

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF JEFFERSON**

-----X  
THOUSAND ISLAND FITNESS CENTER, Individually  
And on Behalf of all Others Similarly Situated,

Plaintiff,

Index No.:  
Date Purchased:

Against

**SUMMONS**

ANDREW M. CUOMO, in his Official  
Capacity as Governor of the State of New York,  
ATTORNEY GENERAL OF STATE OF  
NEW YORK, and STATE OF NEW YORK,

Venue is proper based upon  
residency of Plaintiff.

Defendants.

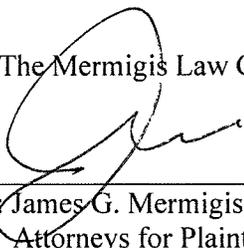
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**TO THE ABOVE NAMED DEFENDANTS**

**PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED** to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiffs' attorneys within twenty days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or, within thirty (30) days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

**YOU ARE HEREBY NOTIFIED THAT** should you fail to serve a notice of appearance or demand for a complaint, a declaratory judgment will be entered against you by default for the relief demanded herein

Dated: Syosset, NY  
July 8, 2020

The Mermigis Law Group, P.C.

  
By: James G. Mermigis, Esq.  
Attorneys for Plaintiff  
85 Cold Spring Road  
Suite 200  
Syosset, NY 11791  
(516) 353-0075

TO:  
Andrew M. Cuomo  
Governor  
Attorney General of New York  
Capitol  
Albany, New York 12224

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF JEFFERSON**

\_\_\_\_\_**X**  
THOUSAND ISLAND FITNESS CENTER, Individually  
And on Behalf of all Others Similarly Situated,

Plaintiffs, Index No.:

Against

**CLASS-ACTION COMPLAINT**

ANDREW M. CUOMO, in his Official  
Capacity as Governor of the State of New York,  
ATTORNEY GENERAL OF THE STATE OF NEW YORK,  
and STATE OF NEW YORK,

Defendants.

\_\_\_\_\_**X**

Plaintiff, by its attorneys, The Mermigis Law Group, P.C., in support of this class action  
alleges as follows:

This civil rights action challenges the executive “shutdown” orders issued by Defendant  
Governor Andrew M. Cuomo and enforced by him, and by Defendant Attorney General of the  
State of New York and the numerous extensions and continued enforcement of the executive  
orders issued by Defendant Governor Andrew M. Cuomo, which continue to be enforced by him,  
and by Defendant Attorney General of the State of New York, *now 122 days* after Governor  
declared a state of emergency on March 7, 2020.

This action seeks declaratory and injunctive relief for deprivations sustained and  
continued to be sustained by plaintiff, on behalf of itself and all others similarly situated, and for  
violations committed by Defendants, acting under the color of state law, against Plaintiff’s rights,  
and the rights of all others similarly situated, as guaranteed by the Fifth and Fourteenth

Amendments of the United States Constitution, and for violations of New York State Executive Law § 29-a, and New York Constitution Article 1, § 7 and Article 1, § 11.

This is also an action for just compensation required by the Fifth Amendment to the Constitution. The Fifth Amendment to the Constitution requires that the government pay for property it takes: “Rights of Persons.....nor shall private property be taken for public use, without just compensation.” U.S. Constitution, 5th Amendment.

### INTRODUCTION

1. Based on speculative modeling on the infectiousness and lethality of a new coronavirus, Governor Cuomo has issued executive orders that have shuttered civil society, placed 19.5 million people under house arrest, and taken jobs away from millions of people, all without due process of law. The Governor has not disclosed and/or disclosed only a minimal amount of the data or methodology used to create the modeling that purportedly justifies this extreme action.

2. The Governor’s initial Executive Order was premised on the perceived need to “flatten the curve” so as to avoid overwhelming the State’s hospitals and healthcare centers, not to eradicate the virus. Although the curve has been flattened for more than a month now, the Governor has nonetheless issued stricter and confusing executive orders that unreasonably and unnecessarily interfere with Plaintiff’s, and those similarly situated, constitutional rights.

3. Governor Cuomo’s executive orders are unprecedented. For the first time in our State’s history—indeed, in our nation’s history—the State government is mass quarantining healthy people instead of the sick. As a free people, we have the unalienable right to pursue

happiness, which includes the freedom to make our own choices about our safety and welfare without unconstitutional interference. In the face of the coronavirus, it means the freedom to choose whether to stay at home, or to keep calm and carry on with the things that make life worth living.

4. Plaintiff, the class representative, is a family owned and friendly, local gym in Jefferson County. Plaintiff is a world class fitness facility in the Alexandria Bay and Thousand Islands, NY area and has been in operation for 21 years. Plaintiff can no longer afford to remain closed as we approach July, the fifth month of the shutdown. Plaintiff provides affordable fitness for hundreds of Jefferson County residents and allowing said residents to maintain their mental and physical health and wellness.

5. Plaintiff, and all others similarly situated, are affected by the Governor's orders. Under threat of criminal penalties, they have been forced to close its businesses, depriving them of their liberty and property interests without due process. At the same time, without offering any justification, the Governor has allowed, and is still allowing, other businesses deemed "critical" to stay open, even though: (a) "critical" businesses must adhere to guidance from the U.S. Centers for Disease Control and Prevention ("CDC") on "social distancing"; and (b) Plaintiff, and all others similarly situated, are fully capable of adhering to those same guide-lines if allowed to reopen.

6. Although New York, like all States in the Union, is expressly guaranteed a republican form of government under Article IV, Section 4 of the U.S. Constitution, the Governor has unilaterally suspended civil liberties and announced that this state of affairs will continue even over the Legislature's objection.

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