

**United States Court of Appeals for the Second Circuit  
Thurgood Marshall U.S. Courthouse  
40 Foley Square  
New York, NY 10007**

**DEBRA ANN LIVINGSTON**  
CHIEF JUDGE

Date: March 25, 2022  
Docket #: 22-622  
Short Title: Roberts v. Bassett

**CATHERINE O'HAGAN WOLFE**  
CLERK OF COURT

DC Docket #: 22-cv-710  
DC Court: EDNY (BROOKLYN)  
DC Judge: Levy  
DC Judge: Garaufis

**DOCKETING NOTICE**

A notice of appeal filed by Jonathan Roberts and Charles Vavruska in the above referenced case was docketed today as 22-622. This number must appear on all documents related to this case that are filed in this Court. For pro se parties the docket sheet with the caption page, and an Acknowledgment and Notice of Appearance Form are enclosed. In counseled cases the docket sheet is available on PACER. Counsel must access the Acknowledgment and Notice of Appearance Form from this Court's website <http://www.ca2.uscourts.gov>.

The form must be completed and returned within 14 days of the date of this notice. The form requires the following information:

**YOUR CORRECT CONTACT INFORMATION:** Review the party information on the docket sheet and note any incorrect information in writing on the Acknowledgment and Notice of Appearance Form.

The Court will contact one counsel per party or group of collectively represented parties when serving notice or issuing our order. Counsel must designate on the Acknowledgment and Notice of Appearance a lead attorney to accept all notices from this Court who, in turn will, be responsible for notifying any associated counsel.

**CHANGE IN CONTACT INFORMATION:** An attorney or pro se party who does not immediately notify the Court when contact information changes will not receive notices, documents and orders filed in the case.

An attorney and any pro se party who is permitted to file documents electronically in CM/ECF must notify the Court of a change to the user's mailing address, business address, telephone number, or e-mail. To update contact information, a Filing User must access PACER's Manage

My Appellate Filer Account, <https://www.pacer.gov/psco/cgi-bin/cmecf/ea-login.pl>. The Court's records will be updated within 1 business day of a user entering the change in PACER.

A pro se party who is not permitted to file documents electronically must notify the Court of a change in mailing address or telephone number by filing a letter with the Clerk of Court.

CAPTION: In an appeal, the Court uses the district court caption pursuant to FRAP 12(a), 32(a). For a petition for review or original proceeding the Court uses a caption pursuant to FRAP 15(a) or 21(a), respectively. Please review the caption carefully and promptly advise this Court of any improper or inaccurate designations in writing on the Acknowledgment and Notice of Appearance form. If a party has been terminated from the case the caption may reflect that change only if the district court judge ordered that the caption be amended.

APPELLATE DESIGNATIONS: Please review whether appellant is listed correctly on the party listing page of the docket sheet and in the caption. If there is an error, please note on the Acknowledgment and Notice of Appearance Form. Timely submission of the Acknowledgment and Notice of Appearance Form will constitute compliance with the requirement to file a Representation Statement required by FRAP 12(b).

For additional information consult the Court's instructions posted on the website.

Inquiries regarding this case may be directed to 212-857-8551.

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

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Jonathan Roberts and Charles Vavruska,

Case No. 1:22-cv-00710-NGG-RML

Plaintiffs,

-against-

**NOTICE OF APPEAL**

Mary T. Bassett, in her official capacity as  
Commissioner for New York State  
Department of Health; New York City  
Department of Health and Mental Hygiene,

Defendants.

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PLEASE TAKE NOTICE that Plaintiffs Jonathan Roberts and Charles Vavruska, by and through their undersigned counsel, hereby appeal to the U.S. Court of Appeals for the Second Circuit from the Court's Memorandum and Order dismissing the case (Dkt. 35) entered on March 15, 2022.

Respectfully submitted this 23rd day of March 2022.

