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Calif. Gov.'s COVID-19 Shutdown Order Harms Biz, Hotel Says

By **Lauren Berg**

Law360 (June 16, 2020, 8:03 PM EDT) -- A Palm Springs hotel asked a California federal judge Tuesday for an emergency order to reopen its doors, arguing that Gov. Gavin Newsom's ability to shut down businesses during a health emergency like the current coronavirus pandemic infringed the hotel's constitutional rights.

At a telephone hearing, PCG-SP Venture I LLC, which does business as the V Palm Springs Hotel, asked U.S. District Judge Jesus G. Bernal to issue a temporary restraining order, arguing that Newsom and other government officials made an overly broad shutdown order that arbitrarily designated some businesses as "essential" and others as "nonessential."

Celebrity defense attorney Mark J. Geragos of Geragos & Geragos APC, representing the V Palm Springs Hotel, noted that thousands of people around California and the Los Angeles area have been gathering to protest police brutality and argued that if those are allowed by the governor, then hotels should be allowed to operate.

"It makes no sense," Geragos said, adding that the guidelines need to be more consistent and based on rational decisions.

Judge Bernal interjected to say that allowing protests and allowing a hotel to open are not really comparable, but Geragos maintained that the guidelines for hotels are "whimsical and arbitrary," particularly when they aren't allowed to open their conference rooms or banquet halls for gatherings.

Martha P. Ehlenbach of California's Attorney General's Office said there is a functional set of guidelines for different workplaces and gatherings and that, since June 12, hotels are allowed to open. She said the V Palm Springs Hotel has the relief it wanted. Ehlenbach also said the hotel can't demonstrate a likelihood of irreparable harm if the restraining order is not granted.

The V Palm Springs Hotel filed suit June 2 against Newsom, Attorney General Xavier Becerra and State Public Health Officer Sonia Y. Angell, alleging its rights were violated when it was ordered to close as part of the statewide stay-at-home order implemented in March. The hotel said that Riverside County, its place of business, started reopening shopping centers and restaurants for dining in on May 21, but hotels were not included.

"Plaintiff's hotel which is labeled as 'non-essential' might never financially recover as a result of defendants' orders and may end up entirely out of business," the V Palm Springs Hotel said.

The suit seeks an injunction barring the enforcement of the state's order, as well as compensation and attorney fees.

At the end of the hearing Tuesday, Geragos asked that Newsom be restrained from issuing orders that restrict hotels from operating according to the law, but Judge Bernal said he can't do that, in the event that the health emergency might worsen in the future. The judge said government officials are given a wider latitude to make decisions in public health crises.

Geragos said the hotel wants scientific evidence for the government's guidelines, again pointing to

the anti-racism protests.

Ehlenbach said there is still an outbreak of the coronavirus in California and that an order enjoining the governor from making future decisions about the pandemic would not be in the public's interest.

Judge Bernal said he would think about the issues and likely issue a written order by the end of the week.

Geragos, who is part of the group that owns the V Palm Springs Hotel, told Law360 in an email Tuesday that the hotel appreciates the governor trying to moot the issue of hotels operating by issuing an order allowing them to open just hours after the V Palm Springs Hotel filed suit.

"However, the idea that it is okay to have 20,000 people protest but not have more than 100 people meet at a hotel doesn't make much logical sense," Geragos said. "What if we want to host a protest on hotel grounds? Is that okay? That is why we are proceeding with a TRO since consistency and rationality as a basis for these orders are in short supply."

A representative for the defendants did not immediately respond to requests for comment.

This isn't the only litigation Geragos & Geragos is pursuing on behalf of businesses related to California's shutdown.

On April 9, Geragos filed **five separate suits** in state court on behalf of himself, his law firm and several other businesses against The Travelers Indemnity Co. of Connecticut, claiming the insurer is wrongly refusing to cover claims stemming from the coronavirus pandemic. The businesses accused Travelers of failing to honor insurance policies covering businesses losses, coverage that should've been triggered when Los Angeles Mayor Eric Garcetti issued an order closing nonessential businesses on March 15, per the suits.

On April 24, Geragos & Geragos, along with Dhillon Law Group Inc., filed suit on behalf of **a group of businesses** in California federal court, alleging the coronavirus-related "shelter-in-place" orders violate their constitutional rights and will drive them out of business. That case has since been voluntarily dismissed, according to court records.

The V Palm Springs Hotel is represented by Mark J. Geragos, Ben J. Meiselas, Matthew M. Hoesly, Matthew J. Vallejo and Arthur Karagezian of Geragos & Geragos APC, and Harmeet K. Dhillon, Mark P. Meuser and Nitaj P. Singh of Dhillon Law Group Inc.

The government is represented by Martha P. Ehlenbach of the California Attorney General's Office.

The suit is PCG-SP Venture I LLC v. Gavin Newsom et al., case number 5:20-cv-01138, in U.S. District Court for the Central District of California.

--Additional reporting by Joyce Hanson and Hailey Konnath. Editing by Breda Lund.