

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

NATIONAL ASSOCIATION OF THEATRE OWNERS; NATIONAL ASSOCIATION OF THEATRE OWNERS OF NEW JERSEY; AMERICAN MULTI-CINEMA, INC.; CINEMARK USA, INC.; REGAL CINEMAS, INC.; BJK ENTERTAINMENT, INC.; BOW TIE CINEMAS, LLC; and COMMUNITY THEATERS LLC,

Plaintiffs,

- against -

PHILIP D. MURPHY, in his official capacity as Governor of New Jersey; and JUDITH PERSICHILLI, in her official capacity as Acting Commissioner of Health,

Defendants.

X

Case No. 20-cv-08298

ECF Case

DECLARATION OF THOMAS J. ARNOLD IN SUPPORT OF PLAINTIFFS' APPLICATION FOR A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

X

I, THOMAS J. ARNOLD, hereby declare as follows:

1. I am the Managing Director of Community Theaters LLC ("Community Theaters"), one of the Plaintiffs herein. I submit this declaration in support of Plaintiffs National Organization of Theatre Owners, National Organization of Theatre Owners of New Jersey, American Multi-Cinema, Inc., Cinemark USA, Inc., Regal Cinemas, Inc., BJK Enterprises, Inc., Bow Tie Cinemas, LLC, and Community Theaters LLC's application for a temporary restraining order and preliminary injunction. I have personal knowledge of the matters set forth herein. If called and sworn as a witness, I could and would competently testify to the facts set forth herein.

2. As Managing Director of Community Theaters, my job responsibilities include overseeing the theatre day-to-day operation and business affairs, staff hiring and training, and ensuring compliance with federal, state, and local laws and regulations. I also represent the

business in matters pertaining to agreements or contracts, community relations, and governmental entities.

3. Community Theaters owns and operates one movie theatre, specifically, Fabian 8 Cinema in Paterson, New Jersey. Community Theaters is a member of NATO NJ and NATO.

4. Community Theaters understands the importance of, and fully supports the goal of, protecting the public health from the risks of COVID-19. By this lawsuit, Community Theaters simply seeks to be treated fairly in comparison to other places of public assembly that have been allowed to reopen. Community Theaters is not seeking any special treatment, it is just asking for fair treatment.

5. I have reviewed the protocols for health and safety that NATO NJ and NATO have proposed to the Governor of New Jersey's office in connection with a reopening of movie theatres in the State. A true and correct copy of those proposed protocols are attached to the Declaration of John Fithian of NATO.

6. Community Theaters has been working on procedures for the safe reopening of its movie theatre.

7. The protocols that have been proposed for New Jersey are a comprehensive and detailed plan for the safe and healthy reopening of movie theatres. They meticulously address all aspects of theatre operations, including employees, patrons, ticket sales, concessions sales, seating, security, training, and other elements of health and safety. In my opinion, they represent a safe plan for the health and safety aspects of reopening movie theatres in New Jersey.

8. Community Theaters is ready, willing, and able to implement these protocols, if allowed to reopen. Community Theaters' movie theatre has the facilities, equipment, manpower, training resources, management resources to implement these protocols. Community Theaters

also is committed to address promptly any other concerns, if any, that may arise from health officials in New Jersey.

9. Community Theaters' movie theatre presents less of a risk for the spread of COVID-19 than other establishments that the Governor's orders have allowed to reopen. Unlike in churches or other places of worship, guests in our theatre generally do not engage with those outside their immediate groups to have conversations, hold or shake hands, hug, sing, provide verbal responses, do responsive readings, or engage in other forms of contact regularly engaged in at places of worship. Indeed, speaking and singing during the performance is not allowed during the performances in movie theatres. Nor are there shared books or documents or frequent sitting, standing and kneeling in our theatres during performances. Persons at places of worship tend to arrive for the service at or near the same time and leave at or near the same time. In my experience, places of worship do not have assigned seating or seat reservation systems.

10. Persons in libraries frequently stay for extended periods of time, in excess of the length of a typical movie. Patrons of libraries often stand and sit, sit directly facing other patrons, touch books and other shared objects, sit at desks used by other patrons, and use public computers. Libraries do not have assigned seating or seat reservation systems. A school or public library often has many more people present than the seating capacity of one of our typical movie auditoriums.

11. Customers in shopping malls frequently stay for extended periods of time, in excess of the length of a typical movie. Patrons of shopping malls often stand and sit, try on clothes and shoes, eat, and touch objects that are touched by others. Shopping malls ordinarily have many more customers present at any given time than the seating capacity of one of our movie auditoriums.

12. Massage parlors and tattoo parlors have been allowed to reopen, per the Governor's orders. I would consider the closeness and intensity of physical contact inherent in massage parlors and tattoo parlors to be much greater than anything that occurs in our movie theatre.

13. By virtue of Governor Philip D. Murphy's Executive Order No. 104, all movie theatres in the State of New Jersey were ordered closed as of March 16, 2020. Community Theaters' sole movie theatre in fact closed on that date. By virtue of Executive Order No. 104 and subsequent orders of the Governor, Community Theaters' theatre has remained closed since March 16, 2020.

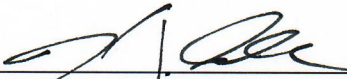
15. As a result, Community Theaters has suffered a complete and total loss of all revenue and profit from its theatres in New Jersey, from March 16, 2020 and continuing.

15. In addition, due to the closure of its theatre in New Jersey, Community Theaters has had to place all of its employees on furlough, reduced working hours, or have been laid off.

16. The government-required closure of Community Theaters' theatre in New Jersey has meant that numerous films of significant artistic, cultural, political, and popular merit have not and cannot be shown to the public by Community Theaters in its theatre. Some of those films include The Passaic County Film Festival, Charm City Kings, Soul, and In the Heights. Each of these films showcase a diverse cast and have cultural significance to the people of Paterson, particularly during this time of social unrest. The Governor's orders have absolutely prevented Community Theaters from showing these films, and has absolutely prevented our patrons from seeing these films in theatres.

17. Community Theaters has not received, and has not been offered, any compensation from the State of New Jersey for its involuntary closure due to the Governor's orders.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 9th day of July, 2020, at Saddle Brook, New Jersey.



Thomas J. Arnold