

N.D.N.Y.  
20-cv-651  
Sharpe, J.

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

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At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 5<sup>th</sup> day of January, two thousand twenty-one.

Present:

Guido Calabresi,  
Reena Raggi,  
Denny Chin,  
*Circuit Judges.*

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Steven Soos, et al.,

*Plaintiff-Appellants,*

Jenna M. DiMartile, et al.,

*Plaintiffs,*

Kenneth McGuire, Law Offices of Kenneth McGuire,

*Third-Party-Plaintiff,*

v.

20-3737

Andrew M. Cuomo, Governor of the State of New York, in his  
official capacity, et al.,

*Defendants-Appellees.*

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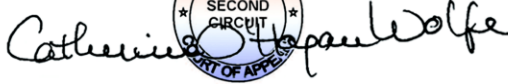

Appellants move for an emergency injunction pending appeal and to expedite the appeal. Appellees move to strike Appellants' reply in support of their motion for an injunction pending appeal.

Upon due consideration, it is hereby ORDERED that the Appellants' motion for an injunction pending appeal proscribing enforcement of 10- and 25 person capacity limits in houses of religious worship is DENIED as moot in light of this Court's decision in *Agudath Israel of America v. Cuomo*, Nos. 20-3572, 20-3590 (2d Cir. Dec. 28, 2020) ("*Agudath Israel*") (holding such capacity limitations invalid). Also, for the same reasons stated in *Agudath Israel*, Appellants' motion for an injunction pending appeal proscribing enforcement of 25% and 33% capacity limits in houses of religious worship is DENIED. Instead, the district court's denial of a preliminary injunction as to the 25% and 33% capacity limits is VACATED, and this case is REMANDED for further proceedings in light of *Agudath Israel*.

It is further ORDERED that Appellees' motion to strike is DENIED and Appellants' motion to expedite the appeal is DENIED as moot.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit