

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

_____^x
DENNIS W. QUIRK, Individually and as President of and on behalf of the
NEW YORK STATE COURT OFFICERS ASSOCIATION,

Plaintiffs,

-against-

20 CIV. 5027 (JPO)

HONORABLE JANET DiFIORE, Chief Judge of the
State of New York and the NEW YORK STATE
OFFICE OF COURT ADMINISTRATION,
JOHN DOES 1-5,

Defendants.

_____^x

**PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING ORDER (WITH NOTICE) AND
PRELIMINARY INJUNCTION**

PLEASE TAKE NOTICE, that and for all of the reasons stated in the accompanying supporting documents attached hereto, Plaintiff respectfully requests that this Court enter a Temporary Restraining Order, With Notice, and Preliminary Injunction pursuant to Fed. R. Civ. P. 65 against Defendants, Honorable Janet DiFiore, Chief Judge of the State of New York and the New York State Office of Court Administration, *et al.*, preventing them from enforcing the Administrative Order of the Court with respect to COVI-19 screening to be performed by the Court Officer members of NEW YORK STATE COURT OFFICERS ASSOCIATION and the reopening of New York City Courts as outlined in relevant Administrative Orders. The grounds for the relief sought are summarized as follows:

1. Plaintiff, Dennis W. Quirk, is a New York State Court Officer and the duly elected President of the New York State Court Officers Association (COA), a labor UNION having a principle place of business at 321 Broadway, Suite 600, New York, NY 10007 (UNION).

2. The UNION represents approximately 1,500 Court Officers assigned to ensure the safety of all state courts and court employees against unauthorized, illegal and potentially life threatening activities.

3. COA members are sworn New York State Peace Officers, who have historically performed law enforcement functions substantially similar to that of sworn police officers.

4. The herein labor UNION is charged with representing the interests of all COA members as to the terms and conditions of employment and regarding the health and welfare of its members. The UNION vigorously supports safety in the workplace and is actively involved in ensuring that its members are provided with a work environment that is protected from unnecessary dangers and hazards.

5. Defendant, Honorable Janet DiFiore, is the Chief Judge of the State of New York and the head of the New York State Office of Court Administration. Defendant is responsible for promulgating rules and regulations that protect the state judiciary, its employees and institutions and the safe use of those institutions by the general public. Specifically, defendant is charged with creating and evaluating policies that address safety measures related to the spread of COVID-19 in state courthouses that is hazardous to the health or safety of the state judiciary, its employees and the general public.

6. The Office of Court Administration (OCA) is the executive branch of the state court system that enforces the rules and regulations of the Chief Judge.

7. Upon information and belief, Defendant DiFiore authorized the issuance of a June 30, 2020 Memorandum Order, commanding and directing, among other things, the reopening of Courthouses to the general public within the City of New York (“Order”). (*See*, Exhibit A).

8. Pursuant to the Order, Plaintiff Court Officers are being required to take the temperature of persons entering a courthouse for the purpose of determining whether an individual has a body temperature reading of less than 100 degrees Fahrenheit and to demand the potential visitor “voluntarily” respond to invasive personal health and travel inquiries in an effort to determine whether an individual has been exposed to COVID-19. Only in the event a person has a body temperature reading of less than 100 degrees Fahrenheit and has responded in the negative to the barrage of personal pedigree questioning shall a court officer allow such person to “proceed to the magnetometer/x-ray machine” for further processing into a courthouse.

9. As articulated in the Unsworn Declaration of the Learned Infectious Disease Physician, Dr. Arnold L. Lentnek, attached hereto as Exhibit B, a body temperature reading of 100 degrees Fahrenheit or higher does not in and of itself form a basis to determine whether a person has been exposed to or is infected with COVID-19. Moreover, the fact that a person does not have a fever at all is not a reliable indicator that said person is not, in fact, infected with the Coronavirus and not a serious risk of COVID-19 transmission to Union members, the Court Family and other court attendees.

