



Written by [Michael Tennant](#) on December 23, 2020

L.A. Restaurateur Sues Newsom Over Coronavirus Restrictions

Charging California Governor Gavin Newsom and other state officials with “gross abuse of their power,” a Los Angeles restaurateur is suing them in federal court to overturn their coronavirus lockdown orders, especially those restricting outdoor dining.

The Pineapple Hill Saloon and Grill in Sherman Oaks filed suit Sunday in the U.S. District Court for the Central District of California. Owner Angela Marsden became famous when she posted a [video on YouTube](#) showing her restaurant’s outdoor patio shut down because of a county ban on outdoor dining while a movie company was permitted to set up an outdoor dining area in an adjacent parking lot.



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Represented by famed attorney Mark Geragos, Marsden argues in [her lawsuit](#) that the state’s restrictions violate her constitutional rights.

“Defendants, in a gross abuse of their power, have seized the Coronavirus pandemic to expand their authority by unprecedented lengths, depriving Plaintiff and all other similarly situated small business owners in California of fundamental rights protected by the U.S. and California Constitutions, including freedom [of] assembly and due process and equal protection under the law,” the complaint declares. “It is this Court’s duty to defend these constitutional principles by safeguarding the many rights and liberties of Californians ... that Defendants so brazenly, arbitrarily and capriciously violate.”

The suit accuses Newsom of “abus[ing] his Emergency Powers to give dictatorial powers to” Acting State Public Health Officer Erica Pan, who is also named as a defendant along with California Attorney General Xavier Becerra. It also points out that while Newsom is empowered “to suspend ‘regulatory statutes’” under the emergency law, he is not authorized “to suspend the California Constitution, laws of general applicability, or rights guaranteed by the U.S. Constitution.”

The complaint notes that the Centers for Disease Control and Prevention (CDC) have said that outdoor dining poses minimal risk provided that social distancing and other measures are taken to prevent the transmission of COVID-19. It further states that there is “no evidence suggesting that outdoor dining is more likely to spread the COVID virus than the activities — including private gatherings — that remain permissible” under the state’s dictates.

Moreover, on December 8, California Health and Human Services Secretary Mark Ghaly “admitted that the state conducted no risk-benefit analysis whatsoever when deciding to implement” the outdoor-dining ban, says the suit.



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“The decision to include among other sectors, outdoor dining ... really has to do with the goal of trying to keep people at home, not a comment on the relative safety of outdoor dining,” Ghaly said.

“The state health director admitted they had no data to support the outdoor closures, and the governor has obviously lost any moral authority due to his rank hypocrisy,” Geragos told the [Los Angeles Times](#), referring to Newsom’s infamous [November 17 dinner at the swanky French Laundry restaurant](#), in which unmasked people from multiple households dined indoors. Notably, the lawsuit observes, the dinner was a birthday celebration for a lobbyist “whose biggest client is Netflix, which has been allowed to operate during the latest round of forced closures.” (Newsom granted a special exemption to television and movie companies.)

The complaint maintains that the state is violating the First Amendment’s freedom-of-assembly clause by prohibiting outdoor dining even when it is conducted in a manner consistent with CDC guidelines and previous state orders.

It also argues that the plaintiff’s equal-protection right has been violated because “defendants intentionally and arbitrarily categorize individuals, businesses and conduct as either ‘essential’ or ‘non-essential.’”

And it claims that the plaintiff’s right to due process has been violated by Newsom’s “delegating authority to an unelected, appointed bureaucrat” and “ignoring California law as to the promulgation of administrative regulations.”

The suit goes even further, striking at the heart of the lockdown orders. “Citizens,” it says, “have a fundamental right to be free from confinement without due process of law.... Quarantine laws may be permitted as to infected individuals, but not the public at large.”

The lawsuit asks the court to strike down the various state-issued coronavirus orders. Should it succeed, California could go from one of the most restrictive states in the nation vis-à-vis COVID-19 to one of the freest. But don’t expect Newsom and his fellow authoritarians to go down without a fight.



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