

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Jonathan Corbett

Plaintiff

v.

Andrew M. Cuomo, *in his official capacity as
Governor of the State of New York,*
Defendant

Case No. 20-CV- 4864

COMPLAINT

INTRODUCTION

- 1) Since March 2020, every state in the United States has been battling infections by a virus known as “SARS-CoV-2” (hereafter, “coronavirus”) which causes the disease called COVID-19.
- 2) By count of infections and deaths, New York state was hit among the first and by far the hardest of any of the states; there is no argument that the disease has not presented a serious public health concern.
- 3) While New York has largely “flattened the curve” (that is, there has been a decrease in daily infections and deaths from a peak seen in the past), there are still 646 new infections per day within the state (average over the last 7-day period available at time of filing), and likely tens of thousands of individuals remain infected within the state’s borders.
- 4) Notwithstanding, in a move that has no basis in public health science whatsoever, Defendant Andrew M. Cuomo (“CUOMO”) has ordered that those arriving to New York from states with “high” per capita daily or total infection rates be subject to mandatory quarantines under penalty of large fines and arrest.

- 5) Plaintiff Jonathan Corbett (“CORBETT”), an attorney, is scheduled to travel from New York to Nevada and California over the next week, returning to New York in approximately two weeks, and challenges the Governor’s order as a violation of his federal constitutional rights.

PARTIES

- 6) Plaintiff CORBETT is a natural person with a residence in New York City. CORBETT is a California-licensed attorney representing himself in this matter.
- 7) Defendant CUOMO is the Governor of the State of New York and is sued here in his official capacity.

JURISDICTION & VENUE

- 8) Personal jurisdiction is proper because all parties work and, upon belief, reside, within the State of New York.
- 9) Subject matter jurisdiction is proper because the claims arise under federal constitutional law. *See* 28 U.S.C. § 1331.
- 10) Venue is proper because the governmental conduct of which Plaintiff complains is likely to affect him within the boundaries of this district.

ALLEGATIONS OF FACT

- 11) Coronavirus is a pathogen first found to be affecting humans at some point in 2019.
- 12) The first known appearance of the virus was in China, after which it spread both west to Europe and east to the United States.

- 13) Infections in the United States first appeared in Washington State in January and then New York in March.
- 14) Within one month of New York's first case, all 50 states reported infections of coronavirus.
- 15) It is no surprise that New York City, with its dense population and close contact in its massive public transportation system, became a hotspot of infections.
- 16) By end of March, New York reported nearly 100,000 infections and over 2,000 deaths, far surpassing any other state and most countries in the world.
- 17) New York saw its peak of coronavirus deaths on April 7th, 2020, having reported 799 New Yorkers passed away from the virus on that date.
- 18) Since then, coronavirus deaths in New York have rapidly declined to 27 reported June 22nd, 2020.
- 19) A total of just under 400,000 New Yorkers, or 4.7% of the population, has tested positive for coronavirus – in addition, of course, to those who are positive but untested.
- 20) Indeed, there are likely several times 400,000, as according to a state study concluded on June 13th, 2020, 13.4% of the state's population tests positive for antibodies to coronavirus¹.
- 21) Extrapolating, this means 1,125,000 residents have been infected – a number that would be made even higher by taking into account the high *false-negative* rate for antibody tests.
- 22) Needless to say, a quarantine to keep coronavirus *out* of New York is too late – the virus is already here, there, and everywhere, from the Hamptons to Niagara Falls.
- 23) Elsewhere in the country, perhaps as a result of lower population density, less reliance on public transportation, or otherwise, the rate of infection in most other states started more slowly.

¹ Announced during the Governor's June 16th, 2020 daily press conference.

- 24) Now, however, other states are seeing increases in infection rates, with some somewhat higher than New York.
- 25) Considering the last 7 days of available data, the following states have seen the following average number of new infections per day:
 - a. New York – 646, or 7.69 per 100,000 residents
 - b. California – 4,216, or 10.67 per 100,000 residents
 - c. Nevada – 359, or 11.95 per 100,000 residents
 - d. North Carolina – 1,331, or 12.69 per 100,000 residents
 - e. Washington (State) – 409, or 5.37 per 100,000 residents
- 26) On June 24th, 2020 (today), CUOMO announced an executive order that would require all travelers from states that he determines have sufficiently high rates of infection would be subject to mandatory 14-day quarantine.
- 27) The order applies both to out-of-state visitors and in-state residents returning from a “problem state.”
- 28) Those violating the quarantine, CUOMO announced, would be subject to forcible quarantine – a/k/a “arrest” – plus they would be liable for the cost of the forcible quarantine and an additional \$2,000 fine.
- 29) North Carolina and Washington State were among the states that CUOMO named as meeting his criteria for high rate of infection, and he made clear that any state that increases their infection statistics to his threshold will be added to the list.
- 30) The stated purpose of the quarantine was to reduce the risk of an increase of infections in New York.

