

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

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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.
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Case No. 3:20-cv-08298-BRM-TJB

ECF Case

**DECLARATION OF
GEOFFREY S. BROUNELL IN
SUPPORT OF PLAINTIFFS'
MOTION FOR A
PRELIMINARY INJUNCTION**

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Attorneys for Plaintiffs 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

I, GEOFFREY S. BROUNELL, declare as follows:

1. I am an attorney at law licensed to practice before the bar of this Court and am Counsel with the law firm of Davis Wright Tremaine LLP, attorneys of record to Plaintiffs 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”). I submit this declaration in support of Plaintiffs’ motion for a 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. I am a resident of the State of New Jersey.

3. I have been assisted in collecting the data presented herein by paraprofessionals in my law firm. We have collected information about various houses of worship in New Jersey. We did not attempt to compile a comprehensive list of all churches, synagogues, mosques, temples, etc. in the State. Rather, we reviewed a sampling of such houses of worship. We examined information about places of worship throughout New Jersey, geographically, and we looked at information from cities as well as small towns and rural areas. Examples are discussed below; many more illustrations could readily be found.

4. Defendants contend that the average length of a movie is approximately 90 minutes. Defendants’ Opposition Brief, at p.23 [Dkt. No. 26]; Vanella Declaration, Exhibit II [Dkt. No. 26-1].

5. Executive Order No. 152 allows certain indoor gatherings, including religious gatherings. However, Executive Order No. 152 (and subsequent Executive Orders) sets no limit on the length of religious gatherings in New Jersey (in terms of time). Decl. of John Fithian,

dated July 13, 2020 [Dkt. No. 19-3] (“Fithian Decl.”), Ex. E, at pp.6-7 (establishing rules for indoor gatherings; no time limit imposed).

6. The public information we gathered regarding the length of indoor religious gatherings in New Jersey shows that such gatherings are commonly quite lengthy, and in fact longer than what Defendants claim is the duration of a typical movie.

7. For example, Shabbat services at the Chabad Jewish Center of NWBC in Franklin Lakes are 2.5 hours, followed by Kiddush luncheon. A true and accurate copy of the calendar of services for the Chabad Jewish Center of NWBC is attached as **Exhibit A**. At Congregation Ohav Emeth in Highland Park, Rosh Hashanah services in September are scheduled to begin at 8:00 a.m. and continue through 7:49 p.m., with Kiddush after; Yom Kippur services begin at 8:30 a.m. and continue through Havdalah at 7:34 p.m. with minor breaks in between the morning, afternoon, and evening services. A true and accurate copy of the calendar of services for Congregation Ohav Emeth (Highland Park) is attached as **Exhibit B**. Visitation Roman Catholic Church in Brick holds Vacation Bible School August 10-14 for 4 hours per day for 5 days. A true and accurate copy of the calendar of services for the Visitation Roman Catholic Church (Brick) is attached as **Exhibit C**. The Ocean Grove Camp Meeting Association of Ocean Grove offers various Youth Ministry classes, indoor musical concerts, and weekly worship and bible services, several of which last more than two hours and most of which take place indoors. A true and correct copy of the various offerings from the Ocean Grove Camp Meeting Association (Ocean Grove) is attached as **Exhibit D**. Again, these are but a few examples.

8. Executive Order No. 152, which allows certain indoor gatherings, does not forbid or limit food that can be consumed at religious gatherings in New Jersey. Fithian Decl., Ex. E, at pp.6-7 (establishing rules for indoor gatherings; no limits on food that may be consumed are

imposed). In fact, Executive Order No. 152 expressly allows a person at a religious gathering to “momentarily” remove his or her mask to place an item in his or her mouth, “including food or beverage,” if done for religious purposes or for their health or safety. *Id.* at p.10.

9. The public information we gathered also shows that food is commonly consumed and shared at religious gatherings in New Jersey, and not limited to circumstances such as receiving Communion.

