

**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: October 07, 2022
Docket #: 22-2379
Short Title: Antonyuk v. Hochul

CATHERINE O'HAGAN WOLFE
CLERK OF COURT

DC Docket #: 22-cv-986
DC Court: NDNY (SYRACUSE)
DC Judge: Suddaby
DC Judge: Hummel

DOCKETING NOTICE

A notice of appeal filed by Kathleen Hochul, Kevin P. Bruen, and Matthew J. Doran in the above referenced case was docketed today as 22-2379. 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 212-857-8577.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

-----X

IVAN ANTONYUK, et al.,

Plaintiffs,

-against-

Case No. 22 Civ. 986 (GTS) (CFH)

KATHLEEN HOCHUL, et al.

Defendants.

-----X

Please take notice that Defendants Kathleen Hochul, Kevin P. Bruen, and Matthew J. Doran hereby appeal to the United States Court of Appeals for the Second Circuit from the Decision and Temporary Restraining Order entered in this action on October 6, 2022 (ECF No. 27).

Dated: Albany, New York
October 6, 2022

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State of New York

By: 

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**U.S. District Court
Northern District of New York – Main Office (Syracuse) [NextGen CM/ECF
Release 1.7 (Revision 1.7.1)] (Albany)
CIVIL DOCKET FOR CASE #: 1:22-cv-00986-GTS-CFH**

Antonyuk et al v. Hochul et al
Assigned to: U.S. District Judge Glenn T. Suddaby
Referred to: Magistrate Judge Christian F. Hummel
related Case: 1:22-cv-00734-GTS-CFH
Cause: 42:1983 Civil Rights Act

Date Filed: 09/20/2022
Jury Demand: None
Nature of Suit: 950 Constitutional – State Statute
Jurisdiction: Federal Question

Plaintiff

Ivan Antonyuk

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Plaintiff

Corey Johnson

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Stephen D. Stamboulieh
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Plaintiff

Alfred Terrille

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Stephen D. Stamboulieh
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Plaintiff

Joseph Mann

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Plaintiff

Leslie Leman

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Plaintiff

Lawrence Sloane

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Stephen D. Stamboulieh
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V.

Defendant

Kathleen Hochul
*in her Official Capacity as Governor of
the State of New York*

represented by **James M. Thompson**
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Defendant

Kevin P. Bruen
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Defendant

Judge Matthew J. Doran
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Defendant

William Fitzpatrick
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County District Attorney*

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Defendant

Eugene Conway
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Onondaga County*

represented by **John E. Heisler , Jr.**
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Defendant

Joseph Cecile

*in his Official Capacity as the Chief of
Police of Syracuse*

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Defendant

P. David Soares

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Attorney of Albany County*

Defendant

Gregory Oakes

*in his Official Capacity as the District
Attorney of Oswego County*

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Defendant

Don Hilton

*in his Official Capacity as the Sheriff of
Oswego County*

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Defendant

Joseph Stanzione
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Attorney of Greene County

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Email All Attorneys
 Email All Attorneys and Additional Recipients