- 31) However, it is entirely unclear how such a quarantine could accomplish these goals, given that New York currently has tens of thousands of infected citizens already walking around within its borders not subject to quarantine.
- 32) That is, if New York already has, *e.g.*, 50,000 people walking around with active infections, if that number increases to 51,000 because of infected incoming travelers, it is unclear to what extent, if any, that will put New York at additional risk of “un-flattening its curve.”
- 33) Indeed, given that CUOMO’s order discourages travel in both directions, it is not clear that the number of active infections in New York would increase at all, since unwittingly infected New Yorkers would be just as likely to leave as unwittingly infected out-of-staters would be to arrive.
- 34) The rationality of CUOMO’s order is further called into question by the fact that he has agreed to move all of the state to “Phase 2” reopening, a move that is far more likely to result in an increase in infections than allowing the small number of returning residents and out-of-state visitors to arrive without having their freedom curtailed.
- 35) The rationality of CUOMO’s order is further called into question by his inclusion of Washington State, which has *fewer* per capita new coronavirus infections than New York.
- 36) CUOMO has cited no evidence that there is any scientific consensus, or even likelihood, that the means here will accomplish the goal.
- 37) There exist far less intrusive means by which CUOMO could accomplish his stated goal. For example, travelers could be checked for temperature upon arrival at a *de minimus* cost. Or travelers could be required to get a coronavirus test at their own expense and, upon negative result, be freed from any quarantine requirements.
- 38) CORBETT is currently booked to travel from New York to California and Nevada within the next 7 days and return to New York within the next 14 days.

- 39) Although California and Nevada were not enumerated by CUOMO as currently having high enough infection rates, both states saw a substantial increase of new cases over the past 7 days in comparison to the previous 7 days; thus, they are both likely to be added to the list of states from which a quarantine applies before CORBETT returns to New York.
- 40) CORBETT maintains a residence within the State of New York at which he intends to stay immediately following his journey.
- 41) Being subject to a 14-day quarantine would cause substantial injury to CORBETT's personal and business affairs.

CLAIM FOR RELIEF

Count 1 – Fourteenth Amendment to the U.S. Constitution

Right to Travel Under Due Process Clause

- 42) The Due Process clauses of the Fifth Amendment to the U.S. Constitution as incorporated against the states by the Fourteenth Amendment, and of the Fourteenth Amendment itself, prohibit the interference with the right to travel without due process of law.
- 43) Under these clauses, the Constitution allows for curtailment of this right, in the context of protection of public health, only if there is a “real or substantial relation” between the *Jacobson v. Massachusetts*, 197 U.S. 11, 31 (1905).
- 44) While temporary quarantines have in the past been upheld as constitutionally sound in the context of a public health crisis, the quarantine at issue, which puzzlingly seeks to prevent the introduction of a pathogen that has already been widely distributed within the area the quarantine seeks to protect, is perhaps a matter of first impression (perhaps because it has never before been attempted).

- 45) There is little or no discernable benefit to creating a quarantine to protect an area that is already widely infected.
- 46) On the contrary, a deprivation of liberty for a 14-day period under penalty of more severe sanctions, when easily-accomplished, minimally-invasive, and more effective alternatives exist, is a severe interference with the constitutional rights of CORBETT and the people.
- 47) CUOMO has therefore infringed or announced his intention to cause the state to infringe upon CORBETT's constitutional rights.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

- i. Declaratory relief stating that CUOMO's quarantine order discussed herein is facially unconstitutional.
- ii. Injunctive relief ordering that CUOMO and his agents be restrained from enforcing the quarantine order discussed herein and restrained from issuing substantially-similar orders
- iii. Cost of the action.
- iv. Reasonable attorney's fees².
- v. Any other such relief as the Court deems appropriate.