JONATHAN M. HOUGHTON,  
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s/ Wencong Fa  
WENCONG FA, Cal. Bar No. 301679\*  
ANASTASIA P. BODEN,  
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Cal. Bar. No. 305195\*  
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*Attorneys for Plaintiffs*

*\*Pro Hac Vice*

**AFFIRMATION OF SERVICE**

I, Wencong Fa, declare under penalty of perjury that I filed the foregoing with the Clerk of the Court of the Eastern District of New York through the CM/ECF system, which will serve notice of said filing on all counsel of record.

s/ Wencong Fa  
Attorney for Plaintiffs

**U.S. District Court  
Eastern District of New York (Brooklyn)  
CIVIL DOCKET FOR CASE #: 1:22-cv-00710-NGG-RML**

Roberts et al v. Bassett et al  
Assigned to: Judge Nicholas G. Garaufis  
Referred to: Magistrate Judge Robert M. Levy  
Cause: 28:1983 Civil Rights

Date Filed: 02/08/2022  
Jury Demand: None  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff**

**Jonathan Roberts**

represented by **Wencong Fa**  
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**ATTORNEY TO BE NOTICED**

**Anastasia P. Boden**  
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**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Charles Vavruska**

represented by **Wencong Fa**  
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**LEAD ATTORNEY**  
**PRO HAC VICE**  
**ATTORNEY TO BE NOTICED**

**Anastasia P. Boden**  
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**PRO HAC VICE**  
**ATTORNEY TO BE NOTICED**

**Caleb Randall Trotter**  
(See above for address)  
*PRO HAC VICE*  
*ATTORNEY TO BE NOTICED*

**Jonathan Morgan Houghton**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

V.

**Defendant**

**Mary T. Bassett**  
*in her official capacity as Commissioner,*  
*New York State Department of Health*

represented by **Erin P. Kandel**  
Office of the New York State Attorney  
General  
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New York, NY 10005  
UNITED STA  
212-416-6536  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Department of Health and Mental  
Hygiene of the City of New York**

represented by **Samantha Michelle Schonfeld**  
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**Amicus**

**National Medical Association**

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**John Lewis**  
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*ATTORNEY TO BE NOTICED*

**Amicus**

**American Medical Association**

represented by **Rachel Fried**  
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*ATTORNEY TO BE NOTICED*

**John Lewis**  
(See above for address)  
*PRO HAC VICE*  
*ATTORNEY TO BE NOTICED*

**Amicus**

**Medical Society of the State of New York**

represented by **Rachel Fried**  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**John Lewis**  
(See above for address)  
*PRO HAC VICE*  
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**Amicus**

**American College of Physicians**

represented by **Rachel Fried**  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**John Lewis**  
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**Amicus**

**American Public Health Association**

represented by **Rachel Fried**  
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*LEAD ATTORNEY*  
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**John Lewis**  
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**Amicus**

**Council of Medical Specialty Societies**

represented by **Rachel Fried**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**John Lewis**  
(See above for address)  
*PRO HAC VICE*  
*ATTORNEY TO BE NOTICED*

**Amicus**

**1199SEIU United Healthcare Workers East**

represented by **Rachel Fried**  
(See above for address)  
*LEAD ATTORNEY*

ATTORNEY TO BE NOTICED

**John Lewis**  
 (See above for address)  
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Amicus

**Community Service Society of New York, Inc.**

represented by **Rachel Fried**  
 (See above for address)  
*LEAD ATTORNEY*  
 ATTORNEY TO BE NOTICED

**John Lewis**  
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Amicus

**Housing Works**

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**John Lewis**  
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 ATTORNEY TO BE NOTICED

Amicus

**Callen-Lorde Community Health Center**

represented by **Rachel Fried**  
 (See above for address)  
*LEAD ATTORNEY*  
 ATTORNEY TO BE NOTICED

**John Lewis**  
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*PRO HAC VICE*  
 ATTORNEY TO BE NOTICED

Amicus

**medical and health equity professionals and academics**

represented by **Rachel Fried**  
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*LEAD ATTORNEY*  
 ATTORNEY TO BE NOTICED

