

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

-----X
IL BACCO RESTAURANT CORP., Individually and
on Behalf of all Others Similarly Situated,

Against

Plaintiff,

SUMMONS

Index No.:

Dated Purchased:

ANDREW M. CUOMO, in his Official Capacity as
Governor of the State of New York, **ATTORNEY
GENERAL OF THE STATE OF NEW YORK,**
BILL de BLASIO, in his Official Capacity as Mayor
Of the City of New York, and **THE STATE OF NEW
YORK,**

Venue is proper pursuant
to CPLR 504.

Defendants.

-----X
TO THE ABOVE NAMED DEFENDANTS

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiffs' attorneys within twenty days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or, within thirty (30) days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

YOU ARE HEREBY NOTIFIED THAT should you fail to serve a notice of appearance or demand for a complaint, a declaratory judgment will be entered against you by default for the relief demanded herein

Dated: Syosset, NY
August 28, 2020

The Mermigis Law Group, P.C.



By: James G. Mermigis, Esq.
Attorneys for Plaintiff
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TO:
Andrew M. Cuomo
Governor
Attorney General of New York
Capitol
Albany, New York 12224

Mayor Bill de Blasio
City Hall
New York, New York 10007

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

IL BACCO RESTAURANT CORP., Individually and
on Behalf of all Others Similarly Situated,

Plaintiffs,

Index No.:

Against

CLASS-ACTION COMPLAINT

ANDREW M. CUOMO, in his Official
Capacity as Governor of the State of New York,
ATTORNEY GENERAL OF THE STATE OF NEW YORK,
BILL de BLASIO, in his Official Capacity as Mayor of the
City of New York, and **THE STATE OF NEW YORK**,

Defendants.

Plaintiff, by its attorneys, **The Mermigis Law Group, P.C.**, in support of this class
action allege as follows:

This civil rights action challenges the executive “shutdown” orders issued by Defendants
Governor Andrew M. Cuomo and Mayor Bill de Blasio and enforced by them, and by Defendant
Attorney General of the State of New York and the numerous extensions and continued
enforcement of the executive orders issued by Defendant Governor Andrew M. Cuomo and
Mayor Bill de Blasio, which continue to be enforced by them, and by Defendant Attorney
General of the State of New York, *now 172 days* after Governor declared a state of emergency on
March 7, 2020.

This action seeks declaratory and injunctive relief for deprivations sustained and
continued to be sustained by plaintiff, on behalf of itself and all others similarly situated, and for
violations committed by Defendants, acting under the color of state law, against Plaintiff’s rights,
and the rights of all others similarly situated, as guaranteed by the Fifth and Fourteenth

Amendments of the United States Constitution, and for violations of New York State Executive Law § 29-a, and New York Constitution Article 1, § 7 and Article 1, § 11.

This is also an action for just compensation required by the Fifth Amendment to the Constitution. The Fifth Amendment to the Constitution requires that the government pay for property it takes: “Rights of Persons.....nor shall private property be taken for public use, without just compensation.” U.S. Constitution, 5th Amendment.

INTRODUCTION

1. On July 6, 2020, Governor Cuomo announced that New York City would enter Phase III of re-opening without “indoor dining.” The Governor further stated that “the numbers show we are right where we want to be, but what’s happening around the country is a cold reminder that we need to continue being cautious and smart and disciplined.”¹

2. New York City is the ONLY state region that still does not have indoor dining allowed, while it is allowed in neighboring suburban counties like Nassau, Suffolk and Westchester. Indoor dining is not available to Plaintiff because Plaintiff is located in Queens, N.Y. If a restaurant patron travels five hundred feet east or one city block east from Plaintiff’s restaurant, patrons are in Nassau County and can enjoy indoor dining in an air conditioned room. According to Governor Cuomo, it is dangerous to eat at Plaintiff’s restaurant in Little Neck, Queens, but it is safe to dine indoors a few hundred feet east of Plaintiff. The NYC restaurant and bar industry has suffered catastrophic losses or revenues and over 150,000 have not been supplanted by take-out and outdoor dining. Eighty-three (83%) percent of restaurants or bars in

¹ www.governor.ny.gov, Governor Cuomo’s daily press conference, July 6, 2020.

NYC were not able to make full rent in July and over thirty-seven (37%) percent were not able to pay rent at all.

3. The rest of New York State has allowed restaurants to reopen indoor spaces at half capacity since the middle of June, and NYC was set to resume indoor dining on July 6, before it was indefinitely postponed.

4. “They’re different demographically, they’re different by population, they’re different by density, they’re different by crowding factor,” Gov. Cuomo said at a press conference on August 19, 2020, referring to comparisons being made between the city and more suburban areas like Westchester County and Nassau County.² Current data suggests otherwise as the New York City percentage of positive covid test results is equal or lower than Nassau, Suffolk and Westchester.³

5. According to the New York State Covid-19 Monitoring System Dashboard, the NYC region has surpassed all mandatory metrics and is equal to or better than most regions in the state.⁴

6. The 7 day rolling average for the New York City region for percentage of positive tests is .8% and the average statewide is .8%.⁵ The Western New York region has a 1.6% of positive tests, which is double of NYC. Restaurants in Western New York offer indoor dining.⁶

² ny.eater.com, 8/20/20, De Blasio refuses to give timeline for return to indoor dining in NYC.

³ www.governor.ny.gov/news, August 23, 2020.

⁴ forward.ny.gov

⁵ forward.ny.gov, as of August 27, 2020.

⁶ *id.*

7. Based on speculative modeling on the infectiousness and lethality of a new coronavirus, Governor Cuomo and Mayor Bill de Blasio have issued executive orders that have shuttered civil society, placed 19.5 million people under house arrest, and taken jobs away from millions of people, all without due process of law. More than ***ONE HUNDRED FIFTY THOUSAND (150,000)*** workers in the NYC restaurant industry ***remain unemployed*** because of Defendants' continued enforcement of the executive orders.⁷ The Governor nor the Mayor have not disclosed and/or disclosed only a minimal amount of the data or methodology used to create the modeling that purportedly justifies this extreme action. The Governor as recent as August 24, 2020, tweeted that "Public Health decisions should be based on science, not politics."⁸

8. The Governor's initial Executive Order was premised on the perceived need to "flatten the curve" so as to avoid overwhelming the State's hospitals and healthcare centers, not to eradicate the virus. Although the curve has been flattened for over ***three*** months now, the Governor has nonetheless issued stricter and confusing executive orders that unreasonably and unnecessarily interfere with Plaintiff's, and those similarly situated, constitutional rights.

9. Governor Cuomo's executive orders are unprecedented. For the first time in our State's history—indeed, in our nation's history—the State government is mass quarantining healthy people instead of the sick. As a free people, we have the unalienable right to pursue happiness, which includes the freedom to make our own choices about our safety and welfare without unconstitutional interference. In the face of the coronavirus, it means the freedom to

⁷ [nypost.com](https://www.nypost.com/2020/08/25/mayor-has-no-plan-for-optional-indoor-dining/), August 25, 2020, [Mayor has no plan for "optional" indoor dining.](https://www.nypost.com/2020/08/25/mayor-has-no-plan-for-optional-indoor-dining/)

⁸ Governor Cuomo on Twitter, 8/24/20 at 8:31 pm.

choose whether to stay at home, or to keep calm and carry on with the things that make life worth living.

10. Plaintiff, IL Bacco Restaurant Corp., is a premiere authentic Italian restaurant, located in Little Neck, County of Queens, New York. Plaintiff has provided an unparalleled atmosphere and serves only the freshest Italian cuisine for the last 28 years. Plaintiff can no longer afford to remain open *without* indoor dining, as we approach September, the seventh month of the shutdown. Plaintiff's restaurant is located *ONE* block from Nassau County, where indoor dining is allowed. Plaintiff is losing all of its customers to restaurants in Nassau County and is suffering irreparable harm as a result. There is absolutely *NO SCIENCE* that will prove that "indoor dining" is safer one city block east from Plaintiff's restaurant.

11. Plaintiff, and all others similarly situated, are affected by the Governor's and Mayor's orders. Under threat of criminal penalties, they have been forced to close "indoor dining," depriving them of their liberty and property interests without due process. At the same time, without offering any justification, the Governor has allowed, and is still allowing, other restaurants throughout the state to have "indoor dining," even though: (a) restaurants with the exclusion of NYC restaurants must adhere to guidance from the U.S. Centers for Disease Control and Prevention ("CDC") on "social distancing"; and (b) Plaintiff, and all others similarly situated, are fully capable of adhering to those same guide-lines if allowed to open "indoor dining."

12. Although New York, like all States in the Union, is expressly guaranteed a republican form of government under Article IV, Section 4 of the U.S. Constitution, the

Governor and Mayor have unilaterally suspended civil liberties and announced that this state of affairs will continue even over the Legislature's objection.

13. On March 2, 2020, New York State Legislature rushed through in record time with a message of necessity from Governor Cuomo, a bill amending Section 29-a of the Executive Law to increase the Governor Cuomo's powers to deal with a broad array of emergencies. Upon information and belief, there was no debate, prior public notice and no media coverage and bill was passed while everyone in the state was sleeping.

14. Ours is a constitutional republic that empowers government to act within defined limits. Those limits apply at all times and under all circumstances. In war, in peace, and in pandemics. "No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government. Such a doctrine leads directly to anarchy or despotism...." *Ex parte Milligan*, 71 U.S. (4 Wall.) 2, 120–122 (1866).

