Docket No. 20-3590. Appellee's opposition to the motion is due by noon on October 27, 2020. Appellants reply is due by noon on October 29, 2020. Certified Copy Issued: 10/22/20. USCA #20-3572. (McGee, Mary Ann) (Entered: 10/23/2020)

11/03/2020	18 R	Letter MOTION for pre motion conference <i>on Governor Cuomo's proposed motion to dismiss</i> by Andrew M. Cuomo. (Attachments: # 1 Exhibit Transcript of preliminary injunction hearing) (Spiegelman, Todd) (Entered: 11/03/2020)
11/04/2020		ORDER re: 18 R Defendant's Request for a Pre Motion Conference. Plaintiffs are respectfully directed to file a response to Defendant's pre motion conference letter by Friday, November 6, 2020. Ordered by Judge Kiyo A. Matsumoto on 11/4/2020. (Urquiola, Rebecca) (Entered: 11/04/2020)
11/06/2020	19	RESPONSE in Opposition re 18 R Letter MOTION for pre motion conference <i>on Governor Cuomo's proposed motion to dismiss</i> filed by All Plaintiffs. (Schick, Avi) (Entered: 11/06/2020)
11/09/2020		ORDER deferring ruling on 18 R Motion for Pre Motion Conference. The court will hold a pre motion conference after the Second Circuit decides plaintiffs' motion for an injunction pending appeal from this Courts denial of plaintiffs' motion for a preliminary injunction. The court also orders a stay of discovery pending the pre motion conference. Ordered by Judge Kiyo A. Matsumoto on 11/9/2020. (Urquiola, Rebecca) (Entered: 11/09/2020)
11/10/2020	20 R	ORDER of USCA as to 16 R Notice of Appeal, filed by Rabbi Menachem Feifer, Rabbi Yisroel Reisman, Agudath Israel of Bayswater, Agudath Israel of Madison, Agudath Israel of America, Agudath Israel of Kew Garden Hills, Steven Saphirstein. Upon due consideration, and for the foregoing reasons, it is hereby ORDERED that the Appellants motions for injunctions pending appeal are DENIED. Among other infirmities in their arguments, the Appellants have failed to meet the requisite standard for an injunction pending appeal. See New York v. U.S. Dept of Homeland Sec., 974 F.3d at 214. It is further ORDERED that the motion to expedite the appeals is GRANTED. See document for further details. Certified Copy Issued: 11/9/20. USCA #20-3572 and 20-3590. This document also reflects case 20-cv-4844. (Attachments: # 1 R USCA Dissenting Opinion) (McGee, Mary Ann) (Entered: 11/10/2020)
11/10/2020		ORDER: In light of the Second Circuit's Order denying Appellants' motions for injunctions pending appeal, this Court orders the parties to confer and advise the Court jointly how they intend to proceed given the decision. Ordered by Judge Kiyo A. Matsumoto on 11/10/2020. (Urquiola, Rebecca) (Entered: 11/10/2020)
11/13/2020	21 R	Letter MOTION to Adjourn Conference <i>on Defendants' proposed Motion to Dismiss</i> by Andrew M. Cuomo. (Spiegelman, Todd) (Entered: 11/13/2020)
11/13/2020	22 R	Letter MOTION for Preliminary Injunction <i>Pending Appeal</i> by Agudath Israel of America, Agudath Israel of Kew Garden Hills, Agudath Israel of Madison, Rabbi Yisroel Reisman, Steven Saphirstein. (Schick, Avi) (Entered: 11/13/2020)
11/13/2020		ORDER re: 22 R Plaintiff's Motion for Preliminary Injunction. Defendant is respectfully directed to file a response to Plaintiff's motion for preliminary injunction by Monday, November 16, 2020. Ordered by Judge Kiyo A. Matsumoto on 11/13/2020. (Urquiola, Rebecca) (Entered: 11/13/2020)
11/13/2020		ORDER re 21 R Motion to Adjourn Conference. The court grants the parties joint motion to adjourn the pre-motion conference on defendants proposed motion to dismiss this action, until after the Second Circuit decides plaintiffs expedited appeal of this courts October 9, 2020 denial of plaintiffs request for injunctive relief. Ordered by Judge Kiyo A. Matsumoto on 11/13/2020. (Williams-Jackson, Sandra) (Entered: 11/13/2020)
11/16/2020	23	RESPONSE to Motion re 22 R Letter MOTION for Preliminary Injunction <i>Pending Appeal</i> filed by Andrew M. Cuomo. (Spiegelman, Todd) (Entered: 11/16/2020)

