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Media Inquiries: [Judy Pino](#), 202-869-5218

NCLA's Latest Case Video Explains Lawsuit Against Governor Baker's Civil Defense Emergency Orders

Dawn Desrosiers v. Governor Charlie Baker

Washington, DC (December 3, 2020) – The New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights group, today released its latest [case video](#) highlighting the stories of Petitioners in Massachusetts in the case of *Desrosiers v. Baker*—which has been pending in the Massachusetts Supreme Judicial Court since oral argument on September 11. Dawn Desrosiers of Hubbardston, Tom Fallon of Billerica, and Susan Kupelian of Lexington, featured in the video, joined with other business owners, church pastors, and the headmaster of a private school in a lawsuit against the Executive Orders Governor Baker has issued under the Civil Defense Act State of Emergency, which he unlawfully declared in response to the COVID-19 pandemic.

COVID-19 is a serious public health crisis, but it is not a “civil defense” emergency. NCLA is asking the Massachusetts Supreme Judicial Court to declare that the Civil Defense Act does not confer any authority upon Governor Baker during a pandemic and to decide that his orders violate the separation of powers in the state constitution. NCLA also argues that Gov. Baker’s efforts to classify some businesses as essential and other as non-essential violates the longstanding rule against “dispensing with” the law. Legislatures may “suspend” the law from time to time as it applies to everyone, but they may not—and certainly the governor has no power to—apply the laws to some people but not others.

If this lawsuit is successful, local boards of health will once again be able to establish balanced strategies befitting their communities to reinvigorate the social, economic, educational, and spiritual dimensions of civic life, while still preventing the spread of COVID-19. The legislature would then be free to take up any issue requiring broader applicability to the Commonwealth, thereby protecting the health and welfare of all Massachusetts residents.

Excerpts from the video:

“Many businesses have been destroyed in Massachusetts and aren’t coming back. People don’t have the resources to sit idly by for months at a time. And what Governor Baker’s orders have done is: he’s decided which businesses may open—the essential businesses; which businesses must close—non-essential. It’s profoundly unfair because there’s no due process associated with these liberty and property deprivations.”

— **Michael P. DeGrandis, Senior Litigation Counsel, NCLA**

“When Baker declared the state of emergency to my business and shut me down, I was devastated. How can he tell me I cannot get up and go to work? I’ve been working since I was 13 years old.”

— **Dawn Desrosiers, Petitioner, Hair 4 You**

“I don't know if my business will bounce back. I do know that it's been knocked out.”

— **Tom Fallon, Petitioner, Union Street Boxing**

“I could not believe that as a law-abiding citizen in this state, I was being told to shut down my business through no fault of my own.”

— **Susan Kupelian, Petitioner, Naz Kupelian Salon**

Read full case summary [here](#).

ABOUT NCLA

NCLA is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar Philip Hamburger to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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