Date Filed	#	Docket Text
09/20/2022	<u>1</u>	COMPLAINT against Kevin P. Bruen, Joseph Cecile, Eugene Conway, William Fitzpatrick, Don Hilton, Kathleen Hochul, Doran J. Matthew, Gregory Oakes, P. David Soares, Joseph Stanzione (Filing fee \$402 receipt number 6039505) filed by Alfred Terrille, Leslie Leman, Lawrence Sloane, Corey Johnson, Joseph Mann. (Attachments: # <u>1</u> Declaration of Stephen D. Stamboulieh, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3, # <u>5</u> Exhibit 4, # <u>6</u> Exhibit 5, # <u>7</u> Exhibit 6, # <u>8</u> Exhibit 7, # <u>9</u> Exhibit 8, # <u>10</u> Exhibit 9, # <u>11</u> Civil Cover Sheet)(jdp) (Entered: 09/21/2022)
09/20/2022	<u>2</u>	Summons Issued as to Kevin P. Bruen, Joseph Cecile, Eugene Conway, William Fitzpatrick, Don Hilton, Kathleen Hochul, Doran J. Matthew, Gregory Oakes, P. David Soares, Joseph Stanzione. (Attachments: # <u>1</u> Summons Issued, # <u>2</u> Summons Issued, # <u>3</u> Summons Issued, # <u>4</u> Summons Issued, # <u>5</u> Summons Issued, # <u>6</u> Summons Issued, # <u>7</u> Summons Issued, # <u>8</u> Summons Issued, # <u>9</u> Summons Issued)(jdp) (Entered: 09/21/2022)
09/20/2022	<u>3</u>	G.O. 25 FILING ORDER ISSUED: Initial Conference set for 12/20/2022 10:00 AM in Albany before Magistrate Judge Christian F. Hummel. Civil Case Management Plan must be filed and Mandatory Disclosures are to be exchanged by the parties on or before 12/13/2022. (Pursuant to Local Rule 26.2, mandatory disclosures are to be exchanged among the parties but are NOT to be filed with the Court.) (jdp) (Entered: 09/21/2022)
09/22/2022	<u>4</u>	Letter Motion from Stephen D. Stamboulieh for Ivan Antonyuk, Corey Johnson, Leslie Leman, Joseph Mann, Lawrence Sloane, Alfred Terrille requesting Excess Pages submitted to Judge Hon. Judge Suddaby . (Stamboulieh, Stephen) (Entered: 09/22/2022)
09/22/2022	<u>5</u>	TEXT ORDER granting Plaintiffs' <u>4</u> letter-motion requesting to file a Memorandum of Law in support of their anticipated Motion for a Temporary Restraining Order, Preliminary Injunction and/or Permanent Injunction not to exceed forty (40) pages in length, which is fifteen (15) pages in excess of the Local Rule. SO ORDERED by U.S. District Judge Glenn T. Suddaby on 9/22/2022. (sal) (Entered: 09/22/2022)
09/22/2022	<u>6</u>	Emergency MOTION for Temporary Restraining Order , MOTION for Preliminary Injunction filed by Ivan Antonyuk, Corey Johnson, Leslie Leman, Joseph Mann, Lawrence Sloane, Alfred Terrille. Motion returnable before Judge Glenn T. Suddaby by Ivan Antonyuk, Corey Johnson, Leslie Leman, Joseph Mann, Lawrence Sloane, Alfred Terrille. (Attachments: # <u>1</u> Memorandum of Law Memorandum of Law, # <u>2</u> Declaration Attorney's Affirmation, # <u>3</u> Proposed Order/Judgment Proposed Order to Show Cause)(Stamboulieh, Stephen) (Entered: 09/22/2022)
09/22/2022	<u>7</u>	NOTICE by Ivan Antonyuk, Corey Johnson, Leslie Leman, Joseph Mann, Lawrence Sloane, Alfred Terrille re <u>6</u> Emergency MOTION for Temporary Restraining Order

