

APPENDIX A

Order of the United States Court of Appeals For the Second
Circuit, *We The Patriots USA, Inc. et al. v. Hochul, et
al.*, No. 21-2179 (October 29, 2021).

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 29th day of October, two thousand twenty-one.

Before: John M. Walker, Jr.,
Robert D. Sack,
Susan L. Carney,
Circuit Judges.

We The Patriots USA, Inc., Diane Bono, Michelle
Melendez, Michelle Synakowski,

Plaintiffs-Appellants,

v.

Kathleen Hochul, Howard A. Zucker, M.D.,

Defendants-Appellees.

ORDER

No. 21-2179

Dr. A., Nurse A., Dr. C., Nurse D., Dr. F., Dr. G.,
Therapist I., Dr. J., Nurse J., Dr. M., Nurse N., Dr. O., Dr.
P., Technologist P., Dr. S., Nurse S., Physician Liaison X.,

Plaintiffs-Appellees,

v.

Kathy Hochul, Governor of the State of New York, in her
official capacity, Dr. Howard A. Zucker, Commissioner of the
New York State Department of Health, in his official
capacity, Letitia James, Attorney General of the State of New
York, in her official capacity,

Defendants-Appellants.


No. 21-2566

In No. 21-2179, Plaintiffs We The Patriots USA, Inc. et al., appeal from an order of the United States District Court for the Eastern District of New York denying their motion for a preliminary injunction enjoining the State from enforcing N.Y. Comp. Codes R. & Regs. tit. 10, § 2.61 (August 26, 2021). Upon due consideration, it is hereby ORDERED, ADJUDGED, and DECREED that this Court's September 30, 2021 order granting a temporary injunction pending appeal is VACATED, the district court's order denying the motion for a preliminary injunction is AFFIRMED, and the case is REMANDED for further proceedings consistent with this Order and the forthcoming opinion of this Court.

In No. 21-2566, the State of New York appeals from an order of the United States District Court for the Northern District of New York enjoining the State from enforcing N.Y. Comp. Codes R. & Regs. tit. 10, § 2.61 (August 26, 2021). Upon due consideration, it is hereby ORDERED, ADJUDGED, and DECREED that the district court's order is VACATED and the case is REMANDED for further proceedings consistent with this Order and the forthcoming opinion of this Court.

The mandate shall issue forthwith for the limited purpose of vacating the injunction issued by the District Court for the Northern District of New York. An opinion in both No. 21-2179 and No. 21-2566 will follow expeditiously.

For the Court:
Catherine O'Hagan Wolfe, Clerk of Court

A circular official seal of the United States Court of Appeals for the Second Circuit is stamped over the signature. The seal contains the text "UNITED STATES", "SECOND CIRCUIT", and "COURT OF APPEALS" around a central emblem.

APPENDIX B

Docket Sheet - United States District Court For The Eastern
District Of New York, *We The Patriots USA, Inc., et al. v.*
Hochul, et al., No. 1:21-cv-04954-WFK (Current as of
October 31, 2020).

**U.S. District Court
Eastern District of New York (Brooklyn)
CIVIL DOCKET FOR CASE #: 1:21-cv-04954-WFK-RER**

We The Patriots USA, Inc. et al v. Hochul et al
Assigned to: Judge William F. Kuntz, II
Referred to: Magistrate Judge Ramon E. Reyes, Jr
Cause: 42:1983 Civil Rights Act

Date Filed: 09/02/2021
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff**We The Patriots USA, Inc.**

represented by **Norman Alexander Pattis**
The Pattis Law Firm
383 Orange Street
New Haven, CT 06511
203-393-3017
Fax: 203-393-9745
Email: npattis@pattisandsmith.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff**Diane Bono**

represented by **Norman Alexander Pattis**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff**Michelle Melendez**

represented by **Norman Alexander Pattis**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff**Michelle Synakowski**

represented by **Norman Alexander Pattis**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant**Kathleen Hochul****Defendant****Howard A. Zucker, M.D.**

Date Filed	#	Docket Text

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09/02/2021	1	NOTICE of Appearance by Norman Alexander Pattis on behalf of All Plaintiffs (aty to be noticed) (Pattis, Norman) (Entered: 09/02/2021)
09/02/2021	2	COMPLAINT against All Defendants filing fee \$ 402, receipt number ANYEDC-14805603 Was the Disclosure Statement on Civil Cover Sheet completed -Yes,, filed by We The Patriots USA, Inc., Michelle Synakowski, Michelle Melendez, Diane Bono. (Attachments: # 1 Exhibit A, # 2 Exhibit B) (Pattis, Norman) (Main Document 2 replaced on 9/2/2021) (Neptune, Pierre). (Entered: 09/02/2021)
09/02/2021	3	Civil Cover Sheet.. by Diane Bono, Michelle Melendez, Michelle Synakowski, We The Patriots USA, Inc. (Neptune, Pierre) (Entered: 09/02/2021)
09/02/2021		Case Assigned to Judge William F. Kuntz, II and Magistrate Judge Ramon E. Reyes, Jr. Please download and review the Individual Practices of the assigned Judges, located on our website . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. (Neptune, Pierre) (Entered: 09/02/2021)
09/02/2021	4	This attorney case opening filing has been checked for quality control. See the attachment for corrections that were made, if any. (Neptune, Pierre) (Entered: 09/02/2021)
09/02/2021	5	In accordance with Rule 73 of the Federal Rules of Civil Procedure and Local Rule 73.1, the parties are notified that if all parties consent a United States magistrate judge of this court is available to conduct all proceedings in this civil action including a (jury or nonjury) trial and to order the entry of a final judgment. Attached to the Notice is a blank copy of the consent form that should be filled out, signed and filed electronically only if all parties wish to consent. The form may also be accessed at the following link: http://www.uscourts.gov/uscourts/FormsAndFees/Forms/AO085.pdf . You may withhold your consent without adverse substantive consequences. Do NOT return or file the consent unless all parties have signed the consent. (Neptune, Pierre) (Entered: 09/02/2021)
09/12/2021	6	Emergency MOTION for Temporary Restraining Order , Emergency MOTION for Preliminary Injunction by Diane Bono, Michelle Melendez, Michelle Synakowski, We The Patriots USA, Inc.. (Attachments: # 1 Memorandum in Support, # 2 Exhibit A, # 3 Exhibit B, # 4 Exhibit C, # 5 Exhibit D, # 6 Exhibit E, # 7 Exhibit F, # 8 Exhibit G) (Pattis, Norman) (Entered: 09/12/2021)
09/12/2021	7	CERTIFICATE of Counsel re 6 Emergency MOTION for Temporary Restraining Order Emergency MOTION for Preliminary Injunction <i>Pursuant To Fed. R. Civ. P. 65</i> by Norman Alexander Pattis on behalf of Diane Bono, Michelle Melendez, Michelle Synakowski, We The Patriots USA, Inc. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E) (Pattis, Norman) (Entered: 09/12/2021)
09/12/2021		ORDER denying 6 Motion for TRO; denying 6 Motion for Preliminary Injunction. So Ordered by Judge William F. Kuntz, II on 9/12/2021. (Kuntz, William) (Entered: 09/12/2021)
09/12/2021	8	NOTICE OF APPEAL as to Order on Motion for TRO, Order on Motion for Preliminary Injunction by Diane Bono, Michelle Melendez, Michelle Synakowski, We The Patriots USA, Inc.. Filing fee \$ 505, receipt number ANYEDC-14829014. (Pattis, Norman) (Entered: 09/12/2021)
09/13/2021		Electronic Index to Record on Appeal sent to US Court of Appeals. 8 Interlocutory Notice of Appeal, Documents are available via Pacer. For docket entries without a hyperlink or for documents under seal, contact the court and we'll arrange for the document(s) to be made available to you. (Jones, Vasean) (Entered: 09/13/2021)
09/13/2021	9	Emergency MOTION to Stay <i>Enforcement Of NYS Health Regulation 2.61 Pending</i>