10 While one of the most significant missions of the Court Officers’ sworn duty is to protect the health and safety of the Judiciary, Court Family and the public at large, they are simply not trained to medically assess individuals for COVID-19 or any of the medical symptoms associated therewith. As evidenced in Dr. Lentnek’s attached Declaration, taking a person’s temperature and then allowing them to pass through into a courthouse, is in practice, assuring that person they are free of Covid-19, when, in fact, asymptomatic, pre-symptomatic and individuals

recovering from prior infection can be highly infectious to others representing a serious risk of life threatening illness to themselves and others.

11. Further evidence of defendants' apparent callous disregard for the health and safety of Union members is clear on its face from the attached Affidavit of Attempted Service of defendants. *See*, Exhibit C. Defendant OCA has not opened its administrative offices as a result of COVID-19. Yet, Defendants are full throttle, head-long intent on opening courthouses upon a false sense of security simply by requiring court officers to take a body temperature and demanding the right answers to "voluntary" questioning concerning private information.

12. Plaintiff finds it highly ironic that litigants, lawyers, and members of the general public desiring to enter a courthouse are, under the provisions of the proposed re-opening protocols, to be subjected to being stopped and interrogated regarding their personal health-related information and potentially denied admission based upon the assessment of their answers (or refusal to answer) by non-medically-qualified personnel. Refusal of entry may very likely lead to a denial of due process for litigants and lawyers, and denial of First and Sixth Amendment rights of those wishing to observe proceedings.^{1/2}

¹ Of course, the real irony here is that Defendants are requiring Plaintiffs to, in essence, stop and question all members of the public without any rational basis to do so, in a manner akin to a Terry stop [Terry v. Ohio, 392 U.S. 1 (1968)] conducted in the utter absence of any suspicion whatsoever.

² Regrettably, New York City (and as many other jurisdictions) still suffers from the deep scars caused by the racially-biased use of stop, question and frisk tactics. The message being sent to litigants by Defendants is that they must subject themselves to suspicion-less interrogation, then pass an arbitrary temperature screen not medically or scientifically based, and then perhaps they will be afforded their right to access to their due process rights to engage in litigation or defend their innocence, or, as the case may be, participate in or observe a constitutionally-mandated public trial within a New York City Courthouse.

13. All the while, Plaintiff Court Officers are being thrust into unsterilized courthouses, without proper personal protection equipment (PPE) or other available precautionary measures, and being directed to engage individuals who could very well be carrying the COVID-19 virus.

14. Either COVID-19 concerns are real or they are not. If they are as real as being presented by Defendant, then measures must be taken to ensure the safety of everyone within courthouses, including Plaintiffs herein who are charged with insuring the safety and security of all persons within the courthouse. Defendants are not providing court officers with proper PPE nor are Defendants cleaning desterilizing courthouses. Moreover, these courthouse are air conditioned which uses recycled air with no outdoor ventilated air coming in to the courthouse. This only serves to recycle airborne viruses.

The mandatory safety measures for any limited return to court functions must include the issuance of adequate and plentiful PPE, constant sterilization of court facilities, Plexiglas barriers between parties, seating capacity restrictions, daily case number limitations and the wearing of facial coverings. It is only logical that if facial coverings and the other safety measures being issued by defendants are truly sufficient to protect individuals from the virus, then the screening being required pursuant to the Order would not even be required. However, if the safety measures are not properly taken, then the screening as being required pursuant to the Order is meaningless and in fact unsafe.^{3/4}

³ In yet another illustration of the utterly inappropriate and unsafe efforts Defendants' are undertaking to ensure the safety of those entering courthouse facilities, it appears that the Governor of New York places a higher premium on the health and safety of shoppers going to the various shopping malls than Defendants' place upon courthouse attendees. Indeed, while Defendants' make little or no provision for courthouse air filtration, Governor Cuomo has issued an executive order mandating shopping malls to install and utilize air filtration systems of, at a minimum efficiency reporting value (MERV) of between 11 to 13, in addition to increasing the amount of fresh air pulled into the system and decreasing the amount of air recirculation. Logically, those persons attending to business in the courthouses of the State of New York should be afforded, at a minimum, the same level of protection given to casual shoppers.