Dated: New York, NY

June 24th, 2020

Respectfully submitted,

/s/
Jonathan Corbett, Esq.
Plaintiff (attorney proceeding *pro se*)
CA Bar #325608
958 N. Western Ave. #765
Hollywood, CA 90029
E-mail: jon@corbettrights.com
Phone: (310) 684-3870
FAX: (310) 684-3870

² To the extent that attorney's fees are available to an attorney representing himself, and in the event that CORBETT retains counsel other than himself.

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS

Jonathan Corbett

DEFENDANTS

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

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

~ plaintiff is attorney representing himself pro se ~

958 N. Western Ave. #765, Hollywood, CA 90029, (310) 684-3870

ATTORNEYS (IF KNOWN)

N.Y. A.G.

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)

(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

U.S. Const., Amend. XIV

Has this action, case, or proceeding, or one essentially the same been previously filed in SDNY at any time? No ☒ Yes ☐ Judge Previously Assigned

If yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date _____ & Case No. _____

IS THIS AN INTERNATIONAL ARBITRATION CASE?

No ☒

Yes ☐

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF SUIT

TORTS

ACTIONS UNDER STATUTES

CONTRACT

- ☐ 110 INSURANCE
- ☐ 120 MARINE
- ☐ 130 MILLER ACT
- ☐ 140 NEGOTIABLE INSTRUMENT
- ☐ 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- ☐ 151 MEDICARE ACT
- ☐ 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL VETERANS)
- ☐ 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS
- ☐ 160 STOCKHOLDERS SUITS
- ☐ 190 OTHER CONTRACT
- ☐ 195 CONTRACT PRODUCT LIABILITY
- ☐ 196 FRANCHISE

PERSONAL INJURY

- ☐ 310 AIRPLANE
- ☐ 315 AIRPLANE PRODUCT LIABILITY
- ☐ 320 ASSAULT, LIBEL & SLANDER
- ☐ 330 FEDERAL EMPLOYERS' LIABILITY
- ☐ 340 MARINE
- ☐ 345 MARINE PRODUCT LIABILITY
- ☐ 350 MOTOR VEHICLE
- ☐ 355 MOTOR VEHICLE PRODUCT LIABILITY
- ☐ 360 OTHER PERSONAL INJURY
- ☐ 362 PERSONAL INJURY - MED MALPRACTICE

ACTIONS UNDER STATUTES

CIVIL RIGHTS

- ☒ 440 OTHER CIVIL RIGHTS (Non-Prisoner)
- ☐ 441 VOTING
- ☐ 442 EMPLOYMENT
- ☐ 443 HOUSING/ ACCOMMODATIONS
- ☐ 445 AMERICANS WITH DISABILITIES - EMPLOYMENT
- ☐ 446 AMERICANS WITH DISABILITIES - OTHER
- ☐ 448 EDUCATION

REAL PROPERTY

- ☐ 210 LAND CONDEMNATION
- ☐ 220 FORECLOSURE
- ☐ 230 RENT LEASE & EJECTMENT
- ☐ 240 TORTS TO LAND
- ☐ 245 TORT PRODUCT LIABILITY
- ☐ 290 ALL OTHER REAL PROPERTY

PERSONAL INJURY

- ☐ 367 HEALTHCARE/ PHARMACEUTICAL PERSONAL INJURY/PRODUCT LIABILITY
- ☐ 365 PERSONAL INJURY PRODUCT LIABILITY
- ☐ 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

PERSONAL PROPERTY

- ☐ 370 OTHER FRAUD
- ☐ 371 TRUTH IN LENDING
- ☐ 380 OTHER PERSONAL PROPERTY DAMAGE
- ☐ 385 PROPERTY DAMAGE PRODUCT LIABILITY

PRISONER PETITIONS

- ☐ 463 ALIEN DETAINEE
- ☐ 510 MOTIONS TO VACATE SENTENCE
- ☐ 530 HABEAS CORPUS
- ☐ 535 DEATH PENALTY
- ☐ 540 MANDAMUS & OTHER

PRISONER CIVIL RIGHTS

- ☐ 550 CIVIL RIGHTS
- ☐ 555 PRISON CONDITION
- ☐ 560 CIVIL DETAINEE CONDITIONS OF CONFINEMENT

FORFEITURE/PENALTY

- ☐ 625 DRUG RELATED SEIZURE OF PROPERTY
- ☐ 21 USC 881
- ☐ 690 OTHER

PROPERTY RIGHTS

- ☐ 820 COPYRIGHTS
- ☐ 830 PATENT
- ☐ 835 PATENT-ABBREVIATED NEW DRUG APPLICATION
- ☐ 840 TRADEMARK

LABOR

- ☐ 710 FAIR LABOR STANDARDS ACT
- ☐ 720 LABOR/MGMT RELATIONS
- ☐ 740 RAILWAY LABOR ACT
- ☐ 751 FAMILY MEDICAL LEAVE ACT (FMLA)
- ☐ 790 OTHER LABOR LITIGATION
- ☐ 791 EMPL RET INC SECURITY ACT (ERISA)