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		<i>Appeal</i> by Diane Bono, Michelle Melendez, Michelle Synakowski, We The Patriots USA, Inc.. (Attachments: # 1 Memorandum in Support, # 2 Exhibit A, # 3 Exhibit B, # 4 Exhibit C, # 5 Exhibit D, # 6 Exhibit E, # 7 Exhibit F, # 8 Exhibit G) (Pattis, Norman) (Entered: 09/13/2021)
09/13/2021		ORDER denying 9 Motion to Stay. So Ordered by Judge William F. Kuntz, II on 9/13/2021. (Kuntz, William) (Entered: 09/13/2021)
09/24/2021	10	ORDER of USCA as to 8 Notice of Appeal, filed by Michelle Synakowski, Michelle Melendez, We The Patriots USA, Inc., Diane Bono. IT IS HEREBY ORDERED that, to the extent Appellants seek a temporary injunction pending review by a three-judge motions panel, the injunction is GRANTED. The motions are REFERRED to a three-judge motions panel on an expedited basis. Certified Copy Issued: 9/24/2021. USCA# 21-2179. (Jones, Vasean) (Entered: 09/24/2021)
09/26/2021	11	WAIVER OF SERVICE Returned Executed by We The Patriots USA, Inc., Michelle Synakowski, Michelle Melendez, Diane Bono. Kathleen Hochul waiver sent on 9/7/2021, answer due 11/8/2021. (Pattis, Norman) (Entered: 09/26/2021)
09/26/2021	12	WAIVER OF SERVICE Returned Executed by We The Patriots USA, Inc., Michelle Synakowski, Michelle Melendez, Diane Bono. Howard A. Zucker, MD waiver sent on 9/7/2021, answer due 11/8/2021. (Pattis, Norman) (Entered: 09/26/2021)
09/27/2021	13	ORDER of USCA as to 8 Notice of Appeal, filed by Michelle Synakowski, Michelle Melendez, We The Patriots USA, Inc., Diane Bono. IT IS HEREBY ORDERED that the September 24 temporary injunction is DISSOLVED. IT IS FURTHER ORDERED that oral argument will be heard on Wednesday, September 29, 2021 at 10:00 AM, limited to Plaintiffs challenge based on the First Amendments clause guaranteeing Free Exercise of Religion. Ten minutes will be allotted to each side. The States non-allowance of a religious exemption is currently subject to a temporary restraining order in Dr. A. v. Hochul, No. 21-cv-1009 (N.D.N.Y. Sept. 14, 2021), which order is not before this Court. IT IS FURTHER ORDERED that the motion for leave to file an amicus brief is GRANTED. Certified Copy Issued: 9/27/2021. USCA# 21-2179. (Jones, Vasean) (Entered: 09/27/2021)
09/30/2021	14	ORDER of USCA as to 8 Notice of Appeal, filed by Michelle Synakowski, Michelle Melendez, We The Patriots USA, Inc., Diane Bono. Plaintiffs- Appellants move for a temporary injunction pending resolution of this appeal, prohibiting enforcement of New York States regulation requiring vaccination of specified healthcare workers. IT IS HEREBY ORDERED that the motion is GRANTED IN PART and DENIED IN PART. See Roman Catholic Diocese of Brooklyn v. Cuomo, 141 S. Ct. 63, 66(2020). Appellees are hereby ENJOINED, pending resolution of the appeal or further order of this Court, from enforcing the mandate against persons claiming religious exemptions, in a manner that would violate the terms stated in the temporary restraining order entered by the District Court in Dr. A v. Hochul, No. 21-cv-1009 (N.D.N.Y. Sept. 14, 2021). The motion is otherwise DENIED. IT IS FURTHER ORDERED that the appeal will be heard by the panel sitting on October 14, 2021 beginning at 9:00 a.m. Each party will be allotted 10 minutes of argument time. Appellants brief is due on October 4, 2021 at 9:00 a.m. Appellees brief is due on October 7, 2021 at 5:00 p.m. The reply brief, if any, is due on October 8, 2021 at 5:00 p.m Certified Copy Issued: 9/30/2021. USCA# 21-2179. (Jones, Vasean) (Entered: 09/30/2021)
10/06/2021	15	MOTION for Refund of Fees Paid Electronically by Diane Bono, Michelle Melendez, Michelle Synakowski, We The Patriots USA, Inc.. (Pattis, Norman) (Entered: 10/06/2021)
10/06/2021	16	ORDER: In light of Plaintiffs pending appeal, the Court hereby DENIES Plaintiffs request for a reimbursement of the \$402.00 filing fee paid in this case as moot. So Ordered by Judge William F. Kuntz, II on 10/6/2021. (Herrera, Isaiah) (Entered: 10/06/2021)

APP.7

10/29/2021

[17](#)

ORDER of USCA as to [8](#) Notice of Appeal, filed by Michelle Synakowski, Michelle Melendez, We The Patriots USA, Inc., Diane Bono. It is hereby ORDERED, that this Courts September 30, 2021 order granting a temporary injunction pending appeal is VACATED, the District Courts order denying the motion for a preliminary injunction is AFFIRMED, and the case is REMANDED for further proceedings consistent with this Order and the forthcoming opinion of this Court. Certified Copy Issued: 10/29/2021. USCA# 21-2179. (Jones, Vasean) (Entered: 10/29/2021)

PACER Service Center

Transaction Receipt

10/31/2021 14:59:35

PACER Login:	normpattis	Client Code:	
Description:	Docket Report	Search Criteria:	1:21-cv-04954-WFK-RER
Billable Pages:	4	Cost:	0.40

APPENDIX C

Complaint, *We The Patriots USA, Inc., et al. v. Hochul, et al.*, No. 1:21-cv-04954-WFK (E.D.N.Y Sept. 2, 2021)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

We The Patriots USA, Inc.; Diane Bono; Michelle Melendez;
Michelle Synakowski

Hartford, CT

(EXCEPT IN U.S. PLAINTIFF CASES)

(b) County of Residence of First Listed Plaintiff

(c) Attorneys (Firm Name, Address, and Telephone Number)