15. Plaintiff, and all others similarly situated, seek a judicial declaration that the executive orders keeping people in their homes and away from their businesses—and all other orders, rules, and enforcement activity related to them—are unconstitutional under the the Due Process Clause, the Equal Protection Clause, and State law. Such a declaration, and a corresponding injunction, will yield a more rational, pragmatic response to the virus that saves lives, saves livelihoods, and preserves constitutional norms all at the same time. Plaintiff, and all others situated, are also making a Takings Claim for just compensation required by the Fifth Amendment to the Constitution. The Fifth Amendment to the Constitution requires that the

government pay for property it takes: “Rights of Persons.....nor shall private property be taken for public use, without just compensation.” U.S. Constitution, 5th Amendment.

16. In short, Plaintiff, and all others similarly situated, bring this lawsuit to define the limits of a State’s and the City’s police power. Whatever its limits, this legal term of art is not some principle that unlocks absolute executive power and casts our Constitution to the wind. The issues raised in this Complaint are novel, and they will not be rendered moot if the executive order is lifted before the Court issues judgment. The issues presented are capable of repetition and are of such importance that they cannot evade judicial review.

PARTIES

17. Plaintiff, **il Bacco Restaurant Corp.**, is a New York Corporation with its principal place of business in Queens County. Because of Governor Cuomo’s executive orders, Plaintiff, and all others similarly situated, have been forced to shutdown their “indoor dining” since March 16, 2020 through the date of the filing of this Complaint.

18. Defendant **Andrew M. Cuomo** is the Governor of the State of New York and signed Executive Order 202.3 on March 16, 2020, which ordered that *restaurants or bars shall cease serving patrons food or beverage on-premises effective at 8pm on March 16, 2020, and until further notice shall only serve food or beverage for off-premises consumption.* The State Constitution requires that the Governor ensure that the laws of the state are “faithfully executed.” Governor Cuomo’s office for the transaction of business is located at the New York State Capitol Building, Albany, New York 12224. Governor Cuomo is sued herein in his official capacity. Pursuant to Executive Law § 223, the superintendent of state police and its members “shall be

subject to the call of the governor and are empowered to co-operate with any other department of the state or with local authorities.”

19. Defendant the Office of the Attorney General of the State of New York, pursuant to Executive Law § 60, is the head of the New York State Department of Law and prosecutes and defends all actions in which the state has an interest, and have charge and control of all the legal business of the departments and bureaus of the state, or of any office thereof which requires the services of attorney or counsel to protect the interest of the State.

20. Defendant **BILL de BLASIO** is the Mayor of New York City. Defendant de Blasio’s offices are located at City Hall, New York, New York. Defendant de Blasio is being sued in his official capacity. Mayor Bill de Blasio suggested on August 25, 2020 that he’s reluctant to restart indoor dining because it’s an *activity for middle and upper income New Yorkers*.⁹ Defendant’s suggestion that eating inside a restaurant is only for people with thick billfolds ignores the thousands of cheap diners, fast-food eateries and pizza joints across the five boroughs catering to cost-conscious New Yorkers.¹⁰

JURISDICTION AND VENUE

21. Pursuant to 42 U.S.C. § 1983, this Court has jurisdiction to enforce the provisions of the United States Constitution.

⁹ [nypost.com](https://www.nypost.com/2020/08/25/mayor-has-no-plan-for-optional-indoor-dining/), August 25, 2020, Mayor has no plan for optional indoor dining.

¹⁰ *id.*

22. Pursuant to authority vested in it by state law, this Court has jurisdiction to enforce the New York State Constitution and its statutes and to find and declare any unconstitutional either on its face or as applied.

23. Venue is proper in New York County pursuant to CPLR 504.

THE EXECUTIVE “SHUTDOWN” ORDERS

24. On March 7, 2020, Governor Cuomo, signed executive order 202, which declared a state of disaster emergency for the State of New York. (See attached executive order 202 as Exhibit A.)

25. On March 16, 2020, Governor Cuomo, signed executive order 202.3, which stated that any restaurant or bar in the State of New York shall cease serving patrons food or beverage on-premises effective at 8pm on March 16, 2020, and until further notice shall only serve food or beverage for off-premises consumption. (See attached executive order 202.3 as Exhibit B.)

26. On March 29, 2020, Governor Cuomo, signed executive order 202.13, which extended the shutdown of indoor dining and beverage consumption until April 15, 2020. (See attached executive order 202.13 as Exhibit C.)

27. On April 7, 2020, Governor Cuomo, signed executive order 202.14, which extended the shutdown of indoor dining and beverage consumption until April 29, 2020. (See attached executive order 202.14 as Exhibit D.)

28. On April 16, 2020, Governor Cuomo, signed executive order 202.18, , which extended the shutdown of indoor dining and beverage consumption until May 15, 2020. (See attached executive order 202.18 as Exhibit E.)

29. On May 14, 2020, Governor Cuomo, signed executive order 202.31, which extended the shutdown of indoor dining and beverage consumption until May 28, 2020. (See attached executive order 202.31 as Exhibit F.)

30. On May 28, 2020, Governor Cuomo, signed executive order 202.34, which extended the shutdown of indoor dining and beverage consumption until June 27, 2020. (See attached executive order 202.34 as Exhibit G.)

31. On June 13, 2020, Governor Cuomo, signed executive order 202.41, which removed the reductions and restrictions on the in-person workforce. (See attached executive order 202.41 as Exhibit H.)

32. On June 26, 2020, Governor Cuomo, signed executive order 202.45, which extended the shutdown of indoor dining and beverage consumption until July 26, 2020. (See attached executive order 202.45 as Exhibit I.)

33. On July 6, 2020, Governor Cuomo, signed executive order 202.48, which directed ***that indoor food services and dining continue to be prohibited in New York City.*** (see attached executive order 202.48 as Exhibit J.)

STATEMENT OF FACTS

34. On March 16, 2020, Plaintiff, and all others similar situated, were ordered by Defendants' executive order 202.3 to *cease serving patrons food or beverage on-premises effective at 8pm on March 16, 2020, and until further notice shall only serve food or beverage for off-premises consumption*. Target, Walmart and Home Depot were allowed to remain open for on premises shopping as "Essential" businesses. Plaintiff's, and all others similarly situated, health protocols are sufficiently similar to those businesses that were allowed to remain open.

35. Defendants' executive order 202.3 and the executive orders that followed do not provide a pre- or post- deprivation remedy to question "essential" or to determine in Plaintiff can open with the same health related protocols as the "essential" businesses allowed to open. There has never been any health inspection of the Plaintiff's, and all others similarly situated, restaurants and bars, no analysis of the health status of restaurants and bars as essential and no analysis of Plaintiff's, and all others similarly situated, health related protocols to see if they meet the same health standards as allowed for essential businesses.

36. There was a list of businesses that were allowed to remain open for on-premises purchasing and that the classification was not reasonable or rational and was arbitrary and random without any data, and therefore a denial of due process.

37. On June 4, 2020, during his press conference, Cuomo said that, "*this is a public health issue and you don't want people sick and dead.*" During the same press briefing, Cuomo stated that he wanted to thank the protesters for protesting in thousands throughout New York City. The only conclusion you draw from that is that thousands of people can march together

throughout New York City and there is no public health issue for these marches, but restaurants and bars in NYC who want to open their restaurant for indoor dining with CDC safety guidelines is endangering the public.

38. The Governor cannot selectively enforce his executive orders. There is either a public health emergency or there's not. It cannot be both.

39. Cuomo boasts on CNN on June 25, 2020: *"What we're saying in New York, look, we did the right thing and New Yorkers paid a terrible cost as you know, Alisyn. They have been locked up. They have been closing their businesses. We have the virus under control finally. We had to flatten the curve."*¹¹ (See attached transcript as Exhibit K.)

40. On July 6, 2020, Governor Cuomo announced that New York City would enter Phase III of re-opening without "indoor dining." The New York City region is the only region in New York State that does not allow indoor dining in restaurants and bars.

41. As we approach September, the sixth month since the shutdown, there is still no date in site for "indoor dining" to resume in New York City. Gyms, bowling alleys, tanning salons, tattoo parlors, dentists, malls, mass transit, indoor gymnastics and all personal care businesses have been allowed to open in New York City.

42. As of August 26, 2020, Governor Andrew Cuomo and Mayor de Blasio have announced that there is no timetable for "indoor dining" in New York City. The State continues to govern impartially and arbitrarily by allowing "indoor dining" everywhere in the state except for New York City even though New York City has met and exceeded the re-opening metrics put in place by Governor Cuomo.

¹¹ Audio & Rush Transcript: Governor Cuomo announces New York at Lowest Hospitalization Rate since Beginning of Covid-19 Pandemic. June 25, 2020.

43. New York City is also equal to the Long Island region and the statewide numbers for the metric, new cases per 100k people. New York City now has 3.12 cases per 100,000 people while Long Island has 3.11 cases and the average statewide is 3.11 cases per 100,000 people.¹²

44. In a recent United States Senate Health, Education, Labor & Pensions Committee Hearing, Senator Rand Paul, a doctor said the following, “It is a fatal conceit to believe that any one person or small group of people have the knowledge necessary to direct an economy, or dictate, public health behavior.” “Government health experts need to show caution in their prognostications. It is important to realize that if society meekly submits to an expert and that expert is wrong, a great deal of harm may occur.”¹³

45. On August 27, 2020, Governor Cuomo announces 20 days straight of covid 19 infection rate under 1%.¹⁴ He also announced that there was excellent compliance in that only 2 businesses out of 1000 received violations. He also indicated the number of violations have been dropping.¹⁵

46. These statistics show that the curve flattened a long time ago and there is no longer a state of emergency in the State of New York.

47. In August, the New York Times estimated that as many as 2,800 small businesses had already closed since March 1, a third of which were restaurants and bars.¹⁶

¹² forward.ny.gov.

¹³ U.S. Senate Health, Education, Labor & Pensions Committee Hearing, 6/29/20.

