

NM Supreme Court to take up restaurant lawsuit

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New Mexico restaurants, including this Satellite Coffee in Albuquerque, remain closed to indoor dining under a New Mexico public health order. The Supreme Court will take up a lawsuit on the issue this month (Roberto E. Rosales/Journal)

SANTA FE — New Mexico’s Supreme Court has scheduled oral arguments for Aug. 26 in a case that focuses on the decision by Gov. Michelle Lujan Grisham’s administration to ban indoor restaurant dining.

The New Mexico Restaurant Association, along with several restaurants around the state, filed a lawsuit last month seeking to block the Lujan Grisham’s administration from enforcing its reimposed ban on indoor dining at eateries and breweries.

A state judge in Carlsbad issued a July 20 order that temporarily prevented enforcement of the ban, paving the way for restaurants statewide to reopen indoor dining spaces at 50% capacity.

But the reprieve was short-lived as the Supreme Court allowed the dine-in ban to be reimposed after the Governor's Office filed an emergency petition later that same day.

In its Wednesday order, the Supreme Court rejected a motion to restore the lower court ruling until oral arguments are held.

Meanwhile, the lawsuit is one of several court challenges that have been filed targeting Lujan Grisham's emergency powers during the coronavirus pandemic.

The governor's authority to impose restrictions has been upheld in all cases ruled on to date, with a federal judge ruling in one high-profile case that a requirement that houses of worship operate at 25% maximum capacity was legal and did not violate religious freedoms

While eateries are still allowed to operate patio dining at limited capacity, and to provide delivery and curbside takeout, the New Mexico Restaurant Association says such services are not practical in some cases.

In their lawsuit, the restaurant association said at least 210 restaurants around the state have gone out of business due to the state-ordered closures.

However, Lujan Grisham administration officials have said indoor restaurant dining is unsafe due to the close physical proximity of people and the fact diners cannot wear a face mask while eating.

Human Services Secretary David Scrase has said data suggests indoor dining in the U.S. has been linked to spreading COVID-19.

Restaurants in New Mexico have also had a higher number of infected employees than almost any other industry, according to state Environment Department data.