IMMIGRATION

- ☐ 462 NATURALIZATION APPLICATION
- ☐ 465 OTHER IMMIGRATION ACTIONS

BANKRUPTCY

- ☐ 422 APPEAL
- ☐ 28 USC 158
- ☐ 423 WITHDRAWAL
- ☐ 28 USC 157

SOCIAL SECURITY

- ☐ 861 HIA (1395ff)
- ☐ 862 BLACK LUNG (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID TITLE XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS

- ☐ 870 TAXES (U.S. Plaintiff or Defendant)
- ☐ 871 IRS-THIRD PARTY
- ☐ 26 USC 7609

OTHER STATUTES

- ☐ 375 FALSE CLAIMS
- ☐ 376 QUI TAM
- ☐ 400 STATE REAPPORTIONMENT
- ☐ 410 ANTITRUST
- ☐ 430 BANKS & BANKING
- ☐ 450 COMMERCE
- ☐ 460 DEPORTATION
- ☐ 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)
- ☐ 480 CONSUMER CREDIT
- ☐ 490 CABLE/SATELLITE TV
- ☐ 850 SECURITIES/ COMMODITIES/ EXCHANGE
- ☐ 890 OTHER STATUTORY ACTIONS
- ☐ 891 AGRICULTURAL ACTS
- ☐ 893 ENVIRONMENTAL MATTERS
- ☐ 895 FREEDOM OF INFORMATION ACT
- ☐ 896 ARBITRATION
- ☐ 899 ADMINISTRATIVE PROCEDURE ACT/REVIEW OR APPEAL OF AGENCY DECISION
- ☐ 950 CONSTITUTIONALITY OF STATE STATUTES

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y. AS DEFINED BY LOCAL RULE FOR DIVISION OF BUSINESS 13? IF SO, STATE:

DEMAND \$ _____ OTHER injunction JUDGE _____ DOCKET NUMBER _____

Check YES only if demanded in complaint

JURY DEMAND: ☐ YES ☒ NO

NOTE: You must also submit at the time of filing the Statement of Relatedness form (Form IH-32).

(PLACE AN *x* IN ONE BOX ONLY)**ORIGIN**

- ☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from (Specify District)
 ☐ 6 Multidistrict Litigation (Transferred)
 ☐ 7 Appeal to District Judge from Magistrate Judge
- ☐ a. all parties represented
 ☐ b. At least one party is pro se.
- ☐ 8 Multidistrict Litigation (Direct File)

(PLACE AN *x* IN ONE BOX ONLY)**BASIS OF JURISDICTION****IF DIVERSITY, INDICATE CITIZENSHIP BELOW.**

- ☐ 1 U.S. PLAINTIFF
 ☐ 2 U.S. DEFENDANT
 ☒ 3 FEDERAL QUESTION
 ☐ 4 DIVERSITY
- (U.S. NOT A PARTY)

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

	PTF	DEF		PTF	DEF		PTF	DEF
	[]	[]		[]	[]		[]	[]
CITIZEN OF THIS STATE	[]	[]	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	[]	[]	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	[]	[]
CITIZEN OF ANOTHER STATE	[]	[]	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[]	[]	FOREIGN NATION	[]	[]

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

Jonathan Corbett, Esq.
 958 N. Western Ave. #765
 Hollywood, CA 90029
 (Los Angeles County)

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

Andrew M. Cuomo, in his official capacity as Governor of the State of New York
 633 3rd Ave 38th Fl.
 New York, NY 10017

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

COURTHOUSE ASSIGNMENT

I hereby certify that this case should be assigned to the courthouse indicated below pursuant to Local Rule for Division of Business 18, 20 or 21.

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☒ MANHATTAN

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____ ADMITTED TO PRACTICE IN THIS DISTRICT

RECEIPT # _____ ☒ NO ☐ YES (DATE ADMITTED Mo. _____ Yr. _____)

Attorney Bar Code # _____

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

Ruby J. Krajick, Clerk of Court by _____ Deputy Clerk, DATED _____.

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)