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October 5th, 2020

To: The Honorable Judge Brian M. Cogan
U.S. District Court for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Columbus Ale House, Inc. d/b/a "The Graham" v. Cuomo, 20-CV-4291 (BMC)

Your Honor:

If Dr. Dufort's expertise is irrelevant to the Motion for Preliminary Injunction, why did Defendant file her declaration in the first place?

Every court to consider preliminary relief regarding a coronavirus-related restriction of which Plaintiff is aware has reviewed evidence proffered by the government as to the need for the restriction before making a ruling. Both Plaintiff's and Defendant's briefs on the Motion for Preliminary Injunction are replete with citations to such cases and Plaintiff will not be repetitive in response to a Motion for Reconsideration. As explained in Plaintiff's reply brief, even if the rational basis standard is used, when considering restrictions made for public health reasons, the Court needs to look at the science used by the government in its decision-making to decide if that decision was rational.

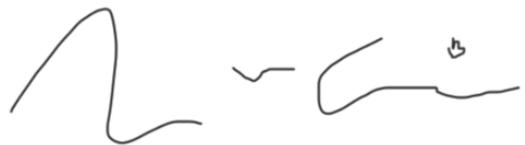
Surely the Governor did not force the undersigned counsel and the Court to thumb through a 23-page declaration with 34 attachments totaling 248 pages if it didn't feel that

it had a need to justify itself. And surely the state's Medical Director for Epidemiology is not actually **unreachable during the middle of a pandemic**.

The Governor was on notice from the September 22nd, 2020 scheduling conference that Plaintiff may request live testimony if the opposition to Plaintiff's motion opened the door for the same. To come before the Court two days before the hearing and say that their star witness is "unreachable" for a teleconference is a disrespect to the Court, just as their assertion that "the government is not required to justify an executive order" is a disrespect to the people.

If the Governor will not produce Dr. Dufort for the October 6th, 2020 hearing, the Court should strike her declaration and refuse to consider any arguments in the Governor's opposition papers that rely on her testimony.

Respectfully,

A handwritten signature in black ink, appearing to read 'Jonathan Corbett', with a small 'b' at the end of the last name.

Jonathan Corbett, Esq.
Attorney for Plaintiff