¹⁴ Governor Cuomo’s Press Conference, August 27, 2020, governor.ny.gov.

¹⁵ id.

¹⁶ [ny.eater.com](https://www.ny.eater.com), 8/5/2020, nyc restaurant closings coronavirus

48. Plaintiff is a family owned and operated restaurant in the City of New York, Queens County for twenty-eight years and Plaintiff can no longer remain open unless indoor dining is reinstated in New York City. Plaintiff is a NYC landmark and provides authentic Italian cuisine for thousands of patrons coming from throughout the east coast of the United States. If Plaintiff does not open for indoor dining immediately, Plaintiff will permanently shut its doors.

49 Plaintiff, and all others similarly situated, provide their customers an essential service. Plaintiff, and all others similarly situated, can provide dining indoors, just like every other restaurant or bar in New York State.

50. Plaintiff, and all others similarly situated, have all conformed their restaurants and bars to the Food Service Guidelines for Employers and Employee issued under the “Re-opening New York” guidance which was issued by New York State.

51. Plaintiff, and all others similarly situated, have been affected terribly by the Governor’s executive orders. Under threat of criminal penalties, Plaintiff, and all others similarly situated, have been forced to close their “indoor dining,” depriving the Plaintiff, and all others similarly situated, of their liberty and property interests without due process. At the same time, without offering any justification, the Governor has allowed, and is still allowing, all other restaurants throughout the state to remain open for indoor dining, even though: (a) those restaurants must also adhere to guidance from the U.S. Centers for Disease Control and Prevention (“CDC”) on “social distancing” and the New York State Food Service Guidelines for Employers and Employees; and (b) Plaintiff, and all others similarly situated, are fully capable of adhering to those same guide-lines if allowed to open indoor dining.

52. At the present time, Plaintiff, and all others similarly situated, have lost over two billion dollars in revenue and have had to lay off at least 150,000 employees throughout New York City.

CLASS ACTION ALLEGATIONS

53. This action meets all the requirements of a class action under C.P.L.R. § 901.

54. The putative Class consists of all Restaurants and Bars in New York City, who have been shutdown for “indoor dining” by Defendant Governor Cuomo’s executive orders since March 16, 2020. The putative Class continues to be shut down for indoor dining on August 27, 2020, with no opening date in sight.

55. Excluded from the Class are Defendants.

56. While Plaintiff does not know the exact number of the members of the Class, Plaintiff believes there are several hundred members.

57. The legal constitutionality or unconstitutionality of the enforcement of the executive shutdown orders and in the continued enforcement of the executive shutdown orders constitute questions common to the Class, and predominates over any question affecting only individual members.

58. The claim for a declaration of unconstitutionality and the claim for a Taking by the Plaintiff, as the Class representative, are typical of the claims of the members of the Class.

Plaintiff and all members of the Class are similarly affected by Defendant's unconstitutional executive shutdown orders and their enforcement thereof.

59. Plaintiff, as a class representative, will fairly and adequately protect the interests of the Class. Plaintiff's claims arise out of the same common course of conduct giving rise to the claims of other members of the Class. Plaintiff's interests are coincident with, and not antagonistic to, those of the other members of the Class. Plaintiff is represented by counsel who are competent and experienced in the prosecution of Equal Protection, Due Process, New York Constitution and Takings claims.

60. A class action is superior to any other method for the resolution of this dispute, in that, among other things, such treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of evidence, effort, and expense that numerous individual actions would engender. The benefits of proceeding through the class mechanism, including providing injured restaurant and bar owners with a method of obtaining redress for claims that might not be practicable to pursue individually, substantially outweigh any difficulties that may arise in the management of this class action.

61. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent and varying adjudications, establishing incompatible standards of conduct for Defendants.

COUNT I - PROCEDURAL DUE PROCESS

62. Plaintiff incorporates paragraphs 1-61 as if fully set forth herein.

63. “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State ... subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.” 42 U.S.C. § 1983.

64. The Due Process Clause of the Fourteenth Amendment to the U.S. Constitution provides that no State can “deprive any person of life, liberty, or property, without due process of law.” U.S. Const. amend. XIV, § 1, cl. 3.

65. The procedural component of the Due Process Clause prohibits government from depriving Plaintiff and members of the putative Class of liberty and property interests without providing any process before or after the deprivations occurred.

66. To establish a procedural due process claim under 42 U.S.C. § 1983, Plaintiff and Class member must show that (1) they had a life, liberty, or property interest protected by the Due Process Clause; (2) they were deprived of this protected interest; and (3) the state did not afford them adequate procedural rights. See *Daily Servs., LLC v. Valentino*, 756 F.3d 893, 904 (6th Circ. 2014).

67. Plaintiff and the putative Class members have a protected liberty interest in the right to live without arbitrary governmental interference with their liberty and property interests. *County of Sacramento v. Lewis*, 523 U.S. 833, 845 (1988).

68. Liberty “denotes not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the

dictates of his own conscience, and generally to enjoy those privileges long recognized . . . as essential to the orderly pursuit of happiness by free men.” *Board of Regents of State Colleges v. Roth*, 408 U.S. 564, 572 (1972) (emphases added).

69. Plaintiff and members of the putative Class have protected liberty and property interests, which Defendants infringed through the Executive shutdown Orders:

a. members have been, and are being, denied the right to intrastate travel and the right to engage in commerce, to-wit: operating indoor dining in their restaurants and bars.

b. Plaintiff and members of the putative Class have been, and is being, denied the right to intrastate travel and the right to engage in commerce, to-wit: operating indoor dining in their restaurants and bars.

70. Governor Cuomo did not provide any procedural due process before issuing the executive shutdown Orders. Nor do the shutdown Orders provide any mechanism for post-deprivation review.

71. Governor Cuomo acted under color of State law in an official capacity and within the scope of his official duties when issuing the executive shutdown Orders.

72. As a direct and proximate cause of the failure to provide any pre- or post-deprivation process, Plaintiff and members of the putative class suffered prejudice under threat of criminal and civil sanctions.

73. These orders and rules acknowledge that restaurants outside NYC can operate with indoor dining and other like businesses can safely open and operate by adhering to “social distancing” rules.

74. Plaintiff and members of the putative class can operate in full compliance with all of these rules.

75. By failing to provide any pre- or post-deprivation review of the orders and rules shuttering their businesses, Plaintiff and members of the putative Class are suffering substantial losses of liberty and property:

a. Plaintiff and members of the putative class have lost significant revenue over the several months since the executive shutdown Orders went into effect.

76. The prejudice that Plaintiff and members of the putative Class have suffered would not have occurred but for Defendants’ deprivations of their liberty and property interests.

77. Plaintiff and members of the putative Class seek a declaration that the executive shutdown Orders violate the procedural component of the Due Process Clause, and an injunction against further infringements of their rights under this Clause as described in the Prayer for Relief.

COUNT II. - SUBSTANTIVE DUE PROCESS

78. Plaintiff incorporates paragraphs 1-77 as if fully set forth herein.

79. “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State ... subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities

secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.” 42 U.S.C. § 1983.

80. The Due Process Clause of the Fourteenth Amendment to the U.S. Constitution provides that no State can “deprive any person of life, liberty, or property, without due process of law.” U.S. Const. amend. XIV, § 1, cl. 3.

81. The substantive component of the Due Process Clause prohibits government from taking action that “shocks the conscience” or “interferes with rights implicit in the concept of ordered liberty.” *United States v. Salerno*, 481 U.S. 739, 746 (1987) (cleaned up).

82. Plaintiff and members of the putative Class have a protected liberty interest in the right to live without arbitrary governmental interference with its liberty and property interests. *County of Sacramento v. Lewis*, 523 U.S. 833, 845 (1988).

83. Liberty “denotes not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized . . . as essential to the orderly pursuit of happiness by free men.” *Board of Regents of State Colleges v. Roth*, 408 U.S. 564, 572 (1972) (emphases added).

84. The Executive Shutdown Orders shock the conscience and interfere with Plaintiff’s and members of the putative Class deeply-rooted liberty and property rights, including the right to work, right to contract, and right to engage in commerce, for all of the reasons described in the General Allegations and in each of the Counts of this Complaint, which are incorporated into this Paragraph by reference.

85. Plaintiff and members of the putative Class could and can conduct business in full compliance with all of the rules imposed on restaurants and bars allowed to operate indoor dining under the executive shutdown Orders, or reasonably equivalent and equally safe measures tailored to the unique nature of the indoor operations. Thus, the shutdown Orders are not narrowly tailored to achieve a compelling governmental interest.

86. Nor is there any rational basis any longer since the virus is under control to deprive Plaintiff and members of the putative Class of their liberty and property interests in performing services for willing customers when they can do so safely and in the same (or reasonably safe equivalent) manner as other businesses allowed to operate (such as manufacturing, other restaurants and bars throughout the state, tanning salons, tattoo parlors and retail).

87. In the alternative, the Executive shutdown Orders are not reasonably related to a legitimate governmental interest.

88. Governor Cuomo acted under color of State law in an official capacity and within the scope of their official duties when issuing the shutdown Orders.

89. Plaintiff and members of the putative Class seek a declaration that the Executive shutdown Orders violate the substantive component of the Due Process Clause, and an injunction against further infringements of its rights under this Clause as described in the Prayer for Relief.

COUNT III- EQUAL PROTECTION

90. Plaintiff incorporates paragraphs 1-89 as if fully set forth herein.

91. “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State ... subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.” 42 U.S.C. § 1983.

92. The Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution provides that no State can “deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV, § 1, cl. 4.

93. The Executive shutdown Orders deprive Plaintiff and members of the putative Class of the equal protection of the law because they allow most restaurants and bars to operate indoor dining but not Plaintiff’s and members of the putative Class’ businesses, even though they are similarly situated.