Pattis & Smith, LLC, 383 Orange Street, New Haven, CT
06511

DEFENDANTS

Kathleen Hochul; Howard Zucker

County of Residence of First Listed Defendant Albany, NY

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability			<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander			<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability			<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine			<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability			<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle			<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability			<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice			<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 500 Securities/Commodities/Exchange
				<input type="checkbox"/> 890 Other Statutory Actions
				<input type="checkbox"/> 891 Agricultural Acts
				<input type="checkbox"/> 893 Environmental Matters
				<input type="checkbox"/> 895 Freedom of Information Act
				<input type="checkbox"/> 896 Arbitration
				<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
				<input type="checkbox"/> 950 Constitutionality of State Statutes

REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	PROPERTY RIGHTS	SOCIAL SECURITY	FEDERAL TAX SUITS
<input type="checkbox"/> 210 Land Condemnation	<input checked="" type="checkbox"/> 440 Other Civil Rights	Habeas Corpus:	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 864 SSID Title XVI	
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 865 RSI (405(g))	
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	Other:	<input type="checkbox"/> 791 Employee Retirement Income Security Act			
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other				
		<input type="checkbox"/> 550 Civil Rights				
		<input type="checkbox"/> 555 Prison Condition				
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement				

IMMIGRATION
<input type="checkbox"/> 462 Naturalization Application
<input type="checkbox"/> 465 Other Immigration Actions

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. Section 1983

Brief description of cause:

Free Exercise claim for injunctive relief against New York State officials

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

9/2/2021

SIGNATURE OF ATTORNEY OF RECORD

/s/ Norman A. Pattis /s/

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

APP.10

JUDGE

MAG. JUDGE

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.7 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration ☐

I, Norman A. Pattis, counsel for the Plaintiffs, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

☐
☒
☐

monetary damages sought are in excess of \$150,000, exclusive of interest and costs,

the complaint seeks injunctive relief,

the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

We The Patriots USA, Inc. - It is not publicly held and it does not have any parent corporation.

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that "A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? ☐ Yes ☒ No
- 2.) If you answered "no" above:
- a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? ☐ Yes ☒ No
- b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? ☒ Yes ☐ No
- c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received:

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? ☐ Yes ☒ No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

☒

Yes

☐

No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

☐

Yes (If yes, please explain

☒

No

I certify the accuracy of all information provided above.

Signature: /s/ Norman A. Pattis /s/

APP-11

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

WE THE PATRIOTS USA, INC.,	:	
DIANE BONO,	:	
MICHELLE MELENDEZ,	:	Dkt. No.:1:21-cv-4954
MICHELLE SYNAKOWSKI,	:	
Plaintiffs,	:	
v.	:	
	:	
KATHLEEN HOCHUL - GOVERNOR	:	
OF NEW YORK; HOWARD	:	
ZUCKER, M.D. - COMMISSIONER,	:	
NEW YORK STATE DEPARTMENT	:	
OF HEALTH	:	
Defendants.	:	SEPTEMBER 2, 2021

COMPLAINT

"I never thought your announcements could give you – a mere human being – power to trample the gods' unfailing, unwritten laws. These laws weren't made now/or yesterday. They live for all time." – Sophocles, Antigone.

1. The State of New York has turned a terrifying corner in the name of public health: It is mandating that all health-care professionals in the state of New York be vaccinated to combat the spread of COVID-19 as a condition of their employment, regardless of the sincerely held religious convictions of those employees. By administrative fiat, the State proposes to do what no court has done thus far and what federal law prohibits: eliminate the religious exemption to the requirement that folks submit to government-mandated vaccination. The plaintiffs seek declaratory and injunctive relief.

Jurisdiction

2. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 2201, and venue is proper under 28 U.S.C. § 1391. The claims arise under 42 U.S.C. § 1983.

Parties

3. Plaintiff, We The Patriots USA, Inc., is a nonprofit charity organized and operated exclusively for tax-exempt purposes in accordance with Section 501(c)(3) of the Internal Revenue Code. It is incorporated in the State of Connecticut. More specifically, We The Patriots USA, Inc., is dedicated to promoting constitutional rights and other freedoms through education, outreach, and public interest litigation, thereby advancing religious freedom, medical freedom, parental rights, and educational freedom for all. As a Section 501(c)(3) public charity, it has members who participate in its tax-exempt activities as volunteers and committed community stakeholders, bringing and supporting litigation in state and federal courts on a variety of constitutional and civil-liberties matters directly affecting their rights and interests. The organization has members in New York State who are affected by the matters complained of herein, including the individual plaintiffs.

4. Plaintiff Diane Bono is an adult resident of the State of New York, residing in Seaford. She is a registered nurse employed at the Syosset Hospital. She is a practicing non-denominational Christian and a member of We The Patriots USA, Inc.

5. Plaintiff Michelle Melendez is an adult resident of the State of New York, residing in Wheatley Heights. She is a registered nurse employed at the Syosset Hospital. She is a baptized and practicing Roman Catholic and a member of We The Patriots USA, Inc.

6. Plaintiff Michelle Synakowski is an adult resident of the State of New York, residing in Syracuse. She is a health care professional employed by the St. Joseph's Hospital in Syracuse, New York. She is a baptized and practicing Roman Catholic and a member of We The Patriots USA, Inc.

7. Defendant Kathleen Hochul is the governor of the State of New York, and, as such, is the primary policymaker and principal executive officer of the State of New York. She is sued in her official capacity.

8. Defendant Howard Zucker is the Commissioner of the State of New York Department of Health (NYDOH). He is sued in his official capacity.

Factual Allegations

9. The three major vaccines distributed to prevent illness due to COVID-19 relied on use of a fetal cell line harvested from aborted fetuses acquired in the 1970s and 1980s. Johnson & Johnson used a fetal cell line to produce and manufacture the vaccine. Pfizer and Moderna used the cells in testing the efficacy of their vaccines prior to production and manufacturing.¹

10. Plaintiffs Bono, Melendez, and Synakowski have sincere and personal religious beliefs supported by the teaching of their churches that elective abortion is wrong. They object to placing in their bodies a vaccine that relies in whole or in part on the use of a fetal cell line for development, manufacturing, or testing.

11. Plaintiffs Bono, Melendez, and Synakowski are not alone in their religious beliefs. Thousands of Plaintiff We The Patriots USA, Inc.'s members, including the substantial number of members that they have in New York, share Bono, Melendez, and Synakowski's religious convictions.

12. The Defendants, acting pursuant to authority vested in the Public Health and Health Planning Council and the Commissioner of Public Health, Defendant Zucker, has promulgated regulations requiring employees of "covered entities" to be "fully

¹ *COVID-19 Vaccines and Fetal Cells*, Michigan Department of Health and Human Services (April 21, 2021).

vaccinated” unless medically exempt. See New York State Health Regulation, Title 10, § 2.61 (attached as **Exhibit A**). The new regulations do not provide for a religious exemption to vaccination. *Id.*

13. The new regulations constitute state action, that is to say a new policy requiring compliance by residents of New York State who must either be vaccinated or potentially lose their employment and be barred from future employment in their career fields within the state of New York.