		MOTION for Preliminary Injunction filed by Ivan Antonyuk, Corey Johnson, Leslie Leman, Joseph Mann, Lawrence Sloane, Alfred Terrille. Motion returnable before Judge Glenn T. Suddaby <i>Errata (copy of Complaint per LR 65.1)</i> (Attachments: # <u>1</u> Exhibit(s) Copy of Filed Complaint with exhibits)(Stamboulieh, Stephen) (Entered: 09/22/2022)
09/23/2022	<u>8</u>	TEXT ORDER denying <u>6</u> Plaintiffs' application for an Order to Show Cause as unsupported by the affidavit required by Local Rule 7.1(e) of the Local Rules of Practice for this Court, and reserving decision on <u>6</u> Plaintiffs' motion for a temporary restraining order and <u>6</u> their motion for preliminary injunction pending further briefing and oral argument. Defendants' response to Plaintiffs' motion for a temporary restraining order is due by the end of WEDNESDAY, SEPTEMBER 28, 2022, and may come in the form of a letter-brief (or letter-briefs). Oral argument (without witness testimony) on Plaintiffs' motion for a temporary restraining order is scheduled for 11:00 a.m. on THURSDAY, SEPTEMBER 29, 2022, before the undersigned in Syracuse, New York. Defendants' response to Plaintiffs' motion for a preliminary injunction is due by the end of THURSDAY, OCTOBER 13, 2022; and Plaintiffs' reply to Defendants' response is due by the end of THURSDAY, OCTOBER 20, 2022. An in-person hearing on Plaintiffs' motion for a preliminary injunction (at which testimony will be adduced) shall be scheduled in a future Text Order. SO ORDERED by U.S. District Judge Glenn T. Suddaby on 9/23/2022. (sal) (Entered: 09/23/2022)
09/23/2022		Reset Deadlines as to <u>6</u> Emergency Motion for Temporary Restraining Order and Motion for Preliminary Injunction filed by Ivan Antonyuk, Corey Johnson, Leslie Leman, Joseph Mann, Lawrence Sloane, Alfred Terrille: As to the <u>6</u> Motion for Temporary Restraining Order, response due 9/28/2022 and oral argument set for 9/29/2022 at 11:00 AM in Syracuse before U.S. District Judge Glenn T. Suddaby. As to the <u>6</u> Motion for Preliminary Injunction, response due 10/13/2022 and reply due by 10/20/2022. An in-person hearing will be scheduled as to the <u>6</u> Motion for Preliminary Injunction in due course. (sal) (Entered: 09/23/2022)
09/23/2022	<u>9</u>	TEXT ORDER : Plaintiffs' counsel is directed to serve a copy of the Text Order entered on 09/23/2022, Dkt. No. 8, upon Defendants or counsel. SO ORDERED by U.S. District Judge Glenn T. Suddaby on 9/23/2022. (sal) (Entered: 09/23/2022)
09/23/2022	<u>10</u>	SUMMONS Returned Executed by Alfred Terrille, Ivan Antonyuk, Leslie Leman, Lawrence Sloane, Corey Johnson, Joseph Mann. Kevin P. Bruen served on 9/22/2022, answer due 10/13/2022; Joseph Cecile served on 9/22/2022, answer due 10/13/2022; Eugene Conway served on 9/22/2022, answer due 10/13/2022; William Fitzpatrick served on 9/22/2022, answer due 10/13/2022; Don Hilton served on 9/22/2022, answer due 10/13/2022; Kathleen Hochul served on 9/22/2022, answer due 10/13/2022; Doran J. Matthew served on 9/22/2022, answer due 10/13/2022; Gregory Oakes served on 9/22/2022, answer due 10/13/2022; P. David Soares served on 9/22/2022, answer due 10/13/2022. (Attachments: # <u>1</u> Affidavit Affidavit of Service on Cecile, # <u>2</u> Affidavit Affidavit of Service on Conway, # <u>3</u> Affidavit Affidavit of Service on Doran, # <u>4</u> Affidavit Affidavit of Service on Fitzpatrick, # <u>5</u> Affidavit Affidavit of Service on Hilton, # <u>6</u> Affidavit Affidavit of Service on Hochul, # <u>7</u> Affidavit Affidavit of Service on Oakes, # <u>8</u> Affidavit Affidavit of Service on Soares)(Stamboulieh, Stephen) (Entered: 09/23/2022)
09/26/2022		TEXT Notice pursuant to General Order 12 of Potential Related Case(s), submitted to District Judge for review and determination. Potential Related cases: 1:22-CV-734. (jdp) (Entered: 09/26/2022)
09/26/2022	<u>11</u>	NOTICE of Appearance by James M. Thompson on behalf of Kevin P. Bruen, Judge Matthew J. Doran, Kathleen Hochul (Thompson, James) (Entered: 09/26/2022)
09/26/2022	<u>12</u>	TEXT ORDER granting direct assignment to District Judge Glenn T. Suddaby and Magistrate Judge Christian F. Hummel. This case is deemed related to 1:22-cv-00734-GTS-CFH, Antonyuk et al v. Bruen. SO ORDERED by U.S. District Judge Glenn T. Suddaby on 9/26/2022. (sal) (Entered: 09/26/2022)
09/26/2022	<u>13</u>	SUMMONS Returned Executed by Alfred Terrille, Ivan Antonyuk, Leslie Leman, Lawrence Sloane, Corey Johnson, Joseph Mann. Joseph Stanzione served on 9/22/2022, answer due 10/13/2022. (Stamboulieh, Stephen) (Entered: 09/26/2022)