94. Under Governor Cuomo’s executive orders, Plaintiff’s restaurant must remain closed for indoor dining while a restaurant on the same block can open for indoor dining. This designation is completely arbitrary, random and ridiculous, considering that Plaintiff can maintain equivalent strict social distancing but is not allowed to re-open indoor dining and in fact can be criminalized for doing so.

95. Plaintiff and members of the putative Class could and can conduct business in full compliance with all of the rules imposed on restaurants, bars and other businesses allowed to operate under the Executive shutdown Orders, or reasonably equivalent and equally safe measures tailored to the unique nature of the indoor dining. Thus, the Executive shutdown Orders are not narrowly tailored to achieve a compelling governmental interest.

96. Nor is there any rational basis any longer since Governor Cuomo announced that the virus is contained to deprive Plaintiff and members of the putative Class of their liberty and property interests in offering indoor dining to willing customers when they can do so safely and in the same (or reasonably, safe equivalent) manner as other businesses allowed to operate.

97. In the alternative, the Executive shutdown Orders are not reasonably related to a legitimate governmental interest.

98. Governor Cuomo acted under color of State law in an official capacity and within the scope of his official duties when issuing the shutdown Orders.

99. Plaintiff and members of the putative Class seek a declaration that the Executive shutdown Orders violate the Equal Protection Clause, and an injunction against further infringements of their rights under this Clause as described in the Prayer for Relief.

COUNT IV- EQUAL PROTECTION UNDER STATE LAW

100. Plaintiff incorporates paragraphs 1-99 as if fully set forth herein.

101. Article 1 § 11 of the New York Constitution states that “No person shall be denied the equal protection of the laws of this state or any subdivision thereof.

102. By classifying businesses into essential v. Non-essential, the State is treating like businesses differently. In addition, by allowing restaurants and bars to open based on where they are located is treating like businesses equally. Allowing two similar restaurants on the same block on Northern Boulevard to be treated differently is simply unconstitutional.

103. According to the State and the executive orders, most businesses have now re-opened and are operating and restaurants and bars outside of New York City are allowed to

operate indoor dining, while Plaintiff and members of the putative Class have been ordered to shut down even though Plaintiff's and members of the putative Class' health protocols are sufficiently similar to those businesses that were allowed to stay open.

104. Defendants' orders did not provide as pre- or post- deprivation remedy to question "essential" or to question whether or not restaurants and bars can operate safely indoors in New York City. There has never been a health inspection of the indoor premises of the restaurants and bars in New York City, and no analysis of Plaintiff's and members of the putative Class' health related protocols to see if they meet the same health standards as allowed for essential businesses.

105. The unequal, random, arbitrary and unfair treatment has continued in the re-opening guidance. Gyms, Bowling Alleys, Tattoo parlors, tanning salons, health spas and dentists are allowed to open their doors, but indoor dining in New York City remains locked down.

106. When Governor Cuomo announced on July 6, 2020 that New York City would be re-opening without "indoor dining," he based his decision on "what's happening around the country" which is random, arbitrary and unfair treatment since "indoor dining" was allowed outside of New York City.

107. As a result of the unequal treatment of like businesses, the executive lockdown orders violate Article 1, § 11 of the New York Constitution.

PRELIMINARY INJUNCTION

108. Plaintiff incorporates paragraphs 1-106 as if set forth herein.

109. All of the acts of Defendants, their officers, agents, employees, and servants were executed and are continuing to be executed by Defendants under the color and pretense of the executive orders.

110. Plaintiff and members of the putative Class are suffering irreparable harm from the conduct of Defendants. An estimated one thousand New York City restaurants have already been shut down for good. Plaintiffs and members of the putative Class have lost thousands of customers who are now enjoying indoor dining in Nassau, Suffolk and Westchester counties.

111. Plaintiff and members of the putative Class have no adequate remedy at law to correct or redress the deprivation of its rights by Defendants.

112. Unless the enforcement of the executive orders is enjoined, Plaintiff and members of the putative Class will continue to suffer grave irreparable harm.

VIOLATION OF THE TAKINGS CLAUSE OF THE FIFTH AMENDMENT

113. Plaintiff incorporates paragraphs 1-111 as if set forth herein.

114. The Supreme Court has long held that “the Fifth Amendment...was designed to bar Government from forcing people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.” See *Armstrong v. United States* 364 U.S. 40, 49 (1960).

115. Defendant's executive orders mandated that because Plaintiff and members of the putative Class were a "non-essential" business, Plaintiff and members of the putative Class were ordered to "shut down" and cease all indoor operations as a means to help curb the spread of covid-19. Such a mandate completely and unconstitutionally deprived Plaintiff and members of the putative Class, of economically beneficial use of their business without just compensation.

116. The Supreme Court has long recognized that a Taking may be effected not only by government's physical occupation of private property but also by regulations that "go too far." See *Tahoe-Sierra Presidential Council v. Tahoe Regional Planning Agency* 535 U.S. 302 (2002).

117. As of July 8, 2020, Plaintiff and members of the putative Class have been ordered to shutdown "indoor dining" for 172 days even though Governor Cuomo boasted on CNN on June 25, 2020 that "the virus is under control" and boasted on August 27, 2020 that the infection rate of New York is under 1% for twenty straight days.

118. Defendant Cuomo's executive shutdown orders and the enforcement thereof has caused both a complete and total regulatory and physical taking of Plaintiff and members of the putative Class' property without just compensation in violation of the Takings Clause of the Fifth Amendment to the U.S. Constitution. As a result, Defendants' blatant violation of the Takings Clause of the 5th Amendment has caused proximate and legal harm to Plaintiff and members of the putative Class.

119. Plaintiff and members of the putative Class are entitled to just compensation in the form of lost income from the use of its property.

120. Plaintiff and members of the putative Class have no adequate remedy at law and will suffer serious and irreparable harm to their constitutional rights unless Defendants are enjoined from implementing and enforcing the executive shutdown orders.

121. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiff and members of the putative Class are entitled to declaratory relief and temporary, preliminary, and permanent injunctive relief invalidating and restraining enforcement of the orders, as well as compensatory damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of itself and the Class, respectfully ask the Court to grant Plaintiff the following relief:

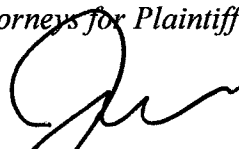
- A. Designation of this action as a class action;
- B. Designation of Plaintiff as a representative Plaintiff of all the New York City restaurants and bars that have been unconstitutionally shut down since March 16, 2020, due to Defendants' executive shutdown orders;
- C. A declaratory judgment that the Executive shutdown Orders violate Plaintiff's and Members of the Putative Class' constitutional rights as set forth in this Complaint;
- D. are void for vagueness and not narrowly tailored; and/or
- E. Enjoin Governor Cuomo from enforcing the Executive shutdown Orders and from issuing any future orders or rules similar to the invalid ones described in this action; and

- F. Grant a preliminary injunction enjoining the enforcement and further enforcement of the executive orders; and
- G. Just compensation in the amount of \$ 2,000,000,000.00; and
- H. Award Plaintiffs their reasonable attorneys' fees, costs, and expenses under applicable state law; and
- I. Any other such further relief to which Plaintiff and members of the putative Class may be entitled as a matter of law or equity, or which the Court determines to be just and proper.

Dated: Syosset, New York
August 27, 2020

THE MERMIGIS LAW GROUP, P.C.

Attorneys for Plaintiff



By: James G. Mermigis, Esq.
85 Cold Spring Road, Suite 200
Syosset, NY 11791
(516) 353-0075
(516) 682-0011 Facsimile

EXHIBIT “A”



No. 202

EXECUTIVE ORDER

Declaring a Disaster Emergency in the State of New York

WHEREAS, on January 30, 2020, the World Health Organization designated the novel coronavirus, COVID-19, outbreak as a Public Health Emergency of International Concern;

WHEREAS, on January 31, 2020, United States Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the entire United States to aid the nation's healthcare community in responding to COVID-19;

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and more are expected to continue; and

WHEREAS, New York State is addressing the threat that COVID-19 poses to the health and welfare of its residents and visitors.

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, hereby find, pursuant to Section 28 of Article 2-B of the Executive Law, that a disaster is impending in New York State, for which the affected local governments are unable to respond adequately, and I do hereby declare a State disaster emergency for the entire State of New York. This Executive Order shall be in effect until September 7, 2020; and

IN ADDITION, this declaration satisfies the requirements of 49 C.F.R. 390.23(a)(1)(A), which provides relief from Parts 390 through 399 of the Federal Motor Carrier Safety Regulations (FMCSR). Such relief from the FMCSR is necessary to ensure that crews are available as needed.

FURTHER, pursuant to Section 29 of Article 2-B of the Executive Law, I direct the implementation of the State Comprehensive Emergency Management Plan and authorize all necessary State agencies to take appropriate action to assist local governments and individuals in containing, preparing for, responding to and recovering from this state disaster emergency, to protect state and local property, and to provide such other assistance as is necessary to protect public health, welfare, and safety.