14. The new regulations cover “any facility or institution included in the definition of ‘hospital’ ... including but not limited to general hospitals, nursing homes, and diagnostic and treatment centers....” **Exhibit A, p. 1.**

15. The new regulations cover “all persons employed or affiliated with a covered entity, whether paid or unpaid, including but not limited to employees, members of the medical and nursing staff, contract staff, students, and volunteers, who engage in activities such that if they were infected with COVID-19, they could potentially expose other covered personnel, patients or residents to the disease.” **Exhibit A, p. 2.**

16. The new regulations require “[c]overed entities ... [to] continuously require personnel to be fully vaccinated against COVID-19, with the first dose for current personnel received by September 27, 2021 for general hospitals and nursing homes, and by October 7, 2021 for all other covered entities absent receipt of an exemption as allowed” **Exhibit A, p. 2.**

17. The only exemption specified in the new regulation is a “medical exemption.” **Exhibit A, p. 2**

18. Prior to the promulgation of the new regulations, employees of covered entities were permitted to seek a religious exemption from vaccination requirements.

19. Indeed, as recently as August 16, 2021, then Governor Andrew Cuomo announced that new regulations would require “staff at hospitals and long-term care facilities, including nursing homes” to be vaccinated against COVID-19 by Monday, September 27, 2021, except for “limited exceptions for those with religious or medical reasons.” **Exhibit B, pp. 1-2.**

20. Thereafter, Governor Cuomo resigned from office, effective August 24, 2021, the date upon which Defendant Hochul was sworn into office.

21. On August 26, 2021, the new regulations eliminating the religious exemption were promulgated and took immediate effect. They were promulgated without any public notice and comment period, announced by fiat and in a startling departure from the earlier statements of Governor Cuomo.

22. The elimination of the religious exemption will require plaintiffs Melendez and Synakoski to choose either to submit to a vaccination abhorrent to their deeply held beliefs or lose their employment.

Count One – Violation of First Amendment Right To Free Exercise Of Religion

23. Paragraphs one through 22 are incorporated herein.

24. The First Amendment provides, in relevant part, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” This Free Exercise Clause “protects religious observers against unequal treatment and subjects to the strictest scrutiny laws that target the religious for special disabilities based their religious status.... Applying that basic principle, this Court has repeatedly confirmed

that denying a generally available benefit solely on account of religious identity imposes a penalty on the free exercise of religion that can be justified only by a state interest of the highest order.” *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S.Ct 2012, 2019 (2017) (internal citation and quotation marks omitted).

25. The Free Exercise Clause also guarantees an affirmative right to practice sincerely held religious beliefs.

26. The Defendants have conducted the ultimate bait-and-switch on healthcare workers of faith in New York. They initially made public statements and declarations telling healthcare workers including the Plaintiffs that they would be able to request religious exemptions from the state’s COVID-19 vaccination mandate. When it came time to actually put their statements and declarations into law, the Defendants forgot their previous promises entirely and completely omitted the promised religious exemption from their COVID-19 vaccination mandate.

27. Their mandate, however, provides an avenue for healthcare workers to request medical exemptions.

28. The mandate takes effect immediately and requires all personnel to be vaccinated against COVID-19 by September 27, 2021 or lose their jobs.

29. The Defendants’ COVID-19 vaccination mandate violates the Free Exercise Clause by permitting a secular (medical) exemption on an individualized basis while categorically mandating the rejection of religious exemptions.

30. The Defendants’ COVID-19 vaccination mandate violates the Free Exercise Clause by forcing the Plaintiffs and all healthcare workers in New York to choose between their religious beliefs and their jobs and careers.

Count Two – Violation of First, Fourth, Fifth, And Fourteenth Amendment Rights To Privacy And Medical Freedom

31. Paragraphs 1 through 29 of this Complaint are incorporated herein.

32. In *Roe v. Wade*, 410 U.S. 113 (1973) and *Planned Parenthood v. Casey*, 505 U.S. 833 (1992), the United States Supreme Court established a woman's right to terminate her pregnancy under the First, Fourth, Fifth, and Fourteenth Amendments. The principles derived from these cases establish a broad right to freedom to make personal choices – central to personal dignity and autonomy – about one's own medical decisions.

33. The Defendants' COVID-19 vaccination mandate places an undue burden on the Plaintiffs' right to make personal choices – central to their personal dignity and autonomy – about their own medical decisions.

34. Thus, the Defendants' COVID-19 vaccination violates the First, Fourth, Fifth, and Fourteenth Amendments on its face.

Declaratory and Injunctive Relief

WHEREFORE, the Plaintiffs seek declaratory and injunctive relief as follows:

- A. A declaratory judgment finding that New York State Public Health Regulation, Title 10, § 2.61 violates the First Amendment's Free Exercise Clause and is unconstitutional.
- B. A declaratory judgment finding that New York State Public Health Regulation, Title 10, § 2.61 violates the Plaintiffs' right to privacy and medical freedom under the First, Fourth, Fifth, and Fourteenth Amendments and is unconstitutional.

- C. A permanent injunction enjoining the Defendants and their agents from enforcing any provision of New York State Public Health Regulation, Title 10, § 2.61.
- D. Costs and attorney's fees.
- E. Such other relief as this Court deems fair and equitable.

THE PLAINTIFFS

/s/ Norman A. Pattis /s/

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/s/ Cameron L. Atkinson /s/

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/s/ Earl A. Voss /s/

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APPENDIX D

New York State Health Regulation, Section 2.61

August 31, 2021 | 12:13 pm

COVID-19 Vaccines

On August 23, the FDA announced the full approval of the Pfizer-BioNTech vaccine for the prevention of COVID-19 disease in individuals age 16 and older. [Read more.](#)

DETAILS >

(<https://covid19vaccine.health.ny.gov/>)

New York Codes, Rules and Regulations (/)

[Home \(/\)](#) / [VOLUME A \(Title 10\) \(/content/volume-title-10\)](#)

/ [Part 2 - Communicable Diseases \(/volume-title-10/content/part-2-communicable-diseases\)](#)

/ [OTHER MEASURES FOR PUBLIC PROTECTION \(/volume-title-10/content/other-measures-public-protection\)](#)

/ [Title: Section 2.61 - Prevention of COVID-19 transmission by covered entities](#)

Title: Section 2.61 - Prevention of COVID-19 transmission by covered entities

Effective Date

08/26/2021

Section 2.61 Prevention of COVID-19 transmission by covered entities.

(a) Definitions.

(1) "Covered entities" for the purposes of this section, shall include:

(i) any facility or institution included in the definition of "hospital" in section 2801 of the Public Health Law, including but not limited to general hospitals, nursing homes, and diagnostic and treatment centers;

(ii) any agency established pursuant to Article 36 of the Public Health Law, including but not limited to certified home health agencies, long term home health care programs, acquired immune deficiency syndrome (AIDS) home care programs, licensed home care service agencies, and limited licensed home care service agencies;

(iii) hospices as defined in section 4002 of the Public Health Law; and

(iv) adult care facility under the Department's regulatory authority, as set forth in Article 7 of the Social Services Law.