15. As stated in the Plaintiff's Verified Complaint, Exhibits and Memorandum of Law, the Defendants' Order fails to protect Plaintiffs and other persons within courthouses.

16. This concern is shared by the attorneys of the New York City Legal Aid Society in a recent newspaper article voicing concerns that opening the courts in the manner described will "make us the new super spreader of the virus."

17. Plaintiffs will suffer irreparable harm in the absence of a Temporary Restraining Order and Preliminary Injunction, the balance of hardships tips strongly in their favor. Ensuring the safety of Plaintiffs and all other individuals entering a courthouse, whether a judge, attorney, court personnel or litigant, is in the public interest. An injunction would also preserve the *status quo*. Judges and court personnel have already contracted and died from COVID-19. All steps must be taken to insure the safety of all persons.

18. Clearly, the lockdown unilaterally and, we submit, unconstitutionally imposed by New York's Governor Cuomo has not produced the results hope for as COVID-19 has not been eradicated. It still exists. Courts must likewise continue to exist and serve the public. This can and must be done safely.

⁴ In consonance with the Executive Order referred to in Footnote 3, The United States Occupational Safety and Health Administration (OSHA) has published guidance that advises that "while covered employers are always responsible for complying with all applicable OSHA requirements, the agency's standards for PPE (29 CFR 1910.132), respiratory protection (29 CFR 1910.134), and sanitation (29 CFR 1910.141) may be especially relevant for preventing the spread of COVID-19. Where there is no OSHA standard specific to SARS-CoV-2, employers have the responsibility to provide a safe and healthful workplace that is free from serious recognized hazards under the General Duty Clause, Section 5(a)(1) of the Occupational Safety and Health (OSH) Act of 1970." See, <https://www.osha.gov/Publications/OSHA4045.pdf>

WHEREFORE, Plaintiffs request:

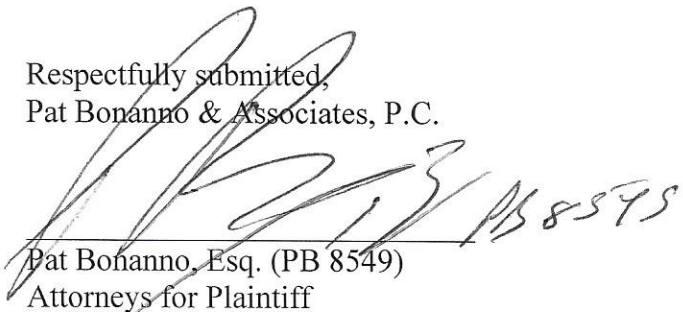
- i- that a Temporary Restraining Order, with Notice, be issued by this Court temporarily restraining Defendants, their agents, employees, and those acting in concert with them from implementing, enforcing and otherwise requiring Plaintiff to comply with the Order;
- ii- alternatively, a Preliminary Injunction Hearing on an expedited basis; and,
- iii- such other relief as this Court deems just and proper.

Plaintiffs request that a bond be waived or that only a nominal bond be required.

Oral argument is requested if the Court deems it useful.

Dated: White Plains, New York
July 14, 2020

Respectfully submitted,
Pat Bonanno & Associates, P.C.

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**PLAINTIFFS' MEMORANDUM OF LAW
IN SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING ORDER (WITH NOTICE) AND
PRELIMINARY INJUNCTION**

INTRODUCTION

This Memorandum of Law is submitted in support for Plaintiffs' application for a Temporary Restraining Order and Preliminary Injunction seeking to restrain Defendants' implementation of an Administrative Order compelling Plaintiff Court Officers to perform a medical analysis of prospective litigants seeking entry into New York City courthouses all while failing to give Plaintiff Court Officers proper training, Personal Protective Equipment (PPE) and failing to provide a safe and healthful workplace to prevent the spread of COVID-19.