10. For example, St. Catharine Parish in Glen Rock held a barbecue celebrating high school seniors. A true and accurate copy of the calendar of services for the St. Catharine Parish (Glen Rock) is attached as **Exhibit E**. Congregation B’nai Jeshurun in Short Hills hosts an ice cream social. A true and accurate copy of the calendar of services for Congregation B’nai Jeshurun (Short Hills) is attached as **Exhibit F**. The Islamic Center of Mercer County in Lawrenceville has a Breakfast Club. A true and accurate copy of the calendar of services for the Islamic Center of Mercer County (Lawrenceville) is attached as **Exhibit G**. The Chabad Jewish Center in NWBC in Franklin Lakes has Kiddush Luncheon each Saturday. **Ex. A.** The Church of the Assumption of the Blessed Virgin Mary in Hackettstown has an ongoing Food Pantry Ministry each Tuesday and Saturday. A true and accurate copy of the calendar of services for the Church of the Assumption of the Blessed Virgin Mary (Hackettstown) is attached as **Exhibit H**.

11. Various religions hold religious services in the dark or with little light, as part of that religion’s traditions. As just one example, Tenebrae is a religious service held by a number of Christian sects, including Anglican, Lutheran, Methodist, Polish National Catholic, Reformed, and Roman Catholic practice. Tenebrae, which is Latin for “darkness,” generally involves a

service in a darkened room, in which candles are extinguished, with total darkness by the end of the service.

12. A true and correct copy of the Brief in Support of Defendants’ Opposition to Plaintiffs’ Motion for a Preliminary Injunction, dated June 11, 2020 and filed in *Dwelling Place Network, et al. v. Philip D. Murphy, et al.*, C.A. No. 20-cv-6281 (RBK-AMD) (D.N.J.) [Dkt. No. 32] is attached as **Exhibit I**.

13. A true and correct copy of the Declaration of Daniel M. Vannella in Support of Defendants’ Opposition to Plaintiffs’ Motion for a Preliminary Injunction (“Vannella Decl.”), dated June 11, 2020 and filed in *Dwelling Place Network et al. v. Philip D. Murphy et al.*, C.A. No. 20-cv-6281 (RBK-AMD) (D.N.J.) [Dkt. No. 32-1] is attached as **Exhibit J**.

14. A true and correct copy of Vannella Decl., Ex. I (Lea Hamner, MPH, et al., CDC, “High SARS-CoV-2 Attack Rate Following Exposure at a Choir Practice—Skagit County, Washington, March 2020,” *Morbidity and Mortality Weekly Report (MMWR)*, available at <https://www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6919e6-H.pdf> (last visited May 26, 2020)) is attached as **Exhibit K**.

15. A true and correct copy of Vannella Decl., Ex. J (Allison James, DVM, PhD, et al, CDC, “High COVID-19 Attack Rate Among Attendees at Events at a Church, Arkansas, March 2020,” *MMWR*, available at <https://www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6920e2-H.pdf> (last visited May 26, 2020)) is attached as **Exhibit L**.

16. A true and correct copy of Vannella Decl., Ex. K (Isaac Ghinai, MBBS, et al., CDC, “Community Transmission of SARS-CoV-2 at Two Family Gatherings, Chicago, Illinois, February-March 2020,” *MMWR*, available at

<https://www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6915e1-H.pdf> (last visited May 26, 2020)) is attached as **Exhibit M**.

17. A true and correct copy of Vannella Decl., Ex. L (Youjin Shin, Bonnie Berkowitz & Min Joo Kim, “How a South Korean Church Helped Fuel the Spread of Coronavirus,” *Washington Post* (Mar. 25, 2020)) attached as **Exhibit N**.

18. A true and correct copy of Vannella Decl., Ex. M (Anna Kim, “Glenview Church Hit by COVID-19 Is Now Streaming Service Online, as Pastor Remembers Usher Who Died of Disease,” *Chicago Tribune* (Mar. 31, 2020)) is attached as **Exhibit O**.

19. A true and correct copy of Vannella Decl., Ex. N (Chris Epp, “‘I Would Do Anything for a Do-Over’: Calgary Church Hopes Others Learn from Their Tragic COVID-19 Experience,” *CTV News* (May 10, 2020)) is attached as **Exhibit P**.