APP.21

(2) "Personnel," for the purposes of this section, shall mean all persons employed or affiliated with a covered entity, whether paid or unpaid, including but not limited to employees, members of the medical and nursing staff, contract staff, students, and volunteers, who engage in activities such that if they were infected with COVID-19, they could potentially expose other covered personnel, patients or residents to the disease.

(3) "Fully vaccinated," for the purposes of this section, shall be determined by the Department in accordance with applicable federal guidelines and recommendations. Unless otherwise specified by the Department, documentation of vaccination must include the manufacturer, lot number(s), date(s) of vaccination; and vaccinator or vaccine clinic site, in one of the following formats:

(i) record prepared and signed by the licensed health practitioner who administered the vaccine, which may include a CDC COVID-19 vaccine card;

(ii) an official record from one of the following, which may be accepted as documentation of immunization without a health practitioner's signature: a foreign nation, NYS Countermeasure Data Management System (CDMS), the NYS Immunization Information System (NYSIIS), City Immunization Registry (CIR), a Department-recognized immunization registry of another state, or an electronic health record system; or

(iii) any other documentation determined acceptable by the Department.

(c) Covered entities shall continuously require personnel to be fully vaccinated against COVID-19, with the first dose for current personnel received by September 27, 2021 for general hospitals and nursing homes, and by October 7, 2021 for all other covered entities absent receipt of an exemption as allowed below. Documentation of such vaccination shall be made in personnel records or other appropriate records in accordance with applicable privacy laws, except as set forth in subdivision (d) of this section.

(d) Exemptions. Personnel shall be exempt from the COVID-19 vaccination requirements set forth in subdivision (c) of this section as follows:

(1) Medical exemption. If any licensed physician or certified nurse practitioner certifies that immunization with COVID-19 vaccine is detrimental to the health of member of a covered entity's personnel, based upon a pre-existing health condition, the requirements of this section relating to COVID-19 immunization shall be inapplicable only until such immunization is found no longer to be detrimental to such personnel member's health. The nature and duration of the medical exemption must be stated in the personnel employment medical record, or other appropriate record, and must be in accordance with generally accepted medical standards, (see, for example, the recommendations of the Advisory Committee on Immunization Practices of the U.S. Department of Health and Human Services), and any reasonable accommodation may be granted and must likewise be documented in such record. Covered entities shall document medical exemptions in personnel records or other appropriate records in accordance with applicable privacy laws by: (i) September 27, 2021 for general hospitals and nursing homes; and (ii) October 7, 2021 for all other covered entities. For all covered entities, documentation must occur continuously, as needed, following the initial dates for compliance specified herein, including documentation of any reasonable accommodation therefor.

(e) Upon the request of the Department, covered entities must report and submit documentation, in a manner and format determined by the Department, for the following:

(1) the number and percentage of personnel that have been vaccinated against COVID-19;

(2) the number and percentage of personnel for which medical exemptions have been granted;

(3) the total number of covered personnel.

(f) Covered entities shall develop and implement a policy and procedure to ensure compliance with the provisions of this section and submit such documents to the Department upon request.


(g) The Department may require all personnel, whether vaccinated or unvaccinated, to wear an appropriate face covering for the setting in which such personnel are working in a covered entity. Covered entities shall supply face coverings required by this section at no cost to personnel.

Statutory Authority

Public Health Law, Sections 225, 2800, 2803, 3612, and 4010 & Social Services Law, Sections 461 and 461-e

Volume

VOLUME A (Title 10)

 Outline

 [up \(/volume-title-10/content/other-measures-public-protection/\)](/volume-title-10/content/other-measures-public-protection/)

New York Codes, Rules and Regulations

Search Title 10 (</search-title-10/>)

Proposed Rule Making (</regulations/proposed-rule-making/>)

Three, Five, Ten and Fifteen Year Regulation Review (</regulations/five-ten-fifteen-review/>)

Search Title 18 (</search-title-18/>)

Emergency Regulations (</regulations/emergency/>)

Recently Adopted Regulations
(</regulations/recently-adopted/>)

APPENDIX E

**Press Release From New York Governor's Office Announcing
COVID-19 Vaccination Mandate (August 16, 2021).**

August 31, 2021 | 12:13 pm

COVID-19 Vaccines

On August 23, the FDA announced the full approval of the Pfizer-BioNTech vaccine for the prevention of COVID-19 disease in individuals age 16 and older. [Read more.](#)

DETAILS >



GOVERNOR
KATHY HOCHUL

AUGUST 16, 2021 | Albany, NY

Governor Cuomo Announces COVID-19 Vaccination Mandate for Healthcare Workers

COVID-19 VACCINE (/KI HEALTH IVID/KI PUBLIC SAFETY (/KEYWORDS/PUBLIC-
19- SAFETY)
VACCINE)

Department of Health Issues Section 16 Orders to Hospitals and Long-Term Care Facilities Requiring Policy to Ensure All Employees Are Vaccinated

First Dose Required by September 27

Department of Health Authorizes Third Dose for Immunocompromised New Yorkers

Governor Andrew M. Cuomo announced today that all healthcare workers in New York State, including staff at hospitals and long-term care facilities (LTCF), including nursing homes, adult care, and other congregate care settings, will be required to be vaccinated against COVID-19 by Monday, September 27. The State Department of Health will issue Section 16 Orders requiring all hospital, LTCF, and nursing homes to develop and implement a policy mandating employee vaccinations, with limited exceptions for those with religious or medical reasons. To date, 75% of the state's ~450,000 hospital workers, 74% of the state's ~30,000 adult care facility workers, and 68% of the state's ~145,500 nursing home workers have completed their vaccine series. Lt. Governor Kathy Hochul's administration was briefed prior to the announcement.

"When COVID ambushed New York last year, New Yorkers acted, while the Federal Government denied the problem," **Governor Cuomo said.** "Now, the Delta variant is spreading across the nation and across New York -- [new daily positives are up over 1000% over the last six weeks](https://www.governor.ny.gov/sites/default/files/2021-08/Presentation1.pdf) (<https://www.governor.ny.gov/sites/default/files/2021-08/Presentation1.pdf>), and over 80 percent of recent positives in New York State are linked to the Delta variant. We must now act again to stop the spread. Our healthcare heroes led the battle against the virus, and now we need them to lead the battle between the variant and the vaccine. We have always followed the science, and we're doing so again today, with these recommendations by Dr. Zucker and federal and state health experts. But we need to do more. I have strongly urged private businesses to implement vaccinated-only admission policies, and school districts to mandate vaccinations for teachers. Neither will occur without the state legally mandating the actions -- private businesses will not enforce a vaccine mandate unless it's the law, and local school districts will be hesitant to make these challenging decisions without legal direction."

Governor Cuomo also announced that the Department of Health has authorized a third COVID-19 vaccine dose for New Yorkers with compromised immune systems, following the Centers for Disease Control and Prevention's recommendation last week. Eligible New Yorkers can receive their third dose 28 days after the completion of their two-dose vaccine series, effective immediately.

