

**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 preliminarily 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 True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit