

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

James G. Mermigis, Esq.
THE MERMIGIS LAW GROUP, P.C.
85 Cold Spring Road, Suite 200
Syosset, New York 11791
516-353-0075
James@MermigisLaw.com

Attorneys for Plaintiffs

CJ NYC Inc. d/b/a NYC Gentlemen's Club,
BK Venture Group LTD. d/b/a Starlet's,
TFS NY Inc. d/b/a Sugar Daddy's Gentlemen's Club,
PRP Restaurant d/b/a Gallagher's 2000,

Plaintiffs,

- against -

COMPLAINT

Civ No.:

Andrew M. Cuomo, in his official capacity
as Governor of New York and
The State Liquor Authority,

Defendants.

Plaintiffs, CJ NYC Inc. d/b/a NYC Gentlemen's Club, BK Venture Grop LTD. d/b/a Starlet's, TFS NY Inc. d/b/a Sugar Daddy's Gentlemen's Club, PRP Restaurant d/b/a Gallagher's 2000 ("Plaintiffs") for their Complaint against Defendant Andrew M. Cuomo, in his official capacity as Governor of New York and the State Liquor Authority allege as follows:

INTRODUCTION

1. Plaintiffs are leading *exotic dancing* venues in New York City and bring this action to challenge the arbitrary and unconstitutional decisions by Governor Cuomo and the State Liquor Authority to close down *exotic dancing* venues and keep them closed while allowing comparable businesses, including jazz clubs, axe throwing venues, night clubs, billiards halls, ping pong rooms, weddings in catering halls and restaurants and bars with “live music,” to remain open. The *exotic dancing* venue shutdown has resulted in the loss of thousands of jobs for hard-working New Yorkers across the State, and threatens to jeopardize Plaintiffs’ market share and the long-term economic viability of Plaintiffs’ business, all without cause.

2. Plaintiff, CJ NYC Inc. d/b/a NYC Gentlemen’s Club is one of New York City’s premiere *exotic dancing* venues. Celebrated for its elegant interior and outstanding performers, Plaintiff has created an exclusive adult entertainment experience as it sets the standard for other *exotic dancing* venues. Plaintiff offers live entertainment to its patrons in the constitutionally protected form of *exotic dancing*.

3. Plaintiff, BK Venture Group LTD. d/b/a Starlet’s is one of New York’s most luxurious places for safe *exotic dancing* and entertainment. Plaintiff offers live entertainment to its patrons in the constitutionally protected form of *exotic dancing*.

4. Plaintiff, TFS NY Inc. d/b/a Sugar Daddy’s is a well-known and elegant venue for safe *exotic dancing* and entertainment. Plaintiff offers live entertainment to its patrons in the constitutionally protected form of *exotic dancing*.

5. Plaintiff, PRP Restaurant, Inc. d/b/a Gallagher’s 2000 is a world-renowned venue for safe *exotic dancing* and entertainment. Plaintiff offers live entertainment to its patrons in the constitutionally protected form of *exotic dancing*.

6. Plaintiffs have been ready to open and become a leader in COVID-19 safety since the early days of the pandemic. Plaintiffs are ready to implement daily temperature checks and to require all guests and employees to wear masks. As of today, Plaintiffs are ready to open and safely operate with a modified venue layout, frequent cleanings of all surfaces throughout the day by dedicated staff, installation of multiple hand sanitizer stations, and other measures. Plaintiffs have repeatedly offered to comply with any reasonable public health guidelines that New York might prescribe.

7. Yet Defendants have ordered restaurants and bars with *exotic dancing* to remain closed while permitting night clubs, lounges, jazz dinner theaters, churches, axe throwing venues, billiards halls, event venues for weddings, casinos, restaurants and bars with live music and bowling alleys that pose similar or greater risks of COVID-19 transmission to reopen.

8. The *exotic dancing* shutdown is causing unnecessary financial hardship for Plaintiffs and their employees every day. Due to the shutdown, Plaintiffs have been forced to furlough all but one of these employees.

9. Plaintiffs seek declaratory and injunctive relief under 42 U.S.C. § 1983 to remedy Defendants' violations of the Free Speech Clause of the First Amendment and the Equal Protection Clause of the Fourteenth Amendment. Plaintiffs also seek declaratory and injunctive relief to remedy Defendants' violations of Article I, Section 8, of the New York State Constitution and Article I, Section 11, of the New York State Constitution.

JURISDICTION AND VENUE

10. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1367. 7. Venue is proper in this District pursuant to 28 U.S.C. § 1391.

PARTIES

11. Plaintiff CJ NYC Inc. d/b/a NYC Gentlemen's Club, is one of New York State's leading *exotic dancing* venues with its principal place of business in the borough of Queens, New York. Because of Defendants' executive orders and actions, the NYC Gentlemen's Club has been shut down since March 16, 2020 through the date of the filing of this Civil Action.

12. Plaintiff BK Venture Group LTD. d/b/a Starlet's, is one of New York State's leading *exotic dancing* venues with its principal place of business in the borough of Queens, New York. Because of Defendants' executive orders and actions, Starlet's has been shut down since March 16, 2020 through the date of the filing of this Civil Action.

13. Plaintiff, TFS NY Inc. d/b/a Sugar Daddy's Gentlemen's Club is one of New York State's leading *exotic dancing* venues with its principal place of business in the borough of Queens, New York. Because of Defendants' executive orders and actions, Sugar Daddy's has been shut down since March 16, 2020 through the date of the filing of this Civil Action.

14. Plaintiff, PRP Restaurant d/b/a Gallagher's 2000 is one of New York State's leading *exotic dancing* venues with its principal place of business in the borough of Queens, New York. Because of Defendants' executive orders and actions, Gallagher's 2000 has been shut down since March 16, 2020 through the date of the filing of this Civil Action.

15. Defendant Andrew M. Cuomo is the Governor of New York. He acted under color of state law at all relevant times. His official place of business is the State Capitol Building in Albany, New York. He is sued in his official capacity.

16. Defendant New York State Liquor Authority ("SLA") was, and is, a government agency established and existing under the laws of the State of New York, authorized under the

New York Alcoholic Beverage Control Law to issue licenses for restaurants and taverns to sell liquor on-premises.

17. Plaintiffs are licensed by the SLA to serve alcoholic beverages.

18. Plaintiffs also offer live entertainment to their patrons in the form of *exotic dancing*.

PLAINTIFF'S COVID-19 SAFETY MEASURES

19. Plaintiffs offer live entertainment to their patrons in the constitutionally protected form of exotic dancing. Plaintiffs allows patrons to sit and watch live *exotic dancing*, while having the opportunity to share food and beverages with friends and family.

20. During the COVID-19 pandemic, Plaintiffs have been prepared to put the safety of its employees and guests first. By imposing stringent health protocols and making material modifications to their floor plans and guidelines. Similar comedy venues are open and safely operating in most jurisdictions throughout the country. These jurisdictions include the neighboring states of Connecticut, Massachusetts, New Jersey, and Pennsylvania. They also include Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Vermont, Washington, and Wisconsin.

21. Plaintiffs will implement daily temperature checks of employees and guests and will require all guests and employees to wear masks.

22. Plaintiffs will require masks for all guests and employees, and continue to screen all employees for symptoms at the start of every shift. Plaintiffs' large venue space will naturally

allow for greater social distancing, but to keep its employees and guests safe, Plaintiffs have rearranged venue layouts, posted new safety signs, and shut down tables to ensure adequate distancing. Hand sanitizer is strategically placed throughout the venue to promote healthy practices, and all surfaces will be cleaned frequently throughout the day by dedicated staff. Plaintiffs have installed air purifiers and merv-13 filters. Plaintiffs will work cooperatively with the department of health to ensure that best practices are instituted and followed by its employees and patrons.

NEW YORK'S DISCRIMINATORY SHUTDOWN ORDERS

23. On March 7, 2020, Defendant promulgated Executive Order 202 declaring a state disaster emergency based on the outbreak of COVID-19. On March 16, 2020, Plaintiffs were ordered by Defendant's executive order 202.3 to shutdown their *restaurant and bar with exotic dancing venues* effective at 8pm on March 16, 2020, until further notice.

24. As a result of Executive Order 202.3 (Attached as Exhibit A.), Plaintiffs were forced to close. Devastatingly, Plaintiffs remain closed to this day—a year later.

25. In contrast, on June 26, 2020, approximately three months after his initial executive order, Defendant issued Executive Order 202.45, which permitted certain “[l]ow-risk indoor arts and entertainment,” including museums, aquariums, and art galleries, to reopen “in eligible regions” if “operated in compliance with the guidance promulgated by the Department of Health.”

26. On or about June 30, 2020, the SLA provided guidance in the form of “frequently asked questions” on its website, which referred business owners to the requirements for live indoor entertainment issued by the Department of Health such as patrons remaining seating

except for necessary reasons, standing patrons should wear face coverings and performers should be at least 12 feet from patrons.

27. On or about July 10, 2020, the SLA modified its guidelines to expressly prohibit performance of exotic dancing, even though it nonetheless indicated that performance of live music was permissible indoors. (See SLA Phase 3/4 Guidelines for Licensed On-Premises Establishments as Exhibit B). Thus, the SLA, an arm of the State of New York, imposed a content based rule, sanctioning one form of expression over another, i.e. singing and dancing over dancing.

28. Shortly thereafter, on July 6, 2020, Defendant Cuomo issued Executive Order 202.48, which provided that “the directives contained in Executive Order 202.3 that closed . . . movie theaters, concerts, performances, churches, restaurants and bars,” shall “remain in effect only until such time as a future Executive Order opening them is issued.”

29. Almost two months after that, on August 20, 2020, Defendant Cuomo issued Executive Order 202.57, which permitted “bowling alleys to open as of August 17, 2020 [sic] subject to adherence to Department of Health issued guidance.” Order 202.57 also permitted any “gym, fitness center or class, to operate subject to adherence to Department of Health issued guidance . . . no earlier than August 24, 2020.”

30. On September 4, 2020, Defendant Cuomo issued Executive Order 202.60. It permitted “any facility authorized to conduct video lottery gaming or casino gaming . . . to open beginning on or after September 9, 2020, subject to adherence to Department of Health guidance.”

31. On September 9, 2020, Defendant Cuomo issued Executive Order 202.61. It permitted Restaurants and Bars in New York City to resume “indoor dining” on September 30, 2020.

32. And next, on October 20, 2020, Defendant Cuomo issued Executive Order 202.70, which permitted “movie theaters” in certain areas “to open effective October 23, 2020 at 25% capacity with up to 50 people maximum per screen, subject to adherence to Department of Health guidance.”

33. On October 3, 2020, Saturday Night Live opened its 46th season with a live audience. In order to follow New York State guidelines, SNL treated a typical studio audience like its employees by paying them \$150 each and “casting” them to be audience members. As a result, SNL can have weekly live audiences in its shows as long as they pay the audience.

34. On January 29, 2021, Defendant Cuomo announced that event venues in New York State will be able to host wedding receptions at 50% capacity, to a maximum of 150 people, as of March 15, 2021.

35. On February 10, 2021, Defendant Cuomo announced that large New York venues like Madison Square Garden and Barclay’s Center can reopen beginning February 23, 2021.

36. On February 22, 2021, Defendant Cuomo announced that all movie theaters may reopen in New York City on March 5, 2021.

37. On February 22, 2021, Defendant Cuomo also announced that billiards halls can open on March 5, 2021.

38. On March 5, 2021, Defendant Cuomo announced that nightclubs, comedy clubs, off Broadway theaters and lounges can open on April 2, 2021.

39. Defendant Cuomo further announced that establishments that provide food and beverage and recreational activities including darts, racket games and axe throwing may open on March 5, 2021.

40. Restaurants and bars in New York can have “live music” as long as the music is “incidental” to the dining experience and not the draw itself.

<https://sla.ny.gov/phase3-guidelines-for-on-premises-licenses>

41. Defendants have never publicly explained how restaurant and bar with *exotic dancing* venues are meaningfully different from night clubs, lounges, restaurants and bars with live music, SNL, movie theaters, axe throwing venues, wedding venues, casinos, churches, video lottery gaming facilities, bowling alleys, billiards halls, film houses, gyms, and fitness centers in the context of COVID-19.

42. Night clubs, lounges, restaurants and bars with live music, and wedding guests engage in similar activities to exotic dancing venue guests. Guests often visit with groups of family or friends and they typically spend extended periods of time indoors. They are seated together in the venue and eat and drink together. Yet these venues are permitted to operate under safety protocols that are similar to what Plaintiffs have proposed. For example, guests and employees are required to maintain appropriate distance and wear masks. Surfaces and equipment must be frequently cleaned, hand sanitizer must be made available throughout the venue, and hand hygiene must be encouraged. Employees must be screened daily for symptoms, and facilities must cooperate with the health department in tracing positive cases. Plaintiffs have also proposed temperature checks at the door.