**John Lewis**  
 (See above for address)  
*PRO HAC VICE*  
 ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/08/2022	<u>1</u>	COMPLAINT <i>for Declaratory and Injunctive Relief</i> against Mary T. Bassett, Department of Health and Mental Hygiene of the City of New York filing fee \$ 402, receipt number ANYEDC-15270804 Was the Disclosure Statement on Civil Cover Sheet completed -YES., filed by Charles Vavruska, Jonathan Roberts. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Proposed Summons to Mary T. Bassett, # <u>3</u> Proposed Summons to Dep't of Health and Mental Hygiene, # <u>4</u> Exhibit A to Complaint, # <u>5</u> Exhibit B to Complaint, # <u>6</u> Exhibit C to Complaint) (Houghton, Jonathan) (Entered: 02/08/2022)



02/08/2022	<u>2</u>	NOTICE of Change of firm, mailing address, and email address of <i>Attorney Jonathan Houghton</i> . Once the filing has been made, you must login to <a href="http://www.pacer.gov">www.pacer.gov</a> and update your account. (Houghton, Jonathan) (Entered: 02/08/2022)
02/08/2022		Case Assigned to Judge Nicholas G. Garaufis and Magistrate Judge Robert M. Levy. Please download and review the Individual Practices of the assigned Judges, located on our <a href="#">website</a> . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. (Neptune, Pierre) (Entered: 02/09/2022)
02/09/2022	<u>3</u>	Summons Issued as to Mary T. Bassett, Department of Health and Mental Hygiene of the City of New York. (Attachments: # <u>1</u> Summons – Mary T. Bassett) (Neptune, Pierre) (Entered: 02/09/2022)
02/09/2022	<u>4</u>	In accordance with Rule 73 of the Federal Rules of Civil Procedure and Local Rule 73.1, the parties are notified that <i>if</i> 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 <b>only if all</b> parties wish to consent. The form may also be accessed at the following link: <a href="http://www.uscourts.gov/uscourts/FormsAndFees/Forms/AO085.pdf">http://www.uscourts.gov/uscourts/FormsAndFees/Forms/AO085.pdf</a> . <b>You may withhold your consent without adverse substantive consequences. Do NOT return or file the consent unless all parties have signed the consent.</b> (Neptune, Pierre) (Entered: 02/09/2022)
02/09/2022	<u>5</u>	This attorney case opening filing has been checked for quality control. See the attachment for corrections that were made, if any. (Neptune, Pierre) (Entered: 02/09/2022)