ARGUMENT

"A temporary restraining order is a short-term protective device authorized under Rule 65 of the Federal Rules of Civil Procedure. Its purpose is to protect a party from irreparable harm until more lasting relief . . . can be sought." HarperCollins Publishers L.L.C. v. Gawker Media LLC, 721 F. Supp. 2d 303, 305 (S.D.N.Y. 2010) (citing American Broadcasting Companies, Inc. v. Cuomo, 570 F.2d 1080 (2d Cir. 1977)).

"The court may grant a motion for temporary restraining order if the moving party demonstrates a risk of irreparable harm and either a) a likelihood of success on the merits or b) the existence of sufficiently serious questions going to the merits to make them a fair ground for litigation and a balance of hardships decidedly favoring the party requesting the relief." Ward v. Thomas, 895 F. Supp. 401, 403 (D. Conn. 1995) (citing Jackson Dairy, Inc. v. H.P. Hood & Sons, 596 F.2d 70, 72 (2d Cir. 1979)).

Attached to Plaintiffs' moving pleading is a Declaration from Dr. Arnold L. Lentnek, which articulates the risks associated with requiring Plaintiffs' to take the body temperature readings of litigants seeking entry into courthouses. Not only does a body temperature of 100 degrees Fahrenheit fail to provide an indication that a person is suffering from COVID19, but a body temperature lower than 100 degrees Fahrenheit does not provide an indication that a person does not have COVID-19.

It is clear that the Defendants are not providing Plaintiff court officers with PPE and equally clear that court officers are not trained to make a medical assessment of persons to determine whether they are sick at all.

Both Judges and court personnel in New York City have died from COVID-19.

The latest Executive Orders from Governor Cuomo are not allowing shopping malls to re-open unless proper equipment is installed within said facilities to ensure re-circulated air is essentially sanitized. This begs the question of why would a similar requirement not be implemented when it comes to a courthouse which is likewise utilizing re-circulated air within the courthouse. Further, why are protective measures not being taken within a courthouse before reopening? Why are personal protective equipment (PPE), respiratory protection and proper sanitation of courthouse facilities not being provided to court officers? Defendants' have utterly failed to comply with Occupational Safety and Health Administration (OSHA) standards for PPE (29 CFR 1910.132), respiratory protection (29 CFR 1910.134) and sanitation of courthouse facilities (29 CFR 1910.141). These are just a scintilla of the potential life and death questions that Defendants must, with complete transparency and significant input from the Plaintiff stakeholders, explore, answer and implement with the highest degree of safety.

Plaintiffs respectfully submit that they can and have demonstrated a likelihood of success on the merits. The very conflicting policies of New York State, the New Court system and particularly the defendants herein clearly show the lack of consistency as policies are implemented, the contradiction between Executive and Administrative Orders between them and even within them.

Questions exist as to the Constitutionality of the Defendants Orders when requiring a stop and questioning of litigants/defendants and ultimate seizure of their persons by subjecting them to any physical body temperature scan.

This raises troubling First, Fourth, Fifth, Fourteenth and possibly Sixth Amendment questions with respect to Defendants' policies.

IRREPARABLE HARM

"Irreparable harm is an injury that is not remote or speculative but actual and imminent, and for which a monetary award cannot be adequate compensation." *Tom Doherty Associates, Inc. v. Sabin Entm't, Inc.*, 60 F.3d 27, 37 (2d Cir. 1995) (quotation marks omitted). "However, a perhaps more accurate description of the circumstances that constitute irreparable harm is that where, but for the grant of equitable relief, there is a substantial chance that upon final resolution of the action the parties cannot be returned to the positions they previously occupied." *Brenntag Int'l Chemicals, Inc. v. Bank of India*, 175 F.3d 245, 249 (2d Cir. 1999).

It is clear Plaintiffs will be irreparably harmed if this Court does grant Plaintiffs' application. Once the Administrative Order is implemented and a person is afflicted with COVID-19 as a result of entering an unsafe courthouse, PPE's not being issued to court officers or other safety measures not being undertaken by Defendants, the harm will occur and cannot be undone.