43. The live audience at Saturday Night Live would be required to wear face masks throughout the building and they would get their temperature checked at arrival; anyone with a

temperature check of 100.4 degrees or higher would be asked to leave. SNL is permitted to operate under safety protocols that are similar to what Plaintiff has proposed.

<https://www.nytimes.com/2020/10/06/arts/television/snl-live-audience-paycheck.html>

44. Likewise, billiards hall patrons' activities do not meaningfully differ from the activities of exotic dancing venue patrons. Like billiards hall patrons, exotic dancing venue patrons often spend extended periods of time indoors. They often visit with groups of family or friends, and they stay in their designated area. Yet billiards halls are permitted to operate under safety protocols that are similar to what Plaintiffs have proposed. For example, guests and employees are required to maintain appropriate distance and wear masks. Surfaces and equipment must be frequently cleaned, hand sanitizer must be made available throughout the facility, and hand hygiene must be encouraged. Employees must be screened daily for symptoms, and facilities must cooperate with the health department in tracing positive cases. Plaintiffs have proposed temperature checks as well.

See Sports and Recreation Guidelines, available at <https://on.ny.gov/3rlrbGL>

See Interim Guidance for Sports and Recreation During the COVID-19 Public Health Emergency, available at <https://on.ny.gov/36yLFUb>.

45. And casino and video lottery gaming guests likewise engage in similar activities to exotic dancing venue guests. They, too, typically spend extended periods of time indoors. They often attend with groups of family or friends. They also remain in a designated area for a long period of time and eat and drink. Yet casinos and video lottery gaming facilities are permitted to operate under safety protocols that are similar to what Plaintiffs have proposed. For example, guests and employees are required to maintain appropriate distance and wear masks. Surfaces and equipment must be frequently cleaned, hand sanitizer must be made available

throughout the facility, and hand hygiene must be encouraged. Employees must be screened daily for symptoms, and facilities must cooperate with the health department in tracing positive cases. Plaintiffs have also proposed temperature checks of all patrons.

See Gaming Facility Guidelines for Employers and Employees, available at <https://on.ny.gov/3pESVpc>;

Interim Guidance for Gaming Facilities During the COVID-19 Public Health Emergency, available at <https://on.ny.gov/3oJZMMX>.

46. Similarly, movie theater guests engage in activities equally likely to present concerns about the transmission of COVID-19. Movie theater patrons spend extended periods of time indoors for entertainment purposes, with equivalent opportunities to purchase food and beverages. Movie theater patrons often attend with groups of family or friends. Yet movie theaters are permitted to operate under safety protocols that are similar to what Plaintiffs have proposed. For example, guests and employees are required to maintain appropriate distance and wear masks. Surfaces and equipment must be frequently cleaned, hand sanitizer must be made available throughout the facility, and hand hygiene must be encouraged. Employees must be screened daily for symptoms, and facilities must cooperate with the health department in tracing positive cases. Plaintiffs have also proposed temperature checks of all patrons.

See Movie Theater Guidelines for Employers and Employees, available at <https://on.ny.gov/2NVJ0gV>;

Interim Guidance for Movie Theaters During the COVID-19 Public Health Emergency, available at <https://on.ny.gov/2YBuahO>.

47. Restaurants and Bars and Comedy club guests engage in activities equally likely to present concerns about the transmission of covid-19. Restaurant and Bar and comedy club

patrons spend extended period of time indoors in groups listening to live music or jazz with the opportunity to purchase food and beverages. Restaurant and bar patrons often attend with groups of family or friends. Yet restaurants, bars and comedy clubs are permitted to operate under safety protocols that are similar to what Plaintiffs have proposed including temperature checks and contact tracing at the door.

48. Thus, over the last seven months, Defendants have allowed each of these similarly situated businesses to reopen with appropriate safety protocols in place, while comedy venues inexplicably remain closed, even though Plaintiffs stand ready, willing, and able to implement identical safety protocols to ensure the health and safety of its employees and patrons. Such disparate treatment for similarly situated businesses has no countenance under the laws and constitutions of the United States and the State of New York.

49. The closure persists despite the State's own data suggesting that similar businesses are not significant causes of COVID-19 transmission. According to data released by the State in December 2020, 73.84% of COVID-19 cases were traced to household or other social gatherings. *3707 Brewerton Road, LLC v. Cuomo*, No. 007139/2020, slip op. at 16 (N.Y. Sup. Ct. Jan. 15, 2020). Arts and entertainment accounted for just 0.08% of cases and gyms for just 0.06% of cases. (See New York Contact Tracing Data attached as Exhibit C.)