02/09/2022		Notice of Related Case: <b>The Civil Cover Sheet filed in this civil action indicates a related case.</b> (Neptune, Pierre) (Entered: 02/09/2022)
02/09/2022	<u>6</u>	MOTION to Appear Pro Hac Vice Filing fee \$ 150, receipt number ANYEDC-15276972. by Jonathan Roberts, Charles Vavruska. (Attachments: # <u>1</u> Affidavit in Support of Motion, with Certificates of Supreme Courts of California and Texas annexed thereto) (Fa, Wencong) (Entered: 02/09/2022)
02/10/2022		ORDER granting <u>6</u> Motion for Leave to Appear Pro Hac Vice. The attorney shall register for ECF, registration is available online at <a href="http://www.pacer.gov">www.pacer.gov</a> . Once registered, the attorney shall file a notice of appearance and ensure that s/he receives electronic notification of activity in this case. Also, the attorney shall ensure the 150 admission fee be submitted to the Clerks Office via filing the event <i>Pro Hac Vice Filing Fee</i> . Ordered by Magistrate Judge Robert M. Levy on 2/10/2022. (Marino, Janine) (Entered: 02/10/2022)
02/11/2022	<u>7</u>	SUMMONS Returned Executed by Charles Vavruska, Jonathan Roberts. Department of Health and Mental Hygiene of the City of New York served on 2/9/2022, answer due 3/2/2022. (Attachments: # <u>1</u> Exhibit – Email to Department) (Fa, Wencong) (Entered: 02/11/2022)
02/11/2022	<u>8</u>	NOTICE of Appearance by Wencong Fa on behalf of Jonathan Roberts, Charles Vavruska (notification declined or already on case) (Fa, Wencong) (Entered: 02/11/2022)
02/11/2022	<u>9</u>	Letter MOTION for pre motion conference <i>re Preliminary Injunction</i> by Jonathan Roberts, Charles Vavruska. (Fa, Wencong) (Entered: 02/11/2022)
02/14/2022		ORDER: Plaintiffs' <u>9</u> application for a pre-motion conference regarding a preliminary injunction is GRANTED. The parties are DIRECTED to contact the court's Deputy promptly at <a href="mailto:Joseph_Reccoppa@nyed.uscourts.gov">Joseph_Reccoppa@nyed.uscourts.gov</a> to schedule a pre-motion conference on February 15, 2022. Ordered by Judge Nicholas G. Garaufis on 2/14/2022. (Katz, Jennifer) (Entered: 02/14/2022)
02/15/2022	<u>10</u>	MOTION to Appear Pro Hac Vice of <i>Attorney Caleb Trotter</i> Filing fee \$ 150, receipt number ANYEDC-15292630. by Jonathan Roberts, Charles Vavruska. (Attachments: # <u>1</u> Affidavit in Support of Motion, with Certificate of Supreme Court of California annexed thereto) (Trotter, Caleb) (Entered: 02/15/2022)