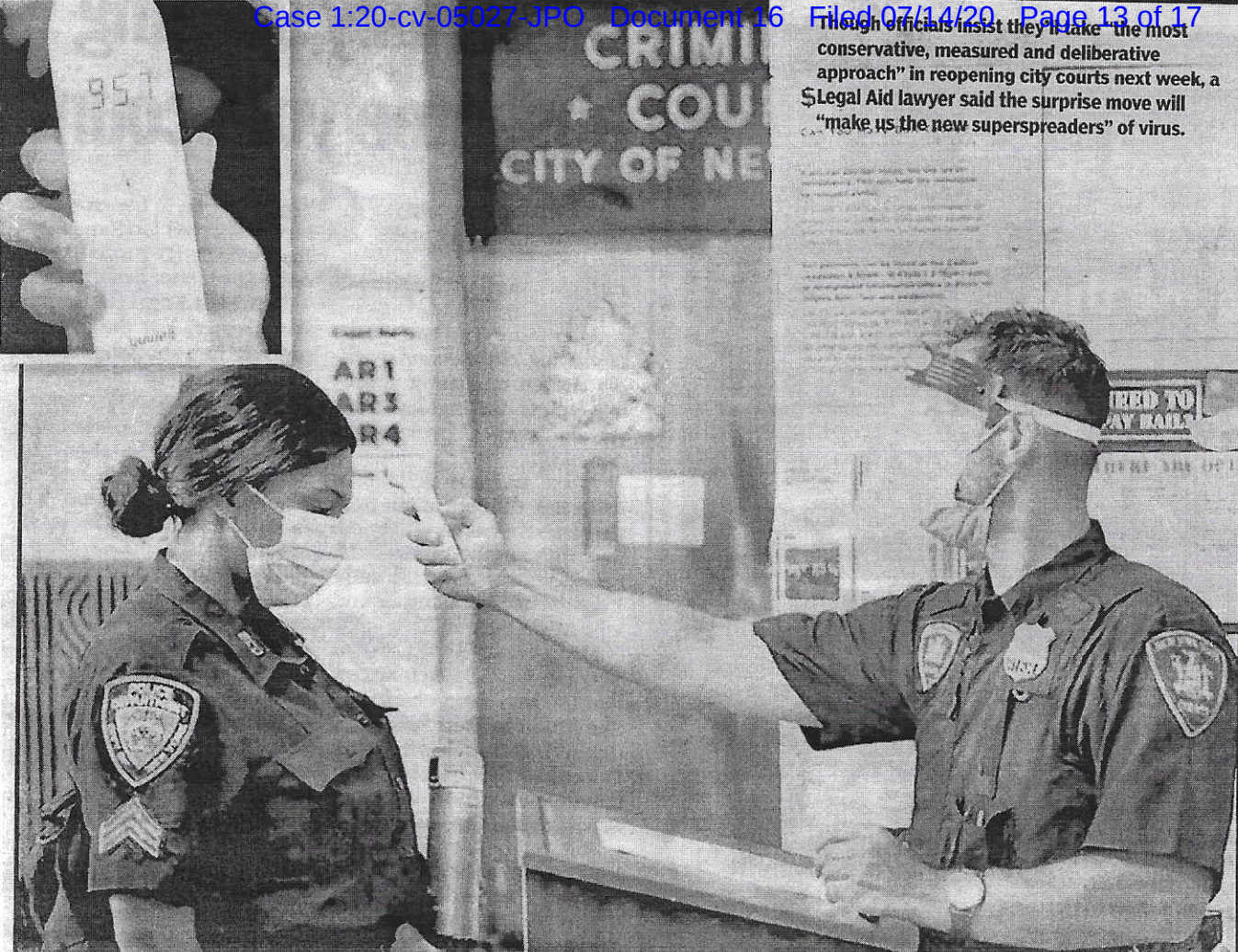
CONCLUSION

Based upon the foregoing, Plaintiffs' respectfully submit Plaintiffs' application should be granted in all respects.

Dated: White Plains, New York
July 14, 2020

Respectfully submitted,
Pat Bonanno & Associates, P.C.