09/26/2022	<u>14</u>	NOTICE of Appearance by Edward G. Melvin on behalf of Don Hilton, Gregory Oakes (Melvin, Edward) (Entered: 09/26/2022)
09/26/2022	<u>15</u>	NOTICE of Appearance by John Joseph Pelligra on behalf of Don Hilton, Gregory Oakes (Pelligra, John) (Entered: 09/26/2022)
09/28/2022	<u>16</u>	NOTICE of Appearance by Michael G. McCartin on behalf of Kevin P. Bruen, Judge Matthew J. Doran, Kathleen Hochul (McCartin, Michael) (Entered: 09/28/2022)
09/28/2022	<u>17</u>	RESPONSE in Opposition to Plaintiffs' <u>6</u> Emergency Motion for Temporary Restraining Order filed by Don Hilton, Gregory Oakes. (Pelligra, John) Modified on 9/28/2022 to change from a letter brief to a response (sal). (Entered: 09/28/2022)
09/28/2022	<u>18</u>	RESPONSE in Opposition to Plaintiffs' <u>6</u> Emergency Motion for Temporary Restraining Order filed by by Kevin P. Bruen, Judge Matthew J. Doran, Kathleen Hochul. (Thompson, James) Modified on 9/29/2022 to change from a letter brief to a response (sal). (Entered: 09/28/2022)
09/29/2022		TEXT Minute Entry for proceedings held before U.S. District Judge Glenn T. Suddaby: Motion Hearing held on 9/29/2022 re <u>6</u> Emergency Motion for a Temporary Restraining Order filed by Ivan Antonyuk, Corey Johnson, Leslie Leman, Joseph Mann, Lawrence Sloane, and Alfred Terrille. Oral argument is heard by counsel. District Judge Suddaby RESERVES DECISION and a written decision on the <u>6</u> Emergency Motion for a Temporary Restraining Order will be forthcoming. Briefing has been set on the <u>6</u> Motion for a Preliminary Injunction and a hearing will be scheduled on that portion of the motion in due course. APP: Stephen D. Stamboulieh, Esq. for Plaintiffs. James M. Thompson, Esq. and Michael G. McCartin, Esq. for NYS Defendants. Edward Melvin, Esq. for Oswego County Defendants. Time: 11:10 AM – 12:25 PM. (Court Reporter Jodi Hibbard) (sal) (Entered: 09/29/2022)
09/29/2022	<u>19</u>	TRANSCRIPT REQUEST by Kevin P. Bruen, Judge Matthew J. Doran, Kathleen Hochul for proceedings held on September 29, 2022 before Judge Glenn T. Suddaby.. (Thompson, James) (Entered: 09/29/2022)
09/29/2022	<u>20</u>	RESPONSE in Opposition re <u>6</u> Emergency MOTION for Temporary Restraining Order MOTION for Preliminary Injunction filed by Ivan Antonyuk, Corey Johnson, Leslie Leman, Joseph Mann, Lawrence Sloane, Alfred Terrille. Motion returnable before Judge Glenn T. Suddaby <i>just as to the Emergency MOTION for Temporary Restraining Order</i> filed by Joseph Cecile. (Long, Todd) (Entered: 09/29/2022)
09/29/2022	<u>21</u>	NOTICE of Appearance by Todd M. Long on behalf of Joseph Cecile (Long, Todd) (Entered: 09/29/2022)
09/29/2022	<u>22</u>	NOTICE of Appearance by Danielle R. Smith on behalf of Joseph Cecile (Smith, Danielle) (Entered: 09/29/2022)
09/30/2022	<u>23</u>	TRANSCRIPT of Proceedings: Motion Hearing held on 9/29/2022 before Judge Glenn T. Suddaby, Court Reporter: Jodi L. Hibbard, Telephone number: (315) 234-8547. IMPORTANT NOTICE – REDACTION OF TRANSCRIPTS: In order to remove personal identifier data from the transcript, a party must electronically file a Notice of Intent to Request Redaction with the Clerk's Office within 5 business days of this date. The policy governing the redaction of personal information is located on the court website at www.nynd.uscourts.gov . <u>Read this policy carefully</u> . If no Notice of Intent to Redact is filed within 5 business days of this date, the court will assume redaction of personal identifiers is not necessary and the transcript will be made available on the web 90 days from today's date. Transcript may be viewed at the court public terminal or purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 10/21/2022. Redacted Transcript Deadline set for 10/31/2022. Release of Transcript Restriction set for 12/29/2022. Notice of Intent to Redact due by 10/5/2022 (jlh,) (Entered: 09/30/2022)
09/30/2022	<u>24</u>	NOTICE of Appearance by John E. Heisler, Jr on behalf of William Fitzpatrick (Heisler, John) (Entered: 09/30/2022)
10/03/2022	<u>25</u>	NOTICE of Appearance by John E. Heisler, Jr on behalf of Eugene Conway (Heisler, John) (Entered: 10/03/2022)