02/15/2022		ORDER granting <u>10</u> Motion for Leave to Appear Pro Hac Vice. The attorney shall register for ECF, registration is available online at www.pacer.gov. Once registered, the attorney shall file a notice of appearance and ensure that s/he receives electronic notification of activity in this case. Also, the attorney shall ensure the 150 admission fee be submitted to the Clerks Office via filing the event <i>Pro Hac Vice Filing Fee</i> . Ordered by Magistrate Judge Robert M. Levy on 2/15/2022. (Marino, Janine) (Entered: 02/15/2022)
02/15/2022	<u>11</u>	NOTICE of Appearance by Samantha Michelle Schonfeld on behalf of Department of Health and Mental Hygiene of the City of New York (aty to be noticed) (Schonfeld, Samantha) (Entered: 02/15/2022)
02/15/2022	<u>12</u>	NOTICE of Appearance by Caleb Randall Trotter on behalf of Jonathan Roberts, Charles Vavruska (notification declined or already on case) (Trotter, Caleb) (Entered: 02/15/2022)
02/16/2022	<u>13</u>	NOTICE of Appearance by Erin P. Kandel on behalf of Mary T. Bassett (aty to be noticed) (Kandel, Erin) (Entered: 02/16/2022)
02/16/2022	<u>14</u>	MOTION to Appear Pro Hac Vice Filing fee \$ 150, receipt number ANYEDC-15295568. by Jonathan Roberts, Charles Vavruska. (Attachments: # <u>1</u> Affidavit in Support of Motion, with Certificate of Supreme Court of California annexed thereto) (Boden, Anastasia) (Entered: 02/16/2022)
02/16/2022		ORDER granting <u>14</u> Motion for Leave to Appear Pro Hac Vice. The attorney shall register for ECF, registration is available online at www.pacer.gov. Once registered, the attorney shall file a notice of appearance and ensure that s/he receives electronic notification of activity in this case. Also, the attorney shall ensure the 150 admission fee be submitted to the Clerks Office via filing the event <i>Pro Hac Vice Filing Fee</i> . Ordered by Magistrate Judge Robert M. Levy on 2/16/2022. (Marino, Janine) (Entered: 02/16/2022)
02/16/2022	<u>15</u>	NOTICE of Appearance by Anastasia P. Boden on behalf of Jonathan Roberts, Charles Vavruska (notification declined or already on case) (Boden, Anastasia) (Entered: 02/16/2022)
02/16/2022	<u>16</u>	MOTION for Refund of Fees Paid Electronically <i>in error related to Motion to Appear Pro Hac Vice of Anastasia P. Boden</i> by Jonathan Roberts, Charles Vavruska. (Attachments: # <u>1</u> Exhibit A – Notice of Electronic Filing and Fee Payment, # <u>2</u> Exhibit B – Receipt for Erroneous Fee Payment) (Boden, Anastasia) (Entered: 02/16/2022)
02/17/2022		Minute Entry for proceedings held before Judge Nicholas G. Garaufis: Pre-motion conference held on February 16, 2022. Counsel for Plaintiffs and counsel for Defendants present via videoconference. The court DIRECTED Plaintiffs to file their motion for a preliminary injunction by February 18, 2022, Defendants to file their response by February 25, 2022, and Plaintiffs to file their reply, if any, by March 1, 2022 at 12PM. The court DIRECTED the parties to address Article III standing in the briefing. The court DIRECTED the parties to appear for oral argument on March 2, 2022 at 11AM in Courtroom 4D South. (Court Reporter Michele Lucchese) (Katz, Jennifer) (Entered: 02/17/2022)
02/17/2022	<u>17</u>	APPROVAL of <u>16</u> Motion for Refund of Fees Paid Electronically. Signed Tiffeny Lee-Harris, Case Processing Supervisor on 2/17/2022. (forwarded for processing) (Lee, Tiffeny) (Entered: 02/17/2022)
02/17/2022	<u>18</u>	SUMMONS Returned Executed by Charles Vavruska, Jonathan Roberts. Mary T. Bassett served on 2/15/2022, answer due 3/8/2022. (Fa, Wencong) (Entered: 02/17/2022)
02/18/2022	<u>19</u>	MOTION for Preliminary Injunction <i>and Memorandum of Law in Support of Motion</i> by Jonathan Roberts, Charles Vavruska. (Attachments: # <u>1</u> Declaration of Plaintiff Jonathan Roberts in Support of Motion, # <u>2</u> Declaration of Plaintiff Charles Vavruska in Support of Motion) (Fa, Wencong) (Entered: 02/18/2022)
02/25/2022	<u>20</u>	MEMORANDUM in Opposition re <u>19</u> MOTION for Preliminary Injunction <i>and Memorandum of Law in Support of Motion</i> filed by Department of Health and Mental Hygiene of the City of New York. (Schonfeld, Samantha) (Entered: 02/25/2022)

