

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

BERGEN ROCKLAND ERUV
ASSOCIATION, YISROEL FRIEDMAN,
S. MOSHE PINKASOVITS, SARAH
BERGER, MOSES BERGER, CHAIM
BREUER, YOSEF ROSEN, and TZVI
SCHONFELD,

Plaintiffs,

vs.

THE BOROUGH OF UPPER SADDLE
RIVER,

Defendant.

Civil No.: 2:17-CV-05512-JMV-CLW

**DEFENDANT BOROUGH OF UPPER
SADDLE RIVER'S NOTICE OF MOTION
TO DISMISS PLAINTIFFS' AMENDED
COMPLAINT PURSUANT TO
FED.R.CIV.P 12(b)(1)**

TO: Diane P. Sullivan, Esq.
WEIL, GOTSHAL & MANGES LLP
17 Hulfish Street, Suite 201
Princeton, New Jersey 08542

PLEASE TAKE NOTICE that on December 4, 2017, at 10:00 a.m. in the forenoon or as soon thereafter as counsel may be heard, McCusker, Anselmi, Rosen & Carvelli, P.C., attorneys for defendant Borough of Upper Saddle River, shall appear before the Honorable John Michael Vazquez, U.S.D.J., at 50 Walnut Street, Newark, New Jersey, 07101, seeking entry of an Order, pursuant to Fed.R.Civ.P. 12(b)(1), dismissing Plaintiffs' Amended Complaint.

PLEASE TAKE FURTHER NOTICE that defendant will rely upon its brief, accompanied by the Declarations of Bruce S. Rosen, Esq., Theodore Preusch, Patrick Rotella, Robert R. Regan, Steven Forbes, James Dougherty, David Gudino, Esq., Robert Hyman, Donald Hausch, David Lally, and Michael Spina, with exhibits, in support of this application. A proposed form of Order is submitted herewith.

PLEASE TAKE FURTHER NOTICE that defendant requests oral argument.

By: /s/ Bruce S. Rosen
Bruce S. Rosen, Esq.

Dated: November 2, 2017

MARC

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November 2, 2017

Re: Bergen Rockland Eruv Association et al. v. Borough of Upper Saddle River
Civ. No. 2:17-CV-05512-JMV-CLW

Dear Clerk of the Court:

Pursuant to Judge Vasquez's Order of October 11, 2017 (Doc. No. 27). Defendant Upper Saddle River is making a joint filing of its Opposition to Plaintiffs' Motion for a Preliminary Injunction and making a simultaneous Motion to Dismiss.

We are herewith filing the Notice of Motion and Proposed Order and this document hereby Notices the Brief and Declarations that were simultaneously filed as Doc No. 29 also in support of the Motion to Dismiss.

Please let us know if you would like us to refile these extensive filings or if you could link them

Very truly yours,

/s/ Bruce S. Rosen
Bruce S. Rosen

BSR/ckc

cc: Attorneys for Defendant Borough of Saddle River (via ecf)

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ORDER

This matter having been presented to the Court by McCusker, Anselmi, Rosen & Carvelli, P.C., attorneys for defendant Borough of Upper Saddle River, seeking an Order dismissing Plaintiff's Amended Complaint; and the Court having reviewed the papers and any papers in response, upon oral argument and for good cause shown;

On this _____ day of December, 2017,

IT IS HEREBY ORDERED that Plaintiff's Amended Complaint is hereby dismissed for lack of subject matter jurisdiction.

In the alternative, the Plaintiffs' Motion for a Preliminary Injunction is denied.

A copy of this Order shall be served by Petitioners on all parties within seven (7) days of the date hereof.

HON. JOHN MICHAEL VAZQUEZ, U.S.D.J.