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Though officials insist they'll take "the most conservative, measured and deliberative approach" in reopening city courts next week, a Legal Aid lawyer said the surprise move will "make us the new superspreaders" of virus.

Judgment rapped

Lawyers blast plan to quickly reopen courts

BY ROCCO PARASCANDOLA AND MOLLY CRANE-NEWMAN
NEW YORK DAILY NEWS

Legal defender services say a decision by the state's judiciary to require some in-person court appearances next week unnecessarily endangers the health of lawyers, court officers and everyone else who works in city courthouses.

"We strongly oppose reopening for in-person appearances because it is not safe, and it is not essential to do so," the legal groups said in a letter Wednesday to Chief Administrative Judge Lawrence Marks.

The letter says the decision to reopen the courts is a "drastic change in plan," and requires them to resume in-person

the courts was made with everybody's safety in mind.

"Any suggestion that we would endanger the health and welfare of our employees, attorneys, litigants, defendants or the public is absurd. We are taking the most conservative, measured and deliberative approach to every action as we move to resume in-person court appearances," Chalfen said.

Stan German, executive director NYC Defender Services — one of the groups behind the letter to Marks — said court staff on all sides appeared to be on the same side safety-wise until an email about the reopening landed in inboxes Monday night.

German noted that Gov. Cuomo on Tuesday extended a moratorium on rules meant

"There certainly isn't any sense of urgency. It makes no sense," he said.

Lauren Roberts, a 26-year veteran public defender who works for Legal Aid in the Bronx, said she believes Marks' decision will spread coronavirus.

"This action is literally going to make us the next superspreaders, all of us — the lawyers, the court officers, the judges, the clients, the families. The extent of contact we have in a given day is going to be Cuomo's worst nightmare since we flattened the curve," she said.

"We are the second wave. So get ready!"

Legal advocates believe the judge's decision to be a knee-jerk response to numerous comments Mayor de Blasio

al," de Blasio said Wednesday. "And it's all underlined by all the problems created by the pandemic and the absence of the functioning court system."

De Blasio's spokesmen did not immediately respond to a request for comment.

Chalfen denied the decision had anything to do with the mayor's accusations.

"This has got nothing to do with the mayor and his ham-handed way of trying to reassign blame," he said.

Much court business has been handled remotely in the past few months. Since mid-March, over 60,000 cases have been heard citywide. Over 19,000 arraignments were handled in Manhattan. More than 34,000 other criminal proceedings and nearly 600 preliminary hearings in felony

Air of Menace

Indoor ventilation is key to fighting COVID-19

If you're working in an office or eating in a restaurant, and someone 30 feet away exhales tiny particles of the coronavirus, those particles can drift and infect you. Picture cigarette smoke wafting across a room. Same thing. The precautions global and federal agencies are advising aren't good enough. Social distancing — keeping six feet away — and washing your hands won't protect you from this airborne virus. That isn't fear-mongering. It's science.

To defeat COVID-19 and reopen our economy, we all need to become radical indoor environmentalists, shifting our attention from outdoor air quality to the air we breathe indoors.

New research from the National Academy of Sciences contends that airborne transmission of the virus is "highly virulent," the "dominant" way it spreads.

On Monday, 239 scientists jointly announced research showing "beyond any reasonable doubt" that "viruses are released during exhalation, talking and coughing in micro-droplets small enough to remain aloft in the air" and that can spread across a room.

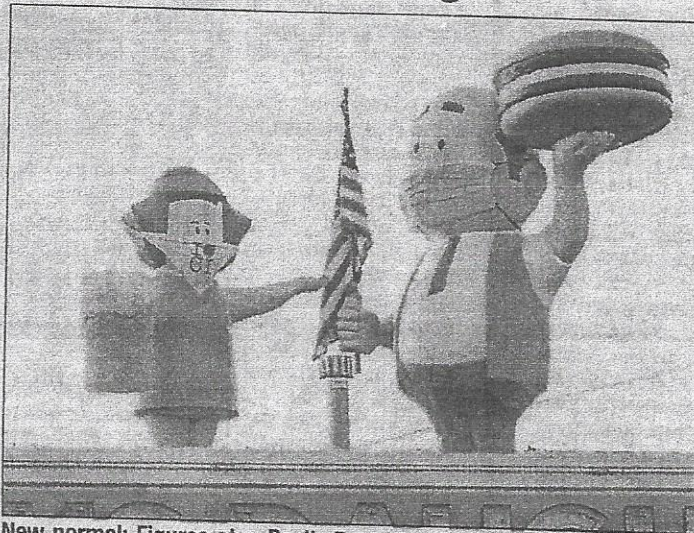
They didn't say what proportion of infections are caused that way, but the evidence may explain how one "super-spreader" in a room can infect dozens of other people.