COUNT I

Violation of the First and Fourteenth Amendments to the United States Constitution (Freedom of Speech) 42 U.S.C. § 1983

50. Plaintiff incorporates by reference the factual allegations in ¶¶ 1–49.

51. “Judicial deference in an emergency or crisis does not mean wholesale judicial abdication, especially when important questions of religious discrimination, racial discrimination, *free speech* or the like are raised.” *Roman Catholic Diocese of Brooklyn v. Andrew M. Cuomo*, 592 U.S. ____ (2020). (Kavanaugh, J., concurring).

52. “The arts have long been recognized to embody expressive speech and are thus protected from governmental overreach by the First Amendment.” See, e.g., *Ward v. Rock Against Racism*, 491 U.S. 781, 790 (1989); *Schad v. Borough of Mount Ephraim*, 452 U.S. 61, 65 (1985).

53. The public performance of artistic works represents an Exercise of First Amendment rights.

54. “It is well settled that the First Amendment’s protections extend to ‘expressive conduct’ or ‘symbolic speech.’” *Spence v. Washington*, 418 U.S. 405 (1974).

55. “Nude dancing is expressive conduct within the perimeters of the First Amendment and nude dancing was unqualifiedly “speech” for purposes of the First Amendment.” *Barnes v. Glen Theatre Inc.*, 501 U.S. 560 (1991).

56. Yet Defendants have singled out Plaintiffs’ speech on the basis of its content. Night clubs, jazz dinner theaters, churches, axe throwing venues, billiards halls, event venues for weddings, casinos, restaurants and bars with live music, comedy venues, bowling alleys, film houses, gyms, and fitness centers are permitted to reopen in New York. But restaurants and bars with *exotic dancing* are not permitted to reopen.

57. Defendants’ orders are overinclusive with respect to the State’s interest in reducing the transmission of COVID-19. The precautions that Plaintiffs have proposed— and that night clubs, comedy venues, axe throwing venues, churches, restaurants and bars with

music, jazz theaters, wedding venues and film houses are required to take in New York—are adequate to reduce the risk of transmission.

58. Defendants’ orders are also underinclusive with respect to the State’s interest in reducing the transmission of COVID-19. The activities that patrons engage in at these other businesses are similar to the activities that guests engage in at Plaintiffs’ restaurants and bars with *exotic dancing*. Compared to Plaintiffs’ venues, the risk of exposure to COVID-19 is thus similar, if not greater, at businesses that Defendants have permitted to reopen.

59. Defendant has never publicly justified his discrimination against Plaintiffs based on the subject, function or purpose of the speech central to Plaintiffs’ business.

60. As applied to Plaintiffs, the issuance and enforcement of Defendants’ orders violate the Free Speech Clause of the First Amendment made applicable to the states by the Fourteenth Amendment.

61. At all relevant times, Defendants’ actions were taken under color of state law.

62. Plaintiffs have no adequate remedy at law for the deprivation of its constitutional rights.

63. Plaintiffs will be irreparably harmed in the absence of declaratory and injunctive relief.

COUNT II
Violation of Article I, Section 8, of the New York Constitution
(Liberty of Speech)

64. Plaintiff incorporates by reference the factual allegations in ¶¶ 1–49.

65. The *exotic dancing* that is the heart of Plaintiff's unique business model constitutes speech within the meaning of Article I, Section 8, of the New York Constitution.

66. Defendants' aforementioned orders single out Plaintiffs' speech on the basis of its content.

67. Defendants' orders are overinclusive with respect to the State's interest in reducing the transmission of COVID-19 because they prohibit Plaintiffs' speech when safety protocols would accomplish the same interest.

68. Defendants' orders are also underinclusive with respect to the State's interest in reducing the transmission of COVID-19 because they allow speech by other businesses that pose a similar or greater risk of COVID-19 transmission.

69. Defendants have never publicly justified their discrimination against Plaintiffs based on the subject, function or purpose of the speech central to Plaintiffs' business.

70. As applied to Plaintiffs, the issuance and enforcement of Defendants' orders violate the right to freely speak protected by Article I, Section 8, of the New York Constitution.