20. A true and correct copy of Vannella Decl., Ex. O (Richard Read, “A Choir Decided to Go Ahead with Rehearsal; Now Dozens of Members Have COVID-19 and Two Are Dead,” *Los Angeles Times* (Mar. 29, 2020)) is attached as **Exhibit Q**.

21. A true and correct copy of Vannella Decl., Ex. P (Maggie Holmes, “Two People Die of COVID-19 as a Result of Church Gatherings in KCK,” *KCTV News5* (Apr. 8, 2020)) is attached as **Exhibit R**.

22. A true and correct copy of Vannella Decl., Ex. Q (Bailey Loosmore & Mandy McLaren, “Kentucky County ‘Hit Really, Really Hard’ by Church Revival that Spread Deadly COVID-19,” *Louisville Courier Journal* (Apr. 2, 2020)) is attached as **Exhibit S**.

23. A true and correct copy of Vannella Decl., Ex. R (Mario Koran, “California Megachurch Linked to Spread of More than 70 Coronavirus Cases,” *Guardian* (Apr. 3, 2020)) is attached as **Exhibit T**.

24. A true and correct copy of Vannella Decl., Ex. S (Akin Andone & Artemis Moshtaghian, “A Person Who Was Covid-19 Positive Attended a Church Service and Exposed 180 People, Officials Say,” *CNN* (May 17, 2020)) is attached as **Exhibit U**.

25. A true and correct copy of Vannella Decl., Ex. Z (Carlie Porterfield, “Church-Related Coronavirus Outbreaks Reported as Trump Pushes for Reopening,” *Forbes.com* (May 23, 2020)) is attached as **Exhibit V**.

26. A true and correct copy of Vannella Decl., Ex. AA (Zeeshan Aleem, “One German Church Service Resulted in More Than 100 Coronavirus Infections,” *Vox.com* (May 24, 2020)) is attached as **Exhibit W**.

27. A true and correct copy of the article by Jason Guerrasio, “The director of Lin-Manuel Miranda’s ‘In the Heights’ explains the movie’s delayed release due to the coronavirus and why it must be shown in theaters,” *Insider.com* (Mar. 24, 2020), available at <https://www.insider.com/in-the-heights-director-jon-m-chu-explains-delay-2020-3>, is attached as **Exhibit X**.

28. A true and correct copy of the article by Christopher Nolan, “Christopher Nolan: Movie theaters are a vital part of American social life. They will need our help,” *The Washington Post* (Mar. 20, 2020), available at <https://www.washingtonpost.com/opinions/2020/03/20/christopher-nolan-movie-theaters-are-vital-part-american-social-life-they-will-need-our-help/>, is attached as **Exhibit Y**.

29. A true and correct copy of the article by Rebecca Pahle, “M. Night Shyamalan on Why Movie Theaters Connect Us,” *Boxofficepro.com* (Jan. 15, 2019), available at <https://www.boxofficepro.com/glass-director-writer-producer-m-night-shyamalan-movie-theaters-connect-us-2/>, is attached at **Exhibit Z**.

30. A true and correct copy of a tweet by Lin-Manuel Miranda, @Lin_Manuel “Alright, mama, okay...” *Twitter* (Mar. 24, 2020, 6:48 PM), available at https://twitter.com/Lin_Manuel/status/1242523701024886786, is attached as **Exhibit AA**.

31. A true and correct copy of a tweet by Patty Jenkins, @PattyJenks “We made Wonder Woman 1984 for the big screen,” *Twitter* (Mar. 24, 2020, 6:41 PM), available at <https://twitter.com/PattyJenks/status/1242521973831294976>, is attached as **Exhibit BB**.

32. A true and correct copy of a tweet by Gal Gadot, @GalGadot “In these dark and scary times, I am looking forward to a brighter future ahead,” *Twitter* (Mar. 24, 2020, 6:55 PM), available at <https://twitter.com/GalGadot/status/1242525424384499713>, is attached as **Exhibit CC**.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 31st day of July, 2020 at Morristown, New Jersey.

Geoffrey S. Brounell

Geoffrey S. Brounell