The scientists, including engineering experts, urged countries battling the virus to make buildings healthier, by improving ventilation and installing air-cleaning technologies.

Here's the takeaway: Indoor air quality is the key to reopening safely.

The scientists cited research showing how three families at three different tables in a restaurant in China all became infected with the virus. One person at table A came in with it, and when he talked, he emitted viral droplets that were carried across the room in a stream of air-conditioned air, infecting diners at two other tables.

In a restaurant, you're maskless and more vulnerable. The mounting evidence on airborne transmission underscores the importance of masks and eye



New normal: Figures atop Paul's Daughter diner on Coney Island don masks as science focuses on the role of droplets in spreading the virus.

glasses or goggles. Viral particles can invade eye membranes too. The journal *Lancet* reports that "eye protection is typically under-considered."

As for improving indoor safety, kudos to Gov. Cuomo for becoming an indoor environmentalist. At his June 29 briefing, he expressed concern about the airborne virus particles circulating in malls.

Unfortunately, he went too far, mandating that they install specific equipment — HEPA filters — in their air conditioning, before they're allowed to reopen.

Mall owners are pushing back against the HEPA mandate, saying the filters won't work with their existing systems or will cost too much.

Airlines use HEPA. Most recycle about 30 percent of cabin air through HEPA filters, and exhaust the other 70 percent out of the plane. The cabin air is replaced about every three minutes. So a plane is an unlikely place to become infected by airborne COVID-19: A passenger must still worry about people seated close by and about contaminated surfaces, but not dirty air.

Unfortunately, few indoor spaces can be fitted like airplanes to turn over air in three minutes. But there are other, newer technologies that can be installed to combat airborne viruses.

"Healthy buildings should be the first line of defense" against

the coronavirus, says Joseph Gardner Allen from Harvard's School of Public Health. And against indefinite lockdowns.

Reopening plans proposed by most states and the Centers for Disease Control and Prevention overlook the problem of airborne spread and don't consider high-tech remedies.

What the United States needs is a Green Indoor Deal, an infrastructure-spending plan to equip workplaces. It would be a bargain compared to prolonged unemployment benefits.

It could also help schools reopen. School-aged kids pose the lowest infection risk. Yet Mayor de Blasio is insisting kids learn from home half the time. Why? The CDC recommends that students' desks be spaced six feet apart, making it impossible to fit the whole class in one room. It's going to be a nightmare for parents.

The CDC's antiquated six-foot rule ignores that the virus can spread through the air and the technologies to battle that.

You may wonder why you haven't heard this information from the CDC or the World Health Organization. They're behind on the science. On Tuesday, WHO grudgingly acknowledged "the emerging evidence."

It's airborne, and it's time to deal with that.

Betsy McCaughey is the chairwoman of the Committee to Reduce Infection Deaths and author of the forthcoming book "The Next Pandemic."



BETSY McCAUGHEY

Getty Images

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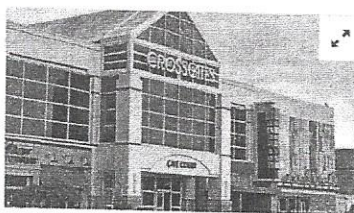
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Retailing

Cuomo sets opening date for New York malls – if they have required air filters



RECOMMENDED

Pyramid Cos., owner of Crossgates Mall in Guilderland, the largest mall in the region, has been pressing the governor for weeks to let interior stores and restaurants reopen.