71. Plaintiffs has no adequate remedy at law for the deprivation of its constitutional rights.

72. Plaintiffs will be irreparably harmed in the absence of declaratory and injunctive relief.

COUNT III

Fourteenth Amendment to the United States Constitution

(Equal Protection of the Laws)

42 U.S.C. § 1983

73. Plaintiffs incorporate by reference the factual allegations in ¶¶ 1–49.

74. Defendants' orders intentionally treat restaurant and bar *exotic dancing* venues differently from similarly situated businesses. Night clubs, lounges, jazz dinner theaters, churches, axe throwing venues, billiards halls, event venues for weddings, casinos, restaurants and bars with live music and bowling alleys are all permitted to reopen in New York under Defendants' orders. The activities at these businesses are similar to the activities at Plaintiffs' *exotic dancing* venues, and they pose similar or greater risks of COVID-19 transmission.

75. Defendants have never explained his reasons for treating restaurant and bar with *exotic dancing* venues differently from night clubs, lounges, jazz dinner theaters, churches, axe throwing venues, billiards halls, event venues for weddings, casinos, restaurants and bars with live music and bowling alleys. There is no rational basis for Defendants' actions.

76. Defendants' actions in promulgating and enforcing the closure of Plaintiffs' venues deprive Plaintiffs of the equal protection of the laws guaranteed by the Fourteenth Amendment.

77. At all relevant times, Defendants' actions were taken under color of state law.

78. Plaintiffs have no adequate remedy at law for the deprivation of their constitutional rights.

79. Plaintiffs will be irreparably harmed in the absence of declaratory and injunctive relief.

COUNT IV
Article I, Section 11, of the New York Constitution
(Equal Protection of the Laws)

80. Plaintiffs incorporate by reference the factual allegations in ¶¶ 1–49.

81. Defendants' aforementioned orders intentionally treat restaurant and bar with *exotic dancing* venues differently from businesses that conduct similar activities and pose similar or greater risks of COVID-19 transmission.

82. Defendants have never explained their reasons for treating restaurant and bar with *exotic dancing* venues differently from businesses that pose similar COVID-related risks, and there is no rational basis for Defendants' actions.

83. Defendants' actions in promulgating and enforcing the executive orders requiring the closure of Plaintiffs' restaurant and bar with *exotic dancing* venues thus deprive Plaintiffs of the equal protection of the laws guaranteed by Article I, Section 11, of the New York Constitution.

84. Plaintiffs have no adequate remedy at law for the deprivation of their constitutional rights.

85. Plaintiffs will be irreparably harmed in the absence of declaratory and injunctive relief.

PRAYER FOR RELIEF

Plaintiffs respectfully pray that this Court grant the following relief:

1. A preliminary injunction, followed by a permanent injunction, restraining Defendants from issuing or enforcing any orders closing Plaintiffs' restaurant and bar with *exotic dancing* venues while many similar business, including night clubs, lounges, jazz dinner theaters, churches, axe throwing venues, billiards halls, event venues for weddings, casinos, restaurants and bars with live music and bowling alleys are permitted to operate, and further restraining Defendants from

imposing any health and safety requirements on Plaintiffs' restaurant and bar with *exotic dancing* venues that are more restrictive than the least restrictive requirements imposed on any similar business, including night clubs, lounges, jazz dinner theaters, churches, axe throwing venues, billiards halls, event venues for weddings, casinos, restaurants and bars with live music and bowling alleys; and

2. A declaratory judgment that (1) Defendants' closure of Plaintiffs' restaurant and bar with *exotic dancing* venues violates the freedom of speech protected by the First and Fourteenth Amendments to the U.S. Constitution, as applied to Plaintiffs; (2) Defendants' closure of Plaintiffs' restaurant and bar with *exotic dancing* venues violates the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution; (3) Defendants' closure of Plaintiffs' restaurant and bar with *exotic dancing* venues violates the freedom of speech protected by Article I, Section 8, of the New York Constitution; (4) Defendants' closure of Plaintiffs' restaurant and bar with *exotic dancing* venues denies Plaintiffs the equal protection of the laws guaranteed by Article I, Section 11, of the New York Constitution.
3. An award of costs of this litigation, including reasonable attorney's fees, pursuant to 42 U.S.C. § 1988.
4. Such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs demand a jury trial as to all issues triable by a jury.

Dated: March 9, 2021

THE MERMIGIS LAW GROUP, P.C.

/s/ James Mermigis
James G. Mermigis, Esq.
Attorneys for Plaintiff