The CDC is currently recommending that moderately to severely immunocompromised people receive an additional dose, including people who have:

- Been receiving active cancer treatment for tumors or cancers of the blood;
- Received an organ transplant and are taking medications to suppress the immune system;
- Received a stem cell transplant within the last 2 years or are taking medicine to suppress the immune system;
- Moderate or severe primary immunodeficiency (such as DiGeorge syndrome, Wiskott-Aldrich syndrome);
- Advanced or untreated HIV infection;
- Active treatment with high-dose corticosteroids, cancer chemotherapy that causes severe immunosuppression, or other medications that may suppress your immune response.

New Yorkers should contact their healthcare provider about whether getting an additional dose is appropriate for them at this time.

New York State Health Commissioner Dr. Howard Zucker said, "While we have made tremendous progress in getting New Yorkers vaccinated, this pandemic is far from over and more must be done. The data and science tell us that getting more people vaccinated as quickly as possible is the best way to keep people safe, prevent further mutations, and enable us to

resume our daily routines. This mandate will both help close the vaccination gap and reduce the spread of the Delta variant. I want to thank all New York State's healthcare workers for stepping up once again and showing our state that getting vaccinated is safe, easy, and most importantly, effective."

These steps follow Governor Cuomo's August 2 announcement that MTA and Port Authority employees working in New York facilities will be required to be vaccinated for COVID-19 by Labor Day, and his July 28 announcement that state employees and patient-facing employees in state-run hospitals will be required to get vaccinated for COVID-19 by Labor Day. State employees who choose to remain unvaccinated will be required to undergo weekly COVID testing.

Contact the Governor's Press Office

Contact us by phone:

Albany: [\(518\) 474-8418](tel:5184748418)

New York City: [\(212\) 681-4640](tel:2126814640)

Contact us by email:

Press.Office@exec.ny.gov

Translations

Arabic Translation

الترجمة إلى العربية

(https://www.governor.ny.gov/sites/default/files/2021-08/08.16.21.rel_MANDATE_Arabic.pdf)

Bengali Translation

বাংলা অনুবাদ

(https://www.governor.ny.gov/sites/default/files/2021-08/08.16.21.rel_MANDATE_Bengali.pdf)

Chinese Translation

中文翻譯

https://www.governor.ny.gov/sites/default/files/2021-08/08.16.21.rel_.MANDATE_Chinese.pdf**Haitian-Creole Translation**

Tradiksyon kreyòl ayisyen

https://www.governor.ny.gov/sites/default/files/2021-08/08.16.21.rel_.MANDATE_HaitianCreole.pdf**Italian Translation**

Traduzione italiana

https://www.governor.ny.gov/sites/default/files/2021-08/08.16.21.rel_.MANDATE_Italian.pdf**Korean Translation**

한국어 번역

https://www.governor.ny.gov/sites/default/files/2021-08/08.16.21.rel_.MANDATE_Korean.pdf**Polish Translation**

Polskie tłumaczenie

https://www.governor.ny.gov/sites/default/files/2021-08/08.16.21.rel_.MANDATE_Polish.pdf**Russian Translation**

Перевод на русский язык

https://www.governor.ny.gov/sites/default/files/2021-08/08.16.21.rel_.MANDATE_Russian.pdf**Spanish Translation**

Traducción al español

https://www.governor.ny.gov/sites/default/files/2021-08/08.16.21.rel_.MANDATE_Spanish.pdf**Yiddish Translation**

אידישע איבערזייטשונג

https://www.governor.ny.gov/sites/default/files/2021-08/08.16.21.rel_.MANDATE_Yiddish.pdf

APPENDIX F

Notice OF Emergency Motion For Temporary Restraining
Order And Preliminary Injunction, *We The Patriots USA,
Inc., et al. v. Hochul, et al.*, No. 1:21-cv-04954-WFK (E.D.N.Y
Sept. 12, 2021)

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

WE THE PATRIOTS USA, INC.,	:	
DIANE BONO,	:	
MICHELLE MELENDEZ,	:	Dkt. No.:1:21-cv-4954
MICHELLE SYNAKOWSKI,	:	
Plaintiffs,	:	
v.	:	
	:	
KATHLEEN HOCHUL - GOVERNOR	:	
OF NEW YORK; HOWARD	:	
ZUCKER, M.D. - COMMISSIONER,	:	
NEW YORK STATE DEPARTMENT	:	
OF HEALTH	:	
Defendants.	:	SEPTEMBER 12, 2021

**NOTICE OF EMERGENCY MOTION AND EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Pursuant to Federal Rule of Civil Procedure 65 and Local Rule 7.1, the Plaintiffs respectfully give notice of their emergency motion for a temporary restraining order and a preliminary injunction and move the Court for the following relief:

1. A temporary restraining order staying enforcement of the Defendants' New York State Health Regulation, Title 10, § 2.61 until the parties have an opportunity to be heard on the Plaintiffs' motion for a preliminary injunction;
2. A preliminary injunction staying enforcement of the Defendants' New York State Health Regulation, Title 10, § 2.61 until the parties have an opportunity to fully brief and argue its constitutionality;
3. Any such other and further relief that the Court considers proper.

THE PLAINTIFFS
/s/ Norman A. Pattis /s/
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npattis@pattisandsmith.com

/s/ Cameron L. Atkinson /s/
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/s/ Earl A. Voss /s/
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CERTIFICATE OF SERVICE

I hereby certify that on the date above a copy of the foregoing was served by certified mail, email, and/or by fax upon Governor Hochul and Dr. Zucker or their proper representatives designated by law.

/s/ Norman A. Pattis /s/
NORMAN A. PATTIS, ESQ.

APPENDIX G

Notice Of Emergency Motion For Injunction Pending
Appeal, *We The Patriots USA, Inc., et al. v. Hochul, et al.* ,
No. 1:21-cv-04954-WFK (E.D.N.Y Sept. 13, 2021)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

WE THE PATRIOTS USA, INC.,	:	
DIANE BONO,	:	
MICHELLE MELENDEZ,	:	Dkt. No.:1:21-cv-4954
MICHELLE SYNAKOWSKI,	:	
Plaintiffs,	:	
v.	:	
	:	
KATHLEEN HOCHUL - GOVERNOR	:	
OF NEW YORK; HOWARD	:	
ZUCKER, M.D, - COMMISSIONER,	:	
NEW YORK STATE DEPARTMENT	:	
OF HEALTH	:	
Defendants.	:	SEPTEMBER 13, 2021

NOTICE OF EMERGENCY MOTION FOR INJUNCTION PENDING APPEAL

Pursuant to Federal Rule of Civil Procedure 62(d), the Plaintiffs respectfully give notice of their emergency motion for an injunction pending appeal:

THE PLAINTIFFS
/s/ Norman A. Pattis /s/
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CERTIFICATE OF SERVICE

I hereby certify that on the date above a copy of the foregoing was served by certified mail, email, and/or by fax upon Governor Hochul and Dr. Zucker or their proper representatives designated by law.

/s/ Norman A. Pattis /s/
NORMAN A. PATTIS, ESQ.