DONNA ABBOTT-VLAHOS



By Michael DeMasi – Reporter, Albany Business Review
Jul 8, 2020, 1:13pm EDT

COMPANIES IN THIS ARTICLE

Pyramid Management Grou...
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Gov. Andrew Cuomo will let indoor malls reopen in New York state on July 10 in regions that have entered the fourth phase of the state's reopening plan if they have "enhanced" filtration in their heating, air conditioning and ventilation systems to remove the coronavirus.

Cuomo said Wednesday shopping malls must have filters with a MERV-13 rating, or the highest compatible rating with the system, but no less than MERV-11.

MERV stands for "minimum efficiency reporting value." The higher the rating, the better the filtration capabilities.

"MERV-13 filters out the Covid virus," Cuomo said during a press briefing Wednesday.

Mall owners must take other steps, including increasing the amount of outdoor air pulled into the systems, reducing air recirculation, frequently checking filters and running the systems longer.

Stephen J. Congel, CEO of Pyramid Management Group, owner of Crossgates, the largest mall in the Albany region,

New York state malls can reopen on July 10 if they have required ...

<https://www.bizjournals.com/albany/news/2020/07/08/new-york>

released a statement saying all the company's properties in New York will be ready to open Friday.

"The governor's announcement was great news for Pyramid's tenants, their employees, our own employees, and all of the people living in the communities where our properties are located," Congel said. "With proper precautions in place and health and safety a top priority, we look forward to restoring our centers to their dominant positions as the economic drivers of their respective regions."

Pyramid Cos. has been pressing Cuomo for weeks to let interior stores and restaurants reopen along with other retail businesses that were allowed to let customers inside under the phased reopening plan.

The shutdown has hurt the finances of Pyramid and other mall owners in the state, and deprived the state and county governments of millions of dollars in sales tax revenue.

It wasn't immediately clear whether other malls in the Albany region will be able to fulfill the requirements to reopen Friday.

OSHA PROVIDES GUIDANCE FOR RETURNING BACK TO WORK INCLUDING ADVISING WORKERS TO WEAR MASKS

The United States Department of Labor's ("DOL") Occupational Safety and Health Administration ("OSHA") published recommendations for employers to keep their workers safe from COVID-19. OSHA advises that "employers may choose to ensure that cloth face coverings are worn" in the workplace to protect workers from COVID-19 infection.

OSHA also provides guidance for workers who want to report an employer that is not doing enough or that has retaliated against someone for voicing a concern of an unsafe working environment.

The OSHA guidance also states that "employers may consider implementing strategies to reduce risks to the safety and health of workers and workplaces from COVID-19 that include conducting SARS-CoV-2 testing. Neither the OSH Act nor OSHA standards prohibit employer testing for SARS-CoV-2, if applied in a transparent manner applicable to all employees (i.e., non-retaliatory)."

The guidance also states that "because of the limitations of current testing capabilities, employers should act cautiously on negative SARS-CoV-2 test results. Employers should not presume that individuals who test negative for SARS-CoV-2 infection (i.e., the virus that causes COVID-19) present no hazard to others in the workplace. Employers should continue to implement the basic hygiene, social distancing, workplace controls and flexibilities, and employee training described in this guidance in ways that reduce the risk of workplace spread of SARS-CoV-2, including by asymptomatic and pre-symptomatic individuals."

Moreover, the guidance states "while covered employers are always responsible for complying with all applicable OSHA requirements, the agency's standards for PPE (29 CFR 1910.132), respiratory protection (29 CFR 1910.134), and sanitation (29 CFR 1910.141) may be especially relevant for preventing the spread of COVID-19. Where there is no OSHA standard specific to SARS-CoV-2, employers have the responsibility to provide a safe and healthful workplace that is free from serious recognized hazards under the General Duty Clause, Section 5(a)(1) of the Occupational Safety and Health (OSH) Act of 1970."

This is a link to the OSHA guidance for returning to work: <https://www.osha.gov/Publications/OSHA4045.pdf>.