02/25/2022	<u>21</u>	AFFIDAVIT/DECLARATION in Opposition re <u>19</u> MOTION for Preliminary Injunction <i>and Memorandum of Law in Support of Motion</i> filed by Department of Health and Mental Hygiene of the City of New York. (Attachments: # <u>1</u> Exhibit State Guidance, # <u>2</u> Exhibit DOHMH Guidance) (Schonfeld, Samantha) (Entered: 02/25/2022)
02/25/2022	<u>22</u>	MEMORANDUM in Opposition re <u>19</u> MOTION for Preliminary Injunction <i>and Memorandum of Law in Support of Motion</i> filed by Mary T. Bassett. (Kandel, Erin) (Entered: 02/25/2022)
02/25/2022	<u>23</u>	AFFIDAVIT/DECLARATION in Opposition re <u>19</u> MOTION for Preliminary Injunction <i>and Memorandum of Law in Support of Motion</i> filed by Mary T. Bassett. (Attachments: # <u>1</u> Exhibit AA – Statewide Cluster Dashboard, # <u>2</u> Exhibit A – DOH Guidance: COVID–19 Oral Antiviral Treatments Authorized and Severe Shortage of Oral Antiviral and Monoclonal Antibody Treatment Products, # <u>3</u> Exhibit B – DOH Guidance: Prioritization of Anti–SARS–CoV–2 Monoclonal Antibodies and Oral Antivirals for the Treatment of COVID–19 During Times of Resource Limitations, # <u>4</u> Exhibit C – CDC Guidance, # <u>5</u> Exhibit D – National Center for Health Statistics 2020 Report, # <u>6</u> Exhibit E – CDC December 10, 2020 Study, # <u>7</u> Exhibit F – Mortality data from CDCs National Vital Statistics System, # <u>8</u> Exhibit G – Scientific Reports Article, # <u>9</u> Exhibit H – Journal of the American Medical Association Network Open Article) (Kandel, Erin) (Entered: 02/25/2022)
02/28/2022	<u>24</u>	NOTICE of Appearance by Rachel Fried on behalf of National Medical Association, American Medical Association, Medical Society of the State of New York, American College of Physicians, American Public Health Association, Council of Medical Specialty Societies, 1199SEIU United Healthcare Workers East, Community Service Society of New York, Inc., Housing Works, Callen–Lorde Community Health Center, medical and health equity professionals and academics (aty to be noticed) (Fried, Rachel) (Entered: 02/28/2022)
02/28/2022	<u>25</u>	Letter MOTION for Leave to File Document <i>Amici Curiae Brief</i> by 1199SEIU United Healthcare Workers East, American College of Physicians, American Medical Association, American Public Health Association, Callen–Lorde Community Health Center, Community Service Society of New York, Inc., Council of Medical Specialty Societies, Housing Works, Medical Society of the State of New York, National Medical Association, medical and health equity professionals and academics. (Attachments: # <u>1</u> Proposed Amicus Brief) (Fried, Rachel) (Entered: 02/28/2022)
02/28/2022	<u>26</u>	MOTION to Appear Pro Hac Vice Filing fee \$ 150, receipt number ANYEDC–15329059. by 1199SEIU United Healthcare Workers East, American College of Physicians, American Medical Association, American Public Health Association, Callen–Lorde Community Health Center, Community Service Society of New York, Inc., Council of Medical Specialty Societies, Housing Works, Medical Society of the State of New York, National Medical Association, medical and health equity professionals and academics. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Certificate of Good Standing, # <u>3</u> Certificate of Good Standing) (Lewis, John) (Entered: 02/28/2022)
02/28/2022		ORDER: <u>25</u> Application to file Amici Curiae Brief by medical and health equity professionals and academics is GRANTED. The parties have not objected to the court's consideration of this brief. Ordered by Judge Nicholas G. Garaufis on 2/28/2022. (Katz, Jennifer) (Entered: 02/28/2022)
02/28/2022	<u>27</u>	REPLY in Support re <u>19</u> MOTION for Preliminary Injunction <i>and Memorandum of Law in Support of Motion</i> filed by Jonathan Roberts, Charles Vavruska. (Fa, Wencong) (Entered: 02/28/2022)
02/28/2022	<u>28</u>	AFFIDAVIT/DECLARATION in Support re <u>19</u> MOTION for Preliminary Injunction <i>and Memorandum of Law in Support of Motion</i> filed by Jonathan Roberts, Charles Vavruska. (Attachments: # <u>1</u> Exhibit 1 – Emory University Covid–19 Health Dashboard, # <u>2</u> Exhibit 2 – CDC Covid Data Tracker, # <u>3</u> Exhibit 3 – NY State Covid–19 Guidance Repository) (Fa, Wencong) (Entered: 02/28/2022)
03/01/2022	<u>29</u>	NOTICE of Appearance by Jessica Lynn Katzen on behalf of Department of Health and Mental Hygiene of the City of New York (aty to be noticed) (Katzen, Jessica) (Entered: 03/01/2022)