APPENDIX H

Notice of Appeal, *We The Patriots USA, Inc., et al. v. Hochul, et al.*, No. 1:21-cv-04954-WFK (E.D.N.Y Sept. 12, 2021)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

WE THE PATRIOTS USA, INC.,	:	
DIANE BONO,	:	
MICHELLE MELENDEZ,	:	Dkt. No.: 1:21-cv-4954
MICHELLE SYNAKOWSKI,	:	
Plaintiffs,	:	
v.	:	
	:	
KATHLEEN HOCHUL - GOVERNOR	:	
OF NEW YORK; HOWARD	:	
ZUCKER, M.D, - COMMISSIONER,	:	
NEW YORK STATE DEPARTMENT	:	
OF HEALTH	:	
Defendants.	:	SEPTEMBER 12, 2021

NOTICE OF APPEAL

The Plaintiffs – We The Patriots USA, Inc., Diane Bono, Michelle Melendez, Michelle Synakowski – hereby give notice that they appeal the Court’s September 12, 2021 order denying their motion for a temporary restraining order and a preliminary injunction.

THE PLAINTIFFS
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CAMERON L. ATKINSON, ESQ.
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/s/ Earl A. Voss /s/
EARL A. VOSS, ESQ.
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avoss@pattisandsmith.com

CERTIFICATE OF SERVICE

I hereby certify that on the date above a copy of the foregoing was served by certified mail, email, and/or by fax upon Governor Hochul and Dr. Zucker or their proper representatives designated by law.

/s/ Norman A. Pattis /s/
NORMAN A. PATTIS, ESQ.

APPENDIX I

Affidavit of Diane Bono, *We The Patriots USA, Inc., et al.*
v. Hochul, et al., No. 1:21-cv-04954-WFK (E.D.N.Y Sept.
2, 2021)

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

WE THE PATRIOTS USA, INC.;
DIANE BONO;
MICHELLE MELENDEZ;
MICHELLE SYNAKOWSKI;
Plaintiffs,

DOCKET NO.: 1:21-cv-04954

v.

KATHLEEN HOCHUL, GOVERNOR OF
NEW YORK; HOWARD ZUCKER, M.D.,
COMMISSIONER, NEW YORK DEP'T
OF HEALTH,
Defendants.

AFFIDAVIT OF DIANE BONO

DIANE BONO swears or affirms, under penalty of perjury, the following:

1. I am an adult resident of the State of New York, residing in Seaford;
2. I am a Registered Nurse, duly licensed to practice in the State of New York;
3. I am an employee of Syosset Hospital, Syosset, New York;
4. I am a committed and practicing member of the Christian faith;
5. I wholly subscribe to the teachings of the Christian faith as it pertains to the sanctity of life, born and unborn, and, in particular, with respect to the intrinsic evil of abortion and all of its fruits.
6. I object to putting in my body any of the available COVID-19 vaccines that relied, in whole or in part, on the use of fetal cell lines procured from electively aborted fetuses, for development, manufacturing or testing.

7. I will not comply with New York's regulation requiring all healthcare workers to be vaccinated for COVID-19 unless they have a medical exemption because it will violated my religious beliefs.
8. If I remain faithful to my conscience, I believe that my employer will terminate my employment on or after September 27, 2021.
9. Not only will I be terminated from my current employment, but the new regulation bars me from obtaining other employment in my career field unless I receive the COVID-19 vaccination first.

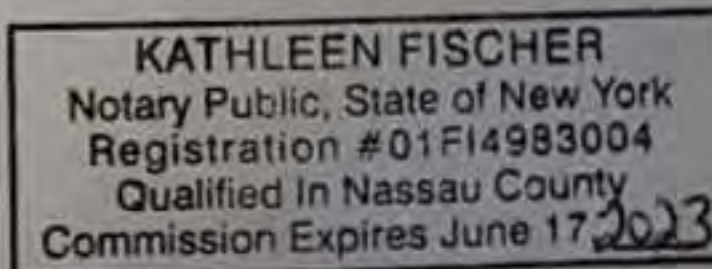
Signed on September 2, 2021 at Nassau County
(DATE) (LOCATION)

NAME OF AFFIANT (PRINT): Diane Bono

SIGNATURE OF AFFIANT: Diane Bono

NOTARY PUBLIC (PRINT): Kathleen Fischer

SIGNATURE OF NOTARY PUBLIC: Kathleen Fischer



APPENDIX J

**Letter Re: COVID-19 Vaccine Religious Accommodation
Request From Northwell Health To Diane Bono (Aug. 31,
2021)**



Personal and Confidential

August 31, 2021

Sent VIA Electronic Mail

Diane Bono

dbono@northwell.edu

Re: COVID-19 Vaccine Religious Accommodation Request

Dear Ms. Bono:

We have received your request dated August 23, 2021 for an accommodation in the form of a religious exemption from New York State's mandate that requires all health care personnel receive their first dose of the COVID-19 vaccine by September 27, 2021. On August 18, 2021, the New York State Department of Health ("DOH") issued this mandate under Section 16 of the Public Health Law. However, on August 26, 2021 the DOH announced that religious exemptions are not permitted under the State mandate. It is for this reason that we are unable to grant your request for a religious exemption. This means that in accordance with the NYS vaccination mandate, you must receive your first dose of the COVID-19 vaccine by September 27, 2021.

Although mask wearing and other existing protocols will continue to be required to help prevent the spread of the virus, these life-saving vaccines remain our best shot at crushing COVID-19. As healthcare professionals and members of the largest healthcare provider in New York State, we have a unique responsibility to get vaccinated to protect our patients, colleagues, families and communities. If you have additional questions, please explore [educational materials](#) on the employee intranet, including FAQs, information sheets, recorded discussions and videos, some of which are available in multiple languages. Those without intranet access can also visit our [digital vaccine hub](#) for the community. Please reach out if we can provide you with any other information. Northwell is committed to providing you with the information you need to make this decision and can connect you with an expert to discuss your options. We urge you to get your first dose of vaccine by September 27 to ensure you can help us continue to improve the health and quality of life of the communities we serve.

If you choose to not receive your first shot between now and September 27, 2021, you will be non-compliant with the NYS mandate and your continued employment will be at risk. In the meantime, we appreciate your cooperation with health and safety precautions to protect the health of you, your colleagues, our patients and visitors. These precautions include the requirement to undergo weekly nasal PCR testing in accordance with Northwell's mandatory PCR testing program. Additionally, you may

be unable to participate in certain meetings, gatherings, and/or Northwell-sponsored events and programs due solely to your unvaccinated or partially vaccinated status.

Please know that Northwell has a COVID-19 vaccine reserved for all team members. If you are interested in receiving a COVID-19 vaccine, you can book an appointment through the Employee Health Portal. If you opt to get vaccinated at a non-Northwell source, you can upload proof to the portal or email it to EHSCompliance@northwell.edu to record your new vaccination status.

Thank you,

Northwell Health
Human Resources

cc: SITE HRBP

APPENDIX K

Affidavit of Michelle Melendez, We The Patriots USA, Inc., et al. v. Hochul, et al., No. 1:21-cv-04954-WFK (E.D.N.Y Sept. 3, 2021)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

WE THE PATRIOTS USA, INC.;
DIANE BONO;
MICHELLE MELENDEZ;
MICHELLE SYNAKOWSKI;
Plaintiffs,

DOCKET NO.: 1:21-cv-04954

v.