IN ADDITION, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, I hereby temporarily suspend or modify, for the period from the date of this Executive Order through April 6, 2020 the following:

Section 112 of the State Finance Law, to the extent consistent with Article V, Section 1 of the State Constitution, and to the extent necessary to add additional work, sites, and time to State contracts or to award emergency contracts, including but not limited to emergency contracts or leases for relocation and support of State operations under Section 3 of the Public Buildings Law; or emergency contracts under Section 9 of the Public Buildings Law; or emergency contracts for professional services under Section 136-a of the State Finance Law; or emergency contracts for commodities, services, and technology under Section 163 of the State Finance Law; or design-build or best value contracts under and Part F of Chapter 60 of the Laws of 2015 and Part RRR of Chapter 59 of the Laws of 2017; or emergency contracts for purchases of commodities, services, and technology through any federal GSA schedules, federal 1122 programs, or other state, regional, local, multi-jurisdictional, or cooperative contract vehicles;

Section 163 of the State Finance Law and Article 4-C of the Economic Development Law, to the extent necessary to allow the purchase of necessary commodities, services, technology, and materials without following the standard notice and procurement processes;

Section 97-G of the State Finance Law, to the extent necessary to purchase food, supplies, services, and equipment or furnish or provide various centralized services, including but not limited to, building design and construction services to assist affected local governments, individuals, and other non-State entities in responding to and recovering from the disaster emergency;

Section 359-a, Section 2879, and 2879-a of the Public Authorities Law to the extent necessary to purchase necessary goods and services without following the standard procurement processes;

Sections 375, 385 and 401 of the Vehicle and Traffic Law to the extent that exemption for vehicles validly registered in other jurisdictions from vehicle registration, equipment and dimension requirements is necessary to assist in preparedness and response to the COVID-19 outbreak;

Sections 6521 and 6902 of the Education Law, to the extent necessary to permit unlicensed individuals, upon completion of training deemed adequate by the Commissioner of Health, to collect throat or nasopharyngeal swab specimens from individuals suspected of being infected by COVID-19, for purposes of testing; and to the extent necessary to permit non-nursing staff, upon completion of training deemed adequate by the Commissioner of Health, to perform tasks, under the supervision of a nurse, otherwise limited to the scope of practice of a licensed or registered nurse;

Subdivision 6 of section 2510 and section 2511 of the Public Health Law, to the extent necessary to waive or revise eligibility criteria, documentation requirements, or premium contributions; modify covered health care services or the scope and level of such services set forth in contracts; increase subsidy payments to approved organizations, including the maximum dollar amount set forth in contracts; or provide extensions for required reports due by approved organizations in accordance with contracts;

Section 224-b and subdivision 4 of section 225 of the Public Health Law, to the extent necessary to permit the Commissioner of Health to promulgate emergency regulations and to amend the State Sanitary Code;

Subdivision 2 of section 2803 of the Public Health Law, to the extent necessary to permit the Commissioner to promulgate emergency regulations concerning the facilities licensed pursuant to Article 28 of the Public Health Law, including but not limited to the operation of general hospitals;

Subdivision 3 of section 273 of the Public Health Law and subdivisions 25 and 25-a of section 364-j of the Social Services Law, to the extent necessary to allow patients to receive prescribed drugs without delay;

Section 400.9 and paragraph 7 of subdivision f of section 405.9 of Title 10 of the NYCRR, to the extent necessary to permit general hospitals and nursing homes licensed pursuant to Article 28 of the Public Health Law ("Article 28 facilities") that are treating patients during the disaster emergency to rapidly discharge, transfer, or receive such patients, as authorized by the Commissioner of Health, provided such facilities take all reasonable measures to protect the health and safety of such patients and residents, including safe transfer and discharge practices, and to comply with the Emergency Medical Treatment and Active Labor Act (42 U.S.C. section 1395dd) and any associated regulations;

Section 400.11 of Title 10 of the NYCRR, to the extent necessary to permit Article 28 facilities receiving patients as a result of the disaster emergency to complete patient review instruments as soon as practicable;

Section 405 of Title 10 of the NYCRR, to the extent necessary to maintain the public health with respect to treatment or containment of individuals with or suspected to have COVID-19;

Subdivision d and u of section 800.3 of Title 10 of the NYCRR, to the extent necessary to permit emergency medical service personnel to provide community paramedicine, transportation to destinations other than hospitals or health care facilities, telemedicine to facilitate treatment of patients in place, and such other services as may be approved by the Commissioner of Health;

Paragraph 3 of subdivision f of section 505.14 of Title 18 of the NYCRR, to the extent necessary to permit nursing supervision visits for personal care services provided to individuals affected by the disaster emergency be made as soon as practicable;

Sections 8602 and 8603 of the Education Law, and section 58-1.5 of Title 10 of the NYCRR, to the extent necessary to permit individuals who meet the federal requirements for high complexity testing to perform testing for the detection of SARS-CoV-2 in specimens collected from individuals suspected of suffering from a COVID-19 infection;

Subdivision 4 of section 6909 of the Public Health Law, subdivision 6 of section 6527 of the Education Law, and section 64.7 of Title 8 of the NYCRR, to the extent necessary to permit physicians and certified nurse practitioners to issue a non-patient specific regimen to nurses or any such other persons authorized by law or by this executive order to collect throat or nasopharyngeal swab specimens from individuals suspected of suffering from a COVID-19 infection, for purposes of testing, or to perform such other tasks as may be necessary to provide care for individuals diagnosed or suspected of suffering from a COVID-19 infection;

Section 596 of Title 14 of the NYCRR to the extent necessary to allow for rapid approval of the use of the telemental health services, including the requirements for in-person initial assessment prior to the delivery of telemental health services, limitations on who can deliver telemental health services, requirements for who must be present while telemental health services are delivered, and a recipient's right to refuse telemental health services;

Section 409-i of the Education Law, section 163-b of the State Finance Law with associated OGS guidance, and Executive Order No. 2 are suspended to the extent necessary to allow elementary and secondary schools to procure and use cleaning and maintenance products in schools; and sections 103 and 104-b of the General Municipal Law are suspended to the extent necessary to allow schools to do so without the usual advertising for bids and offers and compliance with existing procurement policies and procedures;

Article 7 of the Public Officers Law, section 41 of the General Construction Law, and section 3002 of the Public Health Law, to the extent necessary to permit the Public Health and Health Planning Council and the State Emergency Medical Services Council to meet and take such actions as authorized by law, as may be necessary to respond to the COVID-19 outbreak, without meeting quorum requirements or permitting the public in-person access to meetings, provided that any such meetings must be webcast and means for effective public comment must be made available; and

FURTHER, I hereby temporarily modify, for the period from the date of this Executive Order through April 6, 2020, the following laws:

Section 24 of the Executive Law; Sections 104 and 346 of the Highway Law; Sections 1602, 1630, 1640, 1650, and 1660 of the Vehicle and Traffic Law; Section 14(16) of the Transportation Law; Sections 6-602 and 17-1706 of the Village Law; Section 20(32) of the General City Law; Section 91 of Second Class Cities Law; Section 19-107(ii) of the New York City Administrative Code; and Section 107.1 of Title 21 of the New York Codes, Rules and Regulations, to the extent necessary to provide the Governor with the authority to regulate traffic and the movement of vehicles on roads, highways, and streets.



GIVEN under my hand and the Privy Seal of the

State in the City of Albany this

seventh day of March in the year two

thousand twenty.

BY THE GOVERNOR

M. C.
Secretary to the Governor

[Signature]

EXHIBIT “B”



No. 202.3

EXECUTIVE ORDER

**CONTINUING TEMPORARY SUSPENSION AND MODIFICATION OF LAWS RELATING TO
THE DISASTER EMERGENCY**

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York;

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to be continue;

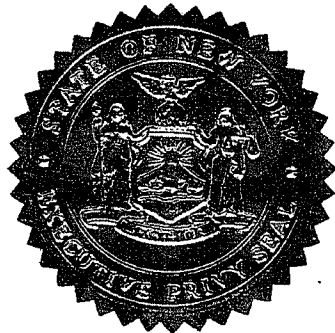
WHEREAS, one state acting alone cannot control the continued spread of this disease and it requires coordination and cooperation amongst the states; and

NOW, THEREFORE, I, Governor Andrew M. Cuomo, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, or to issue any directive during a disaster emergency necessary to cope with the disaster, I hereby issue the following directives and suspensions and modifications for the period from the date of this Executive Order 202.3 through April 15, 2020:

- The directive requiring large gatherings and events to be cancelled or postponed if they had anticipated attendance in excess of 500 people by virtue of Executive Order 202.1 dated March 12, 2020, is hereby amended and modified to require that any large gathering or event (concert, conference, worship service, performance before a large audience, etc.) shall be cancelled or postponed if more than fifty persons are expected in attendance, at any location in New York State until further notice.
- Any restaurant or bar in the state of New York shall cease serving patrons food or beverage on-premises effective at 8 pm on March 16, 2020, and until further notice shall only serve food or beverage for off-premises consumption. Notwithstanding any provision of the alcohol and beverage control law, a retail on-premises licensee shall be authorized for the duration of this Executive Order to sell alcohol for off-premises consumption, which shall include either take-out or delivery, subject to reasonable limitations set by the State Liquor Authority.
- Any facility authorized to conduct video lottery gaming, or casino gaming shall cease operation effective at 8 pm on March 16, 2020, and until further notice. For a Class III

Tribal Gaming enterprise or Class II Tribal Gaming enterprise, any facility should also close to the public until further notice.

- Any gym, fitness centers or classes, and movie theaters shall also cease operation effective at 8 pm on March 16, 2020 until further notice.
- No local government or political subdivision shall issue any local emergency order or declaration of emergency or disaster inconsistent with, conflicting with or superseding the foregoing directives, or any other executive order issued under Section 24 of the Executive Law and any local emergency order or any local administrative codes, charters, laws, rules or regulations, are hereby suspended with respect to any such order issued under such authority different or in conflict with Executive directives.



GIVEN under my hand and the Privy Seal of the
 State in the City of Albany this
 sixteenth day of March in the year
 two thousand twenty.