11/18/2020	24	ORDER of USCA as to 16 R Notice of Appeal, filed by Rabbi Menachem Feifer, Rabbi Yisroel Reisman, Agudath Israel of Bayswater, Agudath Israel of Madison, Agudath Israel of America, Agudath Israel of Kew Garden Hills, Steven Saphirstein. The Appellants now move for emergency injunctions pending appeal and to expedite their appeals. For the following reasons, the Appellants motions for injunctions pending appeal are DENIED, and the motion to expedite their appeals is GRANTED. See document for further details. This USCA Opinion and Dissenting Opinion are endorsed on the USCA Opinion. Certified Copy Issued: 11/18/20. USCA #20-3572 and 20-3590. (Attachments: # 1 Judge Park's Dissenting Opinion) (McGee, Mary Ann) (Entered: 11/18/2020)
12/01/2020		Order regarding Plaintiffs' 22 R Motion for Preliminary Injunction pending appeal. In light of the United States Supreme Court's November 25, 2020 decision granting the plaintiffs injunctive relief pending the appeal before the United States Court of Appeals for the Second Circuit, the parties are directed to confer and advise this court via ECF by Friday, December 4, 2020, of their positions regarding the effect of the Supreme Court's decision on plaintiffs' motion for an injunction pending appeal. Ordered by Judge Kiyo A. Matsumoto on 12/1/2020. (Urquiola, Rebecca) (Entered: 12/01/2020)
12/04/2020	25 R	Joint MOTION to Stay <i>Resolution of Plaintiffs' Motion for Preliminary Injunction Pending Appeal</i> by Andrew M. Cuomo. (Spiegelman, Todd) (Entered: 12/04/2020)
12/07/2020		ORDER granting 25 R Joint Motion to Stay. Plaintiff's motion for an injunction pending appeal will be held in abeyance pending the resolution of plaintiff's appeal before the United States Court of Appeals for the Second Circuit from this court's denial of plaintiff's application for a preliminary injunction. Ordered by Judge Kiyo A. Matsumoto on 12/7/2020. (Urquiola, Rebecca) (Entered: 12/07/2020)
12/28/2020	26 R	ORDER of USCA as to 16 R Notice of Appeal, filed by Rabbi Menachem Feifer, Rabbi Yisroel Reisman, Agudath Israel of Bayswater, Agudath Israel of Madison, Agudath Israel of America, Agudath Israel of Kew Garden Hills, Steven Saphirstein. For the reasons set forth above, with respect to the Dioceses appeal, No. 20-3590, the District Courts Order is Reversed. We Remand to the District Court with directions to grant a preliminary injunction against enforcement of the Orders 10- and 25-person occupancy limits on houses of worship. With respect to Agudath Israels appeal, No. 20-3572, the District Courts Order is likewise reversed to the extent that it denied Agudath Israels motion for a preliminary injunction as to the Orders fixed capacity limits, and we Remand to the District Court with directions to grant a preliminary injunction against enforcement of those limits. The District Courts Order is vacated to the extent that it denied a preliminary injunction against enforcement of the Orders 25% and 33% capacity limits on houses of worship. As to those limits, we Remand for further proceedings consistent with this Opinion, including the application of strict scrutiny in the analysis of Agudath Israels likelihood of success on the merits. In the interest of judicial economy, all further proceedings and subsequent appeals shall be referred to this panel. See document for further details. Certified Copy issued on 12/28/2020. USCA # 20-3572. Please Note the USCA Mandate has not yet been issued. Further Note this USCA Order is endorsed on the USCA Opinion decided on 12/28/2020. (Mejia, Salomon) (Entered: 12/28/2020)
12/29/2020		ORDER RE 26 R Order of USCA as to 16 R Notice of Appeal. In light of the United States Court of Appeals for the Second Circuit's December 28, 2020 decision, the parties are ordered to confer and jointly advise this court as to how they intend to proceed by Monday, January 4, 2021 . Ordered by Judge Kiyo A. Matsumoto on 12/29/2020. (Urquiola, Rebecca) (Entered: 12/29/2020)
12/31/2020	27	First MOTION for Extension of Time to File <i>joint letter advising the Court on how the</i>

		<i>parties intend to proceed</i> by Andrew M. Cuomo. (Spiegelman, Todd) (Entered: 12/31/2020)
01/04/2021		ORDER granting 27 Motion for Extension of Time to File. The parties are ordered to confer and jointly advise this court as to how they intend to proceed by Monday, January 11, 2021. Ordered by Judge Kiyo A. Matsumoto on 1/4/2021. (Urquiola, Rebecca) (Entered: 01/04/2021)
01/11/2021	28	Letter - <i>Joint letter regarding case status</i> by Agudath Israel of America, Agudath Israel of Kew Garden Hills, Agudath Israel of Madison, Rabbi Yisroel Reisman, Steven Saphirstein (Schick, Avi) (Entered: 01/11/2021)

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