10/03/2022	<u>26</u>	NOTICE of Appearance by Edward I. Kaplan on behalf of Joseph Stanzione (Kaplan, Edward) (Entered: 10/03/2022)
10/06/2022	<u>27</u>	DECISION AND TEMPORARY RESTRAINING ORDER that Plaintiffs' motion for a Temporary Restraining Order (Dkt. No. <u>6</u>) is GRANTED in part and DENIED in part in accordance with this Decision. Defendants, as well as their officers, agents, servants, employees, and attorneys (and any other persons who are in active concert or participation with them) are TEMPORARILY RESTRAINED from enforcing the following provisions of the Concealed Carry Improvement Act, 2022 N.Y. Sess. Laws ch. 371 ("CCIA"): (1) the provisions contained in Section 1 of the CCIA requiring "good moral character" EXCEPT to the extent it is construed to mean that a license shall be issued or renewed except for an applicant who has been found, by a preponderance of the evidence based on his or her conduct, to not have "good moral character," which is defined as "having the essential character, temperament and judgment necessary... to use [the weapon entrusted to the applicant] only in a manner that does not endanger oneself or others, other than in self-defense"; (2) the provision contained in Section 1 of the CCIA requiring that the applicant "meet in person with the licensing officer for an interview"; (3) the provision contained in Section 1 of the CCIA requiring the "names and contact information for the applicant's current spouse, or domestic partner, any other adults residing in the applicant's home, including any adult children of the applicant, and whether or not there are minors residing, full time or part time, in the applicants home"; (4) the provision contained in Section 1 of the CCIA requiring "a list of former and current social media accounts of the applicant from the past three years"; and (5) the "sensitive locations" provision contained in Section 4 of the CCIA EXCEPT with regard to the following sensitive locations (where the restrictions remain): (a) "any place owned or under the control of federal, state or local government, for the purpose of government administration, including courts" (as contained in paragraph "2(a)" of Section 4); (b) "any location being used as a polling place" (as contained in paragraph "2(q)" of Section 4); (c) "any public sidewalk or other public area restricted from general public access for a limited time or special event that has been issued a permit for such time or event by a governmental entity, or subject to specific, heightened law enforcement protection, or has otherwise had such access restricted by a governmental entity, provided such location is identified as such by clear and conspicuous signage" (as contained in paragraph "2(r)" of Section 4); (d) "any place of worship or religious observation" (as contained in paragraph "2(c)" of Section 4), EXCEPT for those persons who have been tasked with the duty to keep the peace at the place of worship or religious observation; (e) "nursery schools" and "preschools" (as contained in paragraph "2(f)" of Section 4); (f) "any building or grounds, owned or leased, of any educational institutions, colleges and universities, licensed private career schools, school districts, public schools, private schools licensed under article one hundred one of the education law, charter schools, non-public schools, board of cooperative educational services, special act schools, preschool special education programs, private residential or non-residential schools for the education of students with disabilities, and any state-operated or state-supported schools" (as contained in paragraph "2(m)" of Section 4); (g) "any gathering of individuals to collectively express their constitutional rights to protest or assemble" (as contained in paragraph "2(s)" of Section 4); and (6) the "restricted locations" provision contained in Section 5 of the CCIA EXCEPT for fenced-in farmland owned by another or fenced-in hunting ground owned by another (where the restriction stands). Plaintiffs are EXCUSED from giving security. This Temporary Restraining Order shall REMAIN IN EFFECT pending a hearing and ruling on Plaintiffs' motion for a preliminary injunction (Dkt. No. <u>6</u>). This Temporary Restraining Order is STAYED for THREE (3) BUSINESS DAYS, from the date of this Decision, to allow Defendants to seek emergency relief in the Second Circuit. Counsel for Plaintiffs shall promptly and personally serve this Decision and Temporary Restraining Order on Defendant Soares (who has not yet appeared through counsel in this action). Signed by U.S. District Judge Glenn T. Suddaby on 10/6/2022. (sal) (Entered: 10/06/2022)
10/06/2022	<u>28</u>	NOTICE OF APPEAL as to <u>27</u> Order,,,,,,,,,,,,,, <i>Decision and Temporary Restraining Order</i> by Kevin P. Bruen, Judge Matthew J. Doran, Kathleen Hochul. Filing fee \$ 505, receipt number ANYNDC-6060619. (Thompson, James) (Entered: 10/06/2022)
10/07/2022	<u>29</u>	TRANSCRIPT REQUEST by Ivan Antonyuk, Corey Johnson, Leslie Leman, Joseph Mann, Lawrence Sloane, Alfred Terrille for proceedings held on September 29, 2022

		before Judge Hon. Glenn T. Suddaby.. (Stamboulich, Stephen) (Entered: 10/07/2022)
10/07/2022	<u>30</u>	ELECTRONIC NOTICE AND CERTIFICATION sent to US Court of Appeals regarding the # <u>28</u> Notice of Appeal. (map) (Entered: 10/07/2022)