KATHLEEN HOCHUL, GOVERNOR OF
NEW YORK; HOWARD ZUCKER, M.D.,
COMMISSIONER, NEW YORK DEP'T
OF HEALTH,
Defendants.

SEPTEMBER 2, 2021

AFFIDAVIT OF MICHELLE MELENDEZ

MICHELLE MELENDEZ swears or affirms, under penalty of perjury, the following:

1. I am an adult resident of the State of New York, residing in Wheatley Heights;
2. I am a Registered Nurse, duly licensed to practice in the State of New York;
3. I am an employee of Syosset Hospital, Syosset, New York;
4. I am a committed and practicing member of the Roman Catholic Church;
5. I wholly subscribe to the teachings of the Roman Catholic Church as it pertains to the sanctity of life, born and unborn, and, in particular, with respect to the intrinsic evil of abortion and all of its fruits.
6. I object to putting in my body any of the available COVID-19 vaccines that relied, in whole or in part, on the use of fetal cell lines procured from electively aborted fetuses, for development, manufacturing or testing.

7. I will not comply with New York's regulation requiring all healthcare workers to be vaccinated for COVID-19 unless they have a medical exemption because it will violated my religious beliefs.
8. If I remain faithful to my conscience, I believe that my employer will terminate my employment on or after September 27, 2021.
9. Not only will I be terminated from my current employment, but the new regulation bars me from obtaining other employment in my career field unless I receive the COVID-19 vaccination first.

Signed on 9/3/21 at Syosset NY
(DATE) (LOCATION)

NAME OF AFFIANT (PRINT): Michele Melendez

SIGNATURE OF AFFIANT: Michele Melendez

NOTARY PUBLIC (PRINT): Kelly Earley

SIGNATURE OF NOTARY PUBLIC: Kelly Earley

KELLY N. EARLEY
NOTARY PUBLIC - STATE OF NEW YORK
NO. 01EA6384339
QUALIFIED IN NASSAU COUNTY
COMMISSION EXPIRES 12/10/2022

APPENDIX L

**Letter Re: COVID-19 Vaccine Religious Accommodation
Request From Northwell Health To Michelle Melendez
(Aug. 30, 2021)**



Personal and Confidential

August 30, 2021

Sent VIA Electronic Mail

Michelle Melendez

Email Address: MMelendez@northwell.edu

Re: COVID-19 Vaccine Religious Accommodation Request

Dear Ms. Melendez:

We have received your request dated August 22, 2021 for an accommodation in the form of a religious exemption from New York State's mandate that requires all health care personnel receive their first dose of the COVID-19 vaccine by September 27, 2021. On August 18, 2021, the New York State Department of Health ("DOH") issued this mandate under Section 16 of the Public Health Law. However, on August 26, 2021 the DOH announced that religious exemptions are not permitted under the State mandate. It is for this reason that we are unable to grant your request for a religious exemption.

Although mask wearing and other existing protocols will continue to be required to help prevent the spread of the virus, these life-saving vaccines remain our best shot at crushing COVID-19. As healthcare professionals and members of the largest healthcare provider in New York State, we have a unique responsibility to get vaccinated to protect our patients, colleagues, families and communities. If you have additional questions, please explore educational materials on the employee intranet, including FAQs, information sheets, recorded discussions and videos, some of which are available in multiple languages. Those without intranet access can also visit our digital vaccine hub for the community. Please reach out if we can provide you with any other information. Northwell is committed to providing you with the information you need to make this decision and can connect you with an expert to discuss your options. We urge you to get your first dose of vaccine by September 27 to ensure you can help us continue to improve the health and quality of life of the communities we serve.

If you choose to not receive your first shot between now and September 27, 2021, we appreciate your cooperation with health and safety precautions to protect the health of you, your colleagues, our patients and visitors. These precautions include the requirement to undergo weekly nasal PCR testing in accordance with Northwell's mandatory PCR testing program. Additionally, you may be unable to participate in certain meetings, gatherings, and/or Northwell-sponsored events and programs due solely to your unvaccinated or partially vaccinated status.

Please know that Northwell has a COVID-19 vaccine reserved for all team members. If you are interested in receiving a COVID-19 vaccine, you can book an appointment through the Employee Health Portal. If you opt to get vaccinated at a non-Northwell source, you can upload proof to the portal or email it to EHSCompliance@northwell.edu to record your new vaccination status.

Thank you,

Northwell Health
Human Resources

cc: SITE HRBP

APPENDIX M

*Affidavit of Michelle Synakowski, We The Patriots USA, Inc.,
et al. v. Hochul, et al.*, No. 1:21-cv-04954-WFK (E.D.N.Y Sept.
10, 2021)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

WE THE PATRIOTS USA, INC.;
DIANE BONO;
MICHELLE MELENDEZ;
MICHELLE SYNAKOWSKI;
Plaintiffs,

v.

KATHLEEN HOCHUL, GOVERNOR OF
NEW YORK; HOWARD ZUCKER, M.D.,
COMMISSIONER, NEW YORK DEP'T
OF HEALTH,
Defendants.

DOCKET NO.: 1:21-cv-04954

SEPTEMBER 9, 2021

AFFIDAVIT OF MICHELLE SYNAKOWSKI

MICHELLE SYNAKOWSKI swears or affirms, under penalty of perjury, the following:

1. I am an adult resident of the State of New York, residing in Syracuse;
2. I am a Registered Nurse, duly licensed to practice in the State of New York;
3. I am an employee of St. Joseph's Hospital, Syracuse, New York;
4. I am a committed and practicing member of the Roman Catholic Church;
5. I wholly subscribe to the teachings of the Catholic moral tradition as it pertains to the sanctity of all life, born and unborn, and, in particular, with respect to the intrinsic evil of abortion and all of its fruits.
6. I object to putting into my body any of the available COVID-19 vaccines which relied, in whole or in part, upon the use of fetal cell lines procured from electively aborted fetuses, for development, manufacturing or testing.
7. I will not comply with New York's regulation requiring all healthcare workers to be vaccinated for COVID-19 unless they have a medical exemption because it will violate my religious beliefs.
8. My employer has informed me that, if I choose to remain faithful to my conscience, it will rescind my current religious exemption from the COVID-19 vaccine and terminate my employment on September 21, 2021 because it is required to do so by New York State Health Regulation, Title 10, §2.61.

9. Not only will I be terminated from my current employment, but the new regulation bars me from obtaining other employment in my career field unless I receive the COVID-19 vaccination first.

Signed on 9/10/21 at Dewitt New York
(DATE) (LOCATION)

NAME OF AFFIANT (PRINT): Michelle Synakowski

SIGNATURE OF AFFIANT: Michelle Synakowski

NOTARY PUBLIC (PRINT): Andres Sarmiento

SIGNATURE OF NOTARY PUBLIC: [Signature]

Andres Avelino Sarmiento
01SA6256097
Notary Public, State of New York
Qualified in Onondaga County
My commission expires FEBRUARY 21st, 2024