BY THE GOVERNOR

M. C.
 Secretary to the Governor

[Signature]

EXHIBIT “C”



No. 202.13

EXECUTIVE ORDER

**Continuing Temporary Suspension and Modification of Laws
Relating to the Disaster Emergency**

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to be continue;

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, I hereby temporarily suspend or modify, for the period from the date of this Executive Order through April 28, 2020 the following:

- Sections 16.03 and 16.05 of the Mental Hygiene Law and Part 619 of Title 14 of the NYCRR to the extent that they limit the provision of certain services to certified settings provided, however, that use of such settings shall require the approval of the commissioner of OPWDD;
- Sections 16.33, 16.34, 31.35 and 19.20 of the Mental Hygiene law; sections 378-a, 424-a and 495 of the Social Services law; sections 550, 633.5, 633.24 and 805 of Title 14 of the NYCRR; Article 3, sections 442.18, 447.2, 448.3, 449.4, 450.9, 451.6 of Title 18 of the NYCRR; and sections 166-1.2, 180-1.5, 180-3.4, 182-1.5, 182-1.9, 182-1.11, 182-2.5, -182-2.9 and 6051.1 of Title 9 of the NYCRR, to the extent necessary to allow current employees of OPWDD or OPWDD approved providers, OCFS licensed or certified programs, OASAS certified, funded or authorized programs, OMH or OMH licensed, funded or approved programs who have previously undergone such background checks to be employed by a different OPWDD approved provider and/or OCFS licensed or certified program and/or OASAS certified, funded or authorized program and/or OMH licensed, funded or approved program without undergoing new background checks. These provisions are also waived to the extent necessary to allow providers the discretion to permit already qualified individuals and who are not listed on the Staff Exclusion List to work unsupervised while an updated background check is completed;
- Sections 3203 and 4510 of the Insurance Law are modified to extend the grace period for the payment of premiums and fees to 90 days for any life insurance policyholder or fraternal benefit society certificate holder, as those terms are used in such sections, facing a financial hardship as a result of the COVID-19 pandemic;
- Sections 3203, 3219, and 3220 of the Insurance Law are modified to provide a life insurance policyholder or annuity contract holder or a certificate holder, as those terms are used in such sections, under a group policy or contract with 90 days to exercise rights or benefits under the applicable life insurance policy or annuity contract for any policyholder or contract holder or certificate holder under the group policy or contract who is unable timely to exercise rights or benefits as a result of the COVID-19 pandemic;

- Section 1116 and Articles 34, 53, 54, and 55 of the Insurance Law and Sections 54 and 226 of the Workers' Compensation Law are modified to impose a moratorium on an insurer cancelling, non-renewing, or conditionally renewing any insurance policy issued to an individual or small business, or, in the case of a group insurance policy, insuring certificate holders that are individuals or small businesses, for a period of 60 days, for any policyholder, or in the case of a group insurance policy, group policyholder or certificate holder, facing financial hardship as a result of the COVID-19 pandemic. The foregoing relief shall also apply to the kinds of insurance set forth in paragraphs (16), (17), (20), (21), (24), (26), and (30) of Section 1113(a) of the Insurance Law. For purposes of this Executive Order, a small business shall mean any business that is resident in this State, is independently owned and operated, and employs one hundred or fewer individuals;
- Section 576 of the Banking Law is modified to grant the Superintendent of Financial Services the authority to promulgate an emergency regulation to apply the provisions of the Executive Order relevant to policy cancellations, to premium finance agencies (as defined in Article XII-B of the Banking Law), subject to the safety and soundness considerations of the premium finance agencies;
- Subdivisions three and four of section 42 of the Public Officer's Law to the extent that it requires that a proclamation be separately issued by the Governor for an election to fill a vacancy; and
- Subdivision (i) of section 414 of the Education Law to the extent necessary to allow the school districts to pay for the cost of such child care services.

IN ADDITION, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I hereby issue the following directives for the period from the date of this Executive Order through April 28, 2020:

- All instruments that are signed and delivered to the superintendent under the New York Banking Law (the "Banking Law"), and are required to be verified or acknowledged under the Banking Law, may be verified or acknowledged by including standard verification or acknowledgement language in the instrument and transmitting a legible copy of the signed instrument by fax or electronic means.
- The special election in the City of New York to fill the vacancy in the Office of Borough President of Queens is rescheduled for June 23, 2020. Only candidates who were eligible to appear on the ballot for the March 24, 2020 special election shall appear on the ballot for the June 23, 2020 special election.
- Any special election which was previously scheduled to occur on April 28, 2020 and rescheduled for June 23, 2020 by virtue of Executive Order 202.12 shall only contain the names of those individuals who had previously been qualified to appear on the ballot on April 28, 2020.
- Circulation, filing, and collection of any designating petitions, or independent nominating petitions for any office that would otherwise be circulated or filed pursuant to the Election Law, Education Law or any other consolidated law for any office commencing March 31, 2020 are hereby postponed.
- Any school board, library board, or village election scheduled to take place in April or May of 2020 is hereby postponed until at least June 1, 2020, and subject to further directive as to the timing, location or manner of voting for such elections.
- Any worker who is employed by the state of New York, shall, if deemed non-essential by their agency shall work from home or shall be able to stay home without charging their accruals until April 16, 2020.
- Executive Order 202.6 is hereby modified to clarify that construction which was an essential service not subject to the in-person work restrictions is modified to provide only **certain** construction is considered exempt from the in-person restrictions as of March 28, 2020. Further, on and after March 27, 2020, Empire State Development Corporation is hereby authorized to determine which construction projects shall be essential and thereby exempt from the in-person workforce prohibition, contained in EO 202.6 and subsequent Executive Orders which further reduced the workforce requirements. All continuing construction projects shall utilize best practices to avoid transmission of COVID-19.
- By virtue of Executive Orders 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.10, 202.11 which closed or otherwise restricted public or private businesses or places of public accommodation, all such Executive Orders shall be continued, provided that the expiration dates of such Executive Orders shall be aligned, such that all in-person business restrictions will be effective until 11:59 p.m. on April 15, 2020, unless later extended by future Executive Orders.

- The directive of Executive Order 202.12 requiring a support person for a patient giving birth is modified insofar as to cover labor, delivery as well as the immediate postpartum period.



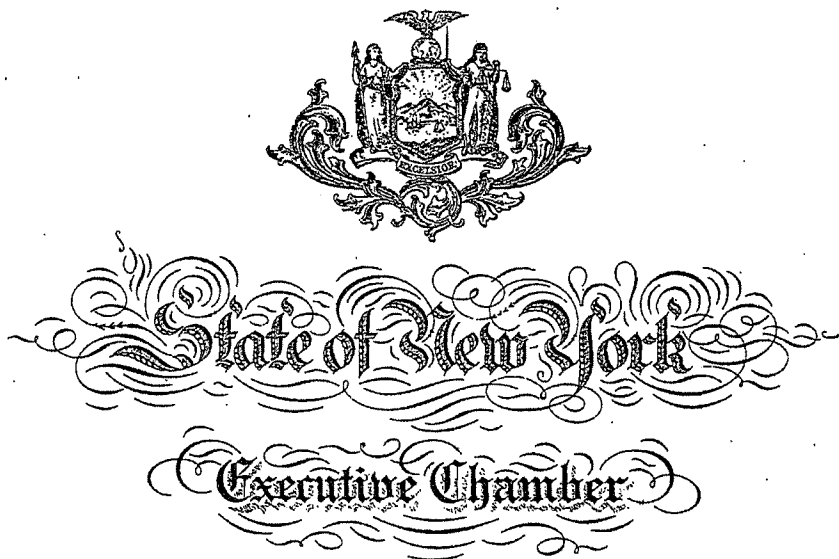
GIVEN under my hand and the Privy Seal of the
 State in the City of Albany this
 twenty-ninth day of March in the year
 two thousand twenty.

BY THE GOVERNOR

Mr. C
 Secretary to the Governor

[Handwritten Signature]

EXHIBIT “D”



No. 202.14

EXECUTIVE ORDER

Continuing Temporary Suspension and Modification of Laws
Relating to the Disaster Emergency

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to continue;

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law, do hereby continue the suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order to 202, for thirty days until May 7, 2020, except as limited below.

IN ADDITION, I hereby temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, for the period from the date of this Executive Order through May 7, 2020, the following:

- Section 6524 of the Education Law, section 60.7 of title 8 of NYRR and section paragraph (1) of subdivision (g) 405.4 of title 10 of the NYCRR to the extent necessary to allow any physician who will graduate in 2020 from an academic medical program accredited by a medical education accrediting agency for medical education by the Liaison Committee on Medical Education or the American Osteopathic Association, and has been accepted by an Accreditation Council for Graduate Medical Education accredited residency program within or outside of New York State to practice at any institution under the supervision of a licensed physician;
- Subdivisions one, two, four, five, eight and nine of Section 1726 of the Surrogate's Court Procedure Act are hereby modified to provide that any parent, a legal guardian, a legal custodian, or primary caretaker who works or volunteers in a health care facility or who reasonably believes that they may otherwise be exposed to COVID-19, may designate a standby guardian by means of a written designation, in accordance with the process set forth in such subdivisions; and such designation shall become effective also in accordance with the process set forth in such subdivisions; and
- Sections 3216(d)(1)(C) and 4306(g) of the Insurance Law, subject to consideration by the Superintendent of Financial Services of the liquidity and solvency of the applicable insurer, corporation subject to Article 43 of the Insurance Law, or health maintenance organization certified pursuant to Article 44 of the Public Health Law, to:

- Extend the period for the payment of premiums to the later of the expiration of the applicable contractual grace period and 11:59 p.m. on June 1, 2020, for any comprehensive health insurance policyholder or contract holder under an individual policy or contract, as those terms are used in such sections, who is facing a financial hardship as a result of the COVID-19 pandemic; and
- Require that the applicable insurer, corporation subject to Article 43 of the Insurance Law, or health maintenance organization certified pursuant to Article 44 of the Public Health Law shall be responsible for the payment of claims during such period and shall not retroactively terminate the insurance policy or contract for non-payment of premium during such period.

