

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

YISROEL FRIEDMAN and S. MOSHE
PINKASOVITS

Plaintiffs,

-against-

THE BOROUGH OF UPPER SADDLE RIVER
and JOANNE L. MINICHETTI, individually and in
her official capacity as Mayor of the Borough of
Upper Saddle River

Defendants.

**DECLARATION OF S. MOSHE PINKASOVITS IN SUPPORT OF
PLAINTIFFS' APPLICATION FOR A TEMPORARY RESTRAINING ORDER**

I, S. Moshe Pinkasovits, hereby declare under penalty of perjury:

1. I am a plaintiff in the above-captioned proceeding. I was recently involved with the expansion of an existing eruv that now covers a portion of the Borough of Upper Saddle River, the purpose of which was to include members of the community, including myself and my family, that, prior to the expansion, lived outside of the area covered by the existing eruv. As such, I am familiar with the facts and circumstances set forth herein. I submit this Declaration in support of Plaintiffs' Application for a Temporary Restraining Order.

2. I maintain my personal residence in the Village of Airmont, New York, a village that is immediately adjacent to the Borough of Upper Saddle River, New Jersey.

3. Because my home did not, until recently, fall within the confines of an eruv, I have been actively involved, along with Rabbi Chaim Steinmetz and other members of the community, in efforts to remedy that situation.

4. After obtaining valid licenses from Orange and Rockland Utilities, Inc. (“O&R”) – the organization that owns the utility poles in Upper Saddle River – and after agreeing to the requests of the Upper Saddle River Police Department that we have a flag man and place a sign on the road when working on the utility poles for traffic safety purposes, beginning in mid-June 2017, I, along with Rabbi Steinmetz and other members of the community, began the necessary work to expand an existing eruv to parts of Upper Saddle River so that observant Jewish community members could more freely and fully practice their religion.

5. A few hours after beginning our work, Upper Saddle River Director of Code Enforcement James Dougherty, along with Upper Saddle River police officers, informed us that, by order of Upper Saddle River Mayor Joanne Minichetti, we had to stop our work. We complied with the directive from Mr. Dougherty and the police.

6. The next day, Rabbi Steinmetz and I met with Mr. Dougherty along with his colleague Steven Forbes, the Property Maintenance Zoning Officer to better understand why we had been ordered to stop our work and to see what had to be done so that our work could continue. Mr. Dougherty informed us that the Borough was still evaluating whether the lechis violated any local ordinances.

7. In the middle of our meeting with Mr. Dougherty and Mr. Forbes, Mr. Dougherty left to discuss the matter with the Mayor’s office. Upon his return to the meeting, Mr. Dougherty informed me and Rabbi Steinmetz that the Mayor’s office had given its consent for our work on the eruv to continue.

8. Approximately one week after meeting with Mr. Dougherty, at his suggestion, Rabbi Steinmetz and I met with the Chief of Police of Upper Saddle River Patrick Rotella in an effort to ensure that all concerns with the eruv expansion project were addressed. At that

meeting, we explained the purpose of the eruv and provided some additional information on the proposed eruv. Police Chief Rotella provided his consent as well, so long as we agreed to notify the police each time we were attaching lechis to utility poles and committed to having a flag man and to place a sign on the road to alleviate any traffic safety concerns. We, of course, agreed to meet these requests.

9. With the consent of O&R, the Police Department, and the Mayor's office, the work to expand the eruv resumed. Approximately four weeks ago, the necessary work to expand the eruv into portions of Upper Saddle River was completed. So as to comply with the request of the Police Department, each time we set out to attach lechis to utility poles in Upper Saddle River, we first notified the police. In several instances, police officers came to check on us, to ensure that we were in fact complying with the directives of the Police Department. Each time police officers checked on us, they gave their approval – noting that we were complying with each and every one of their requests.

10. As a result of these and other recent efforts, my house now falls within an eruv. Accordingly, for the past three Sabbaths, my family and I have been able to more fully practice our religion. More specifically, over the past three Sabbaths, my family and I have been able to carry items such as prayer shawls and prayer books to our synagogue and have been able to bring food, games, gifts, and books to the homes of fellow community members. We, and several of our neighbors, have also been able to push strollers and wheelchairs within the confines of the newly expanded eruv. This has enabled us to more fully practice our religion, both at our synagogue and at communal activities in the homes of fellow community members on the Sabbath. None of this would be possible without an eruv.

11. It is not just my family that has benefited from the eruv over the past three weeks. Many other members of the community have benefited as well. Like my family, these community members are also now able to more fully practice their religion. For example, my neighbors have an infant and, as a result of the recently expanded eruv, they are now able to attend synagogue and other events on the Sabbath as a family. Without the eruv, someone would have to stay home with their infant throughout the Sabbath. There are several other families on my block alone that are in the same situation.

12. It is my understanding that Upper Saddle River has changed its position, and has recently demanded that the lechis affixed to utility poles – lechis that were installed with all of the necessary approvals and with the consent of the utility company that owns the poles, the Upper Saddle River Police Department, and the Upper Saddle River Mayor's Office – be removed by Wednesday July 26, 2017 at noon. It is also my understanding that Upper Saddle River has stated that if the lechis are not removed by that time, the Borough will have them removed. If any of these lechis are removed, the eruv that currently encompasses my house will become invalid, and, as a direct result of the actions of Upper Saddle River, my family and I, along with many other members of the community, will no longer be able to freely and fully practice our religion.

13. In an effort to justify this change in position, I understand that Upper Saddle River has cited a local ordinance, which it claims prohibit the attachment of lechis to utility poles. Although the Borough of Upper Saddle River has a local ordinance which regulates the attachments of signs and other materials to poles and other structures, it has not compelled the removal of a variety of signs and other material posted on utility poles and other structures. For

example, Upper Saddle River has failed to enforce the local ordinance against signs listing street numbers and flags attached to utility poles.

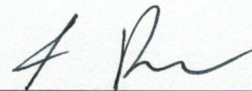
14. Photographs depicting these materials, taken in Upper Saddle River on July 27, 2017, are attached hereto as Exhibit A.

15. As these photographs make clear, Upper Saddle River does not uniformly enforce this ordinance against others, and throughout the Borough, numerous signs and other materials – larger and more conspicuous than the lechis – are on display.

16. On the morning of July 27, 2017, I went to check to see if the lechis in Upper Saddle River were still attached to the utility poles. That inspection revealed that at least fifteen of the lechis in Upper Saddle River appear to have been vandalized, as they have been ripped off of the utility poles.

17. I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 27, 2017.



S. MOSHE PINKASOVITS

EXHIBIT A









LOST DOG



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