



Written by [Michael Tennant](#) on October 13, 2020

Christians, Jews Seek Emergency Injunction Against Cuomo's Latest Orders Targeting Faith Communities

A group of Christians and Jews is once more taking New York Governor Andrew Cuomo to court for imposing harsher COVID-19 restrictions on religious institutions than on businesses — the same action a federal judge enjoined him from taking in June.

On June 26, U.S. District Judge Gary Sharpe [issued an injunction](#) prohibiting Cuomo from imposing any restrictions on houses of worship greater than those he imposed on neighboring businesses. At the time, businesses were limited to occupancy rates of 50 percent of their indoor capacity. Outdoor gatherings, Sharpe declared, were to have no attendance limits provided attendees engaged in appropriate distancing. The injunction was issued at the request of two Catholic priests, two Catholic-school students, and four Orthodox Jews, all of whom are represented by the Thomas More Society.



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On October 5, Cuomo threatened to shutter any religious institutions that permitted gatherings that violated Sharpe's order.

"We know religious institutions have been a problem," [Cuomo said at a press conference](#). "We know mass gatherings are the super-spreader events. We know there have been mass gatherings going on in concert with religious institutions in these communities for weeks.... I don't mean little violations — you're only supposed to have 50, they had 55. I'm talking about you're only supposed to have 50 outdoors, they had 1,000."

The very next day — just three days before the start of the Jewish High Holy Days — Cuomo introduced his new "[Cluster Action Initiative](#)," which established three color-coded zones with varying degrees of restrictions. In red zones, only "essential" businesses are allowed to remain open, schools are closed, and houses of worship are restricted to 25 percent of their capacity, up to a maximum of 10 people. Orange zones allow most "non-essential" businesses to open while keeping houses of worship at 33-percent capacity, with a maximum of 25 people. In yellow zones, businesses may operate virtually unrestricted, schools may reopen (albeit with weekly COVID-19 testing of students, faculty, and staff), and houses of worship must limit their attendance to 50 percent of their capacity.

In other words, large gatherings in "essential" businesses in all zones and in "non-essential" businesses and schools in other zones are perfectly acceptable to the professed Catholic Cuomo, but similar gatherings in houses of worship are not. Even when businesses and schools may operate at full



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capacity, churches and synagogues may only admit half their capacity.

Cuomo left no doubt that he was targeting religious communities. According to a Thomas More Society [press release](#), “In his October 6 press conference, Cuomo admitted the new regime ‘is most impactful on houses of worship,’ and any impact on secular businesses is ‘not what this is about.’”

“The governor’s new ‘Cluster Action Initiative’ is a completely arbitrary and astounding abuse of power, just when we thought it couldn’t get any worse,” said Thomas More Society special counsel Christopher Ferrara. “It is a blatant violation of our clients’ right to the free exercise of religion under the First Amendment, including their right to be free from such explicit and brazen religious discrimination.”

The press release further notes that the school closures fly in the face of statements by both Cuomo and New York City Mayor Bill de Blasio that schools have not been hotbeds of COVID-19 transmission to date. The Catholic school attended by two of the plaintiffs has stricter protocols in place than required and has had no positive COVID-19 tests thus far.

“The governor’s closure of Catholic and Jewish schools in these zones is just as absurd. It is the very antithesis of a narrowly tailored restriction on religion and expression, which is what the Constitution requires given the role of religious schools in handing down their respective faiths to children,” added Ferrara. “Cuomo claims this will last for only 14 days, but we saw how that worked the last time he got on his emperor’s throne and began tossing endless mandates.”

The plaintiffs are requesting an emergency injunction against Cuomo’s discriminatory orders.

“I don’t like getting into a litigious situation with the religious community,” Cuomo said on October 5. “I have enough questions that I have to answer when I get to the Pearly Gates.”

The governor just made that questionnaire a little longer.



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