FURTHER, I hereby issue the following directives for the period from the date of this Executive Order through May 7, 2020:

- Any medical equipment (personal protective equipment (PPE), ventilators, respirators, bi-pap, anesthesia, or other necessary equipment or supplies as determined by the Commissioner of Health) that is held in inventory by any entity in the state, or otherwise located in the state shall be reported to DOH. DOH may shift any such items not currently needed, or needed in the short term future by a health care facility, to be transferred to a facility in urgent need of such inventory, for purposes of ensuring New York hospitals, facilities and health care workers have the resources necessary to respond to the COVID-19 pandemic, and distribute them where there is an immediate need. The DOH shall either return the inventory as soon as no longer urgently needed and/or, in consultation with the Division of the Budget, ensure compensation is paid for any goods or materials acquired at the rates prevailing in the market at the time of acquisition, and shall promulgate guidance for businesses and individuals seeking payment.
- By virtue of Executive Orders 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.10, 202.11, and 202.13 which closed or otherwise restricted public or private businesses or places of public accommodation, and which required postponement or cancellation of all non-essential gatherings of individuals of any size for any reason (e.g. parties, celebrations, games, meetings or other social events), all such Executive Orders shall be continued, provided that the expiration dates of such Executive Orders shall be aligned, such that all in-person business restrictions and workplace restrictions will be effective until 11:59 p.m. on April 29, 2020, unless later extended by a future Executive Order.
- The enforcement of any violation of the foregoing directives on and after April 7, 2020, in addition to any other enforcement mechanism stated in any prior executive orders, shall be a violation punishable as a violation of public health law section 12-b(2) and the Commissioner of Health is directed and authorized to issue emergency regulations. The fine for such violation by an individual who is participating in any gathering which violates the terms of the orders or is failing to abide by social distancing restrictions in effect in any place which is not their home shall not exceed \$1,000.
- The directive contained in Executive Order 202.4 as amended by Executive Order 202.11 related to the closure of schools statewide shall hereafter be modified to provide that all schools shall remain closed through April 29, 2020, at which time the continued closure shall be re-evaluated. No school shall be subject to a diminution in school aid due to failure to meet the 180 day in session requirement as a result of the COVID-19 outbreak, provided their closure does not extend beyond the term set forth herein. School districts must continue plans for alternative instructional options, distribution and availability of meals, and child care, with an emphasis on serving children of essential workers, and continue to first use any vacation or snow days remaining.
- Superintendent of Financial Services shall have the authority to promulgate an emergency regulation, subject to consideration by the Superintendent of Financial Services of the liquidity and solvency of the applicable insurer, corporation subject to Article 43 of the Insurance Law, health maintenance organization certified pursuant to Article 44 of the Public Health Law, or student health plan certified pursuant to Insurance Law § 1124, to:
 - extend the period for the payment of premiums to the later of the expiration of the applicable contractual grace period and 11:59 p.m. on June 1, 2020 for any small group or student blanket comprehensive health insurance policy or contract, or any child health insurance plan policy or contract where the policyholder or contract holder pays the entire premium, as those terms are used in the Insurance Law, for any policyholder or contract holder who is facing financial hardship as a result of the COVID-19 pandemic; and

- o require that the applicable insurer, corporation subject to Article 43 of the Insurance Law, health maintenance organization certified pursuant to Article 44 of the Public Health Law, or student health plan certified pursuant to Insurance Law § 1124, shall be responsible for the payment of claims during such period and shall not retroactively terminate the insurance policy or contract for non-payment of premium during such period.
- Superintendent of Financial Services shall have the authority to promulgate emergency regulations necessary to implement this Executive Order, including regulations regarding: (1) the waiver of late fees; and (2) the prohibition on reporting negative data to credit bureaus.
- For the purposes of Estates Powers and Trusts Law (EPTL) 3-2.1(a)(2), EPTL 3-2.1(a)(4), Public Health Law 2981(2)(a), Public Health Law 4201(3), Article 9 of the Real Property Law, General Obligations Law 5-1514(9)(b), and EPTL 7-1.17, the act of witnessing that is required under the aforementioned New York State laws is authorized to be performed utilizing audio-video technology provided that the following conditions are met:
 - o The person requesting that their signature be witnessed, if not personally known to the witness(es), must present valid photo ID to the witness(es) during the video conference, not merely transmit it prior to or after;
 - o The video conference must allow for direct interaction between the person and the witness(es), and the supervising attorney, if applicable (e.g. no pre-recorded videos of the person signing);
 - o The witnesses must receive a legible copy of the signature page(s), which may be transmitted via fax or electronic means, on the same date that the pages are signed by the person;
 - o The witness(es) may sign the transmitted copy of the signature page(s) and transmit the same back to the person; and
 - o The witness(es) may repeat the witnessing of the original signature page(s) as of the date of execution provided the witness(es) receive such original signature pages together with the electronically witnessed copies within thirty days after the date of execution.

GIVEN under my hand and the Privy Seal of the
 State in the City of Albany this seventh
 day of April in the year two thousand
 twenty.



BY THE GOVERNOR

Secretary to the Governor

EXHIBIT “E”



No. 202.18

EXECUTIVE ORDER

**Continuing Temporary Suspension and Modification of Laws
Relating to the Disaster Emergency**

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to be continue;

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, I hereby temporarily suspend or modify, for the period from the date of this Executive Order through May 16, 2020 the following:

- Sections 6512 through 6516, and 6905, 6906 and 6910 of the Education Law and Part 64 of Title 8 of the NYCRR, to the extent necessary to allow registered nurses, licensed practical nurses, and nurse practitioners or a substantially similar title licensed and in current good standing in any province or territory of Canada, to practice in New York State without civil or criminal penalty related to lack of licensure;
- Sections 6512 through 6516, and 6524 of the Education Law and Part 60 of Title 8 of the NYCRR, to the extent necessary to allow physicians licensed and in current good standing in any province or territory of Canada, to practice medicine in New York State without civil or criminal penalty related to lack of licensure;
- Sections 6512 through 6516, and 6541 of the Education Law and Part 60.8 of Title 8 of the NYCRR, to the extent necessary to allow physician assistants or a substantially similar title licensed and in current good standing in any province or territory of Canada, to practice in New York State without civil or criminal penalty related to lack of licensure;
- Sections 3502 and 3505 of the Public Health Law and Part 89 of Title 10 of the NYCRR to the extent necessary to permit radiologic technologists or a substantially similar title licensed and in current good standing in any province or territory of Canada, to practice in New York State without civil or criminal penalty related to lack of licensure;
- Sections 6512 through 6516, 6548 and 6911 of the Education Law and sections 60.11 and 64.8 Title 8 of the NYCRR, to the extent necessary to allow clinical nurse specialists, specialist assistants, and substantially similar titles certified and in current good standing in any state in the United States, or any province or territory of Canada, to practice in New York State without civil or criminal penalty related to lack of certification;
- Sections 6512 through 6516, and 7704 of the Education Law and Part 74 of Title 8 of the NYCRR, to the extent necessary to allow licensed master social workers, licensed clinical social workers, and substantially similar titles licensed and in current good standing in any state in the

United States, or in any province or territory of Canada, to practice in New York State without civil or criminal penalty related to lack of licensure;

- Section 6502 of the Education Law and 8 NYCRR 59.8, to the extent necessary to allow specialist assistants, respiratory therapists, respiratory therapist technicians, pharmacists, clinical nurse specialists, dentists, dental hygienists, registered dental assistants, midwives, perfusionists, clinical laboratory technologists, cytotechnologists, certified clinical laboratory technicians, certified histological technicians, licensed clinical social workers, licensed master social workers, podiatrists, physical therapists, physical therapist assistants, mental health counselors, marriage and family therapists, creative arts therapists, psychoanalysts and psychologists who have an unencumbered license and are currently in good standing in New York State but not registered in New York State to practice in New York State without civil or criminal penalty related to lack of registration;
- Section 6908 of the Education Law and associated regulations, to the extent necessary to permit graduates of State Education Department registered, licensure qualifying nurse practitioner education programs to be employed to practice nursing in a hospital or nursing home for 180 days immediately following successful completion of a New York State Registered licensure qualifying education program, provided that the graduate files with the State Education Department an application for certification as a nurse practitioner;
- Section 8609 of the Education Law and associated regulations, to the extent necessary to permit graduates of State Education Department registered, licensure qualifying clinical laboratory technology and clinical laboratory technician education programs to be employed to practice for 180 days immediately following successful completion of a New York State Registered licensure qualifying education program, in a clinical laboratory with a valid New York State permit, provided that the graduate files an application for a New York State clinical laboratory practitioner license and limited permit;
- Section 6808 of the Education Law and 8 NYCRR 63.6 and 63.8, to the extent necessary to extend the triennial registrations of pharmacy establishments who are currently registered and whose registration is set to expire on or after March 31, 2020. An application for re-registration of such registrations shall be submitted no later than 30 days after expiration of Executive Order 202;
- Sections 1514 and 1531 of the Business Corporation Law and Section 121-1500(g) of the Partnership Law, to the extent necessary to extend the statements of domestic or foreign professional service corporations, design professional service corporations, registered professional limited liability partnerships, New York registered foreign professional limited liability partnerships whose statements are set to expire on or after March 31, 2020. Such statements shall be filed no later than 30 days after the expiration of Executive Order 202;
- Section 7210 of the Education Law, to the extent necessary to extend the triennial renewal of certificates of authorizations of domestic or foreign professional service corporations, design professional service corporations, professional service limited liability companies, foreign professional service limited liability companies, registered professional limited liability partnerships, New York registered professional foreign limited liability partnerships, partnerships and joint enterprises specified in Education Law §7209(4) authorized to provide professional engineering, land surveying or professional geology services whose certificates of authorizations are set to expire on or after March 31, 2020. The application for the renewal of such certificates of authorization shall be submitted no later than 30 days after the expiration of Executive Order 202;
- Section 6503-b of the Education Law and 8 NYCRR 59.15, to the extent necessary to extend the waivers for certain special education schools and early intervention programs providing certain professional services whose waivers are set to expire on or after March 31, 2020. An application for renewal of such waivers shall be submitted no later than 30 days after expiration of Executive Order 202;
- Sections 6802, 6808, and 6841 of the Education Law and Parts 29.7 (10) and 63.6 of Title 8 of the NYCRR, to the extent necessary to permit pharmacy technicians and pharmacists to practice at an alternative location, including their home, as long as there is adequate security to prevent any Personal Health Information from being compromised;
- Section 603(b) of the Not-for-Profit Corporations Law to the extent necessary to permit annual meetings of members to be held remotely or by electronic means;
- Sub-clauses (1), (2), and (3) of clause (a) of subparagraph (ii) of paragraph (3) of subdivision (a) of section 6654.10 of Title 9 of the New York Code of Rules and Regulations, to the extent