03/03/2022		Minute Entry for proceedings held before Judge Nicholas G. Garaufis: Oral argument on Plaintiffs' <u>19</u> motion for a preliminary injunction. Counsel for Plaintiffs and counsel for Defendants present in person. The court DIRECTED the parties to promptly submit any supplemental materials requested by the court during the hearing. The court RESERVED decision on the motion for a preliminary injunction. (Court Reporter Avery Armstrong) (Katz, Jennifer) (Entered: 03/03/2022)
03/04/2022	<u>30</u>	Letter <i>Re: Information Requested by the Court during Oral Argument on Plaintiffs' Motion for a Preliminary Injunction</i> by Mary T. Bassett (Kandel, Erin) (Entered: 03/04/2022)
03/04/2022		ORDER: The court is in receipt of Defendant Commissioner Bassett's <u>30</u> Letter regarding information requested by the court during oral argument on Plaintiffs' motion for a preliminary injunction. Defendant Commissioner Bassett is DIRECTED to promptly provide a date by which the new guidance will be issued and whether it will supersede the guidance Plaintiffs seek to enjoin. Ordered by Judge Nicholas G. Garaufis on 3/4/2022. (Katz, Jennifer) (Entered: 03/04/2022)
03/07/2022		ORDER: Defendant Commissioner Bassett is DIRECTED to provide a date by which the New York State Department of Health will issue new guidance and whether it will supersede the guidance Plaintiffs seek to enjoin by Tuesday March 8, 2022 at 12pm. Ordered by Judge Nicholas G. Garaufis on 3/7/2022. (Katz, Jennifer) (Entered: 03/07/2022)
03/07/2022	<u>31</u>	Letter <i>in Response to the Court's March 4, 2022 Electronic Order re: New DOH Guidance</i> by Mary T. Bassett (Attachments: # <u>1</u> Exhibit A – March 4, 2022 DOH Guidance) (Kandel, Erin) (Entered: 03/07/2022)
03/08/2022	<u>32</u>	MOTION for pre motion conference <i>re Defendant Commissioner Bassett's Proposed Motion to Dismiss the Complaint Pursuant to Fed. R. Civ. P. 12(b)(1) &amp; 12(b)(6)</i> by Mary T. Bassett. (Kandel, Erin) (Entered: 03/08/2022)
03/08/2022	<u>33</u>	MOTION for pre motion conference by Department of Health and Mental Hygiene of the City of New York. (Schonfeld, Samantha) (Entered: 03/08/2022)
03/09/2022		ORDER: Defendants' <u>32</u> <u>33</u> applications for a pre-motion conference regarding a motion to dismiss and for an extension of the time to answer the Complaint until 45 days after the court has ruled on the motion to dismiss are GRANTED. The parties are DIRECTED to contact the court's Deputy at Joseph_Reccoppa@nyed.uscourts.gov to schedule the pre-motion conference. Ordered by Judge Nicholas G. Garaufis on 3/9/2022. (Katz, Jennifer) (Entered: 03/09/2022)
03/09/2022		ORDER granting <u>26</u> Motion for Leave to Appear Pro Hac Vice. The attorney shall register for ECF, registration is available online at www.pacer.gov. Once registered, the attorney shall file a notice of appearance and ensure that s/he receives electronic notification of activity in this case. Also, the attorney shall ensure the 150 admission fee be submitted to the Clerks Office via filing the event <i>Pro Hac Vice Filing Fee</i> . Ordered by Magistrate Judge Robert M. Levy on 3/9/2022. (Levy, Robert) (Entered: 03/09/2022)
03/09/2022	<u>34</u>	Letter <i>in Response to Defendants Requests for a Pre-Motion Conference, ECF Nos. 32, 33</i> by Jonathan Roberts, Charles Vavruska (Fa, Wencong) (Entered: 03/09/2022)
03/15/2022	<u>35</u>	MEMORANDUM & ORDER, For the reasons explained below, this court lacks subject matter jurisdiction over this dispute because Plaintiffs have not demonstrated Article III standing. Thus, as there is no case or controversy before this court, the court declines to consider Plaintiffs' motion for a preliminary injunction, and the case is DISMISSED. So Ordered by Judge Nicholas G. Garaufis on 3/15/2022. (fwd'd for jgm) (Lee, Tiffeny) (Entered: 03/15/2022)
03/23/2022	<u>36</u>	NOTICE OF APPEAL as to <u>35</u> Order on Motion to Certify FLSA Collective Action,, Order on Motion for Preliminary Injunction, by Jonathan Roberts, Charles Vavruska. Filing fee \$ 505, receipt number ANYEDC-15403994. Appeal Record due by 4/6/2022. (Fa, Wencong) (Entered: 03/23/2022)
03/24/2022		Electronic Index to Record on Appeal sent to US Court of Appeals. <u>36</u> 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: 03/24/2022)
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