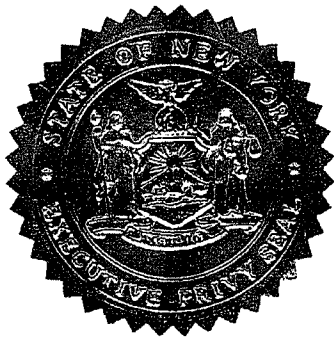
necessary to make home-delivered meals available to persons age 60 or older who do not meet these listed eligibility requirements;

- Paragraph (4) of subdivision (a) and subparagraph (ii) of paragraph (14) of subdivision (b) of section 6654.10 of Title 9 of the New York Code of Rules and Regulations, insofar as it requires meals served to provide minimum percentages of the dietary reference intake;
- Paragraph (6) of subdivision (a) of section 6654.10 of Title 9 of the New York Code of Rules and Regulations to the extent that it requires menus to be reviewed and approved by a registered dietitian;
- Paragraph (5) of subdivision (a) and paragraph (6) of subdivision (b) of section 6654.10 of Title 9 of the New York Code of Rules and Regulations, insofar as it requires menus to follow a minimum of a four-week cycle;
- Clause (a) of subparagraph (i) of paragraph (3) of subdivision (a) and subparagraph (ii) of paragraph (2) of subdivision (b) of section 6654.10 of Title 9 of the New York Code of Rules and Regulations, insofar as it requires that home-delivered meals be provided 5 or more days per week;
- Paragraph (2) of subdivision (s) of section 6654.17 of Title 9 of the New York Code of Rules and Regulations to the extent that it requires an in-home supervisory visit within 5 days of the first time services are provided to a client;
- Section 6654.6 of Title 9 of the New York Code of Rules and Regulations to the extent necessary to allow for all new clients to be provided services under the Expanded In-Home Services for the Elderly Program without the requirement that any such clients pay cost-sharing until such time as an assessment is conducted and a cost share amount can be determined;
- Subdivision (r) of section 6654.16 of Title 9 of the New York Code of Rules and Regulations to the extent that it requires client contacts be conducted in-home or in-person and to allow for all required client contacts to be conducted by telephone or otherwise remotely;
- Section 352-eeee(2)(a) of the General Business Law, and any order, rule, or regulation in furtherance of the requirements thereof, to the extent it requires that an offering statement or prospectus become effective within fifteen months from filing or from the date of issue of the letter of the attorney general stating that the offering statement or prospectus has been accepted for filing, and any such fifteen month period, shall be tolled during the duration of this executive order;
- Section 352-e(7)(a) of the General Business law, and any order, rule, or regulation in furtherance of the requirements thereof, to the extent it requires certain filing fees be made at the time of submission and filing of each offering statement or prospectus, shall be exempted during the duration of this executive order, it being understood that such filing fees shall be remitted in full to the department of law within 90 days from the expiration of this executive order;
- 13 NYCRR §§ 18.3(g)(1), 20.3(h)(1), 23.3(h)(1), and any order, rule, or regulation in furtherance of the requirements thereof, to the extent it requires sponsor to set forth a budget for the first year of condominium operation, the requirements with respect to any such projected first year of condominium operation are hereby tolled for the duration of this executive order. Sponsor must update the first year of operation, as necessary, within 30 days from the expiration of this executive order and shall not be required to offer rescission, to the extent such budget for the first year of operation does not increase by 25 percent or more during the pendency of the state of disaster emergency;
- 13 NYCRR § 20.3(o)(12), and any order, rule, or regulation in furtherance of the requirements thereof, to the extent it requires sponsor to offer rescission if the first closing of a unit does not occur within the first year of operation projected in schedule B, is hereby tolled for the duration of the executive order. Sponsor must update the first year of operation, as necessary, within 30 days from the expiration of this executive order;
- Article 165 of the Education Law and section 58-1.3 of Title 10 of the NYCRR, to the extent necessary to allow clinical laboratory practitioners to perform testing in a clinical laboratory under remote supervision, provided a supervisor is on-site at least eight hours per week;
- Subdivision (a) of section 70 and subdivision (a) of section 370 of the retirement and social security law, to the extent necessary to waive the 15 day waiting period in which a service retirement application must be on file before it becomes effective, which suspension shall be deemed to have been in effect on and after the issuance of executive order 202, and shall enable any member who has died due to COVID-19 after March 7, 2020 while an application was on

file, but not yet effective, shall be entitled to retirement benefits due to them pursuant to this suspension;

IN ADDITION, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I hereby issue the following directives for the period from the date of this Executive Order through May 16, 2020:

- Any skilled nursing facility, nursing home, or adult care facility licensed and regulated by the Commissioner of Health shall notify family members or next of kin if any resident tests positive for COVID-19, or if any resident suffers a COVID-19 related death, within 24 hours of such positive test result or death.
- Any person utilizing public or private transportation carriers or other for-hire vehicles, who is over age two and able to medically tolerate a face covering, shall wear a mask or face covering over the nose and mouth during any such trip; any person who is operating such public or private transport, shall likewise wear a face covering or mask which covers the nose and mouth while there are any passengers in such vehicle. This directive shall take effect in the same manner as Executive Order 202.17, at 8 p.m. on Friday, April 17, 2020.
- Executive Order 202.14, which extended the provisions of Executive Orders 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.10, 202.11, and 202.13 which each closed or otherwise restricted public or private businesses or places of public accommodation, and which required postponement or cancellation of all non-essential gatherings of individuals of any size for any reason (e.g. parties, celebrations, games, meetings or other social events), is hereby continued, provided that the expiration date of such provisions of such Executive Orders shall be aligned, such that all in-person business restrictions and workplace restrictions will be effective until 11:59 p.m. on May 15, 2020, unless later extended by a future Executive Order. All enforcement mechanisms by state or local governments shall continue to be in full force an effect until May 15, 2020 unless later extended by a future Executive Order.
- Executive Order 202.14, which extended the directive contained in Executive Order 202.4 as amended by Executive Order 202.11 related to the closure of schools statewide is hereby continued to provide that all schools shall remain closed through May 15, 2020, at which time the continued closure shall be re-evaluated. No school shall be subject to a diminution in school aid due to failure to meet the 180 day in session requirement as a result of the COVID-19 outbreak, provided their closure does not extend beyond the term set forth herein. School districts must continue plans for alternative instructional options, distribution and availability of meals, and child care, with an emphasis on serving children of essential workers, and continue to first use any vacation or snow days remaining.



GIVEN under my hand and the Privy Seal of the

State in the City of Albany this

sixteenth day of April in the year two

thousand twenty.

BY THE GOVERNOR

Secretary to the Governor

EXHIBIT “F”



No. 202.31

EXECUTIVE ORDER

**Continuing Temporary Suspension and Modification of Laws
Relating to the Disaster Emergency**

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to continue;

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, I hereby temporarily suspend or modify, for the period from the date of this Executive Order through June 13, 2020 the following:

- Subdivisions (1), (2), and (3) of Section 594 of the Labor Law are suspended to the extent necessary to prevent forfeiture of effective benefit days to provide claimants with temporary relief from serving forfeit day penalties during the COVID-19 disaster emergency; and
- Section 240.35 of the penal law, to the extent it is inconsistent with any directive requiring an individual wear a face covering in public or otherwise.

IN ADDITION, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I hereby issue the following directives for the period from the date of this Executive Order through the date so designated below:

- Executive Order 202.28, which extended the provisions of Executive Orders 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.10, 202.11, 202.13, and 202.14 which each closed or otherwise restricted public or private businesses or places of public accommodation, and which required postponement or cancellation of all non-essential gatherings of individuals of any size for any reason (e.g. parties, celebrations, games, meetings or other social events), which together constitute New York On PAUSE, is hereby continued until 11:59 p.m. on May 28, 2020, unless later amended or extended by a future Executive Order;
 - Provided, however, that effective at 12:01 a.m. on May 15, 2020 that the reductions and restrictions on the in-person workforce at non-essential businesses or other entities shall no longer apply to Phase One industries
 - Construction, Agriculture, Forestry, Fishing and Hunting, Retail - (Limited to curbside or in-store pickup or drop off); Manufacturing and Wholesale Trade;
 - Such businesses or entities must be operated subject to the guidance promulgated by the Department of Health;
 - Only those businesses or entities in a region that meets the prescribed public health and safety metrics, as determined by the Department of Health, will be eligible for reopening;

- As of May 14, 2020 the regions are: Finger Lakes, Central New York, Mohawk Valley, Southern Tier and the North Country regions comprising the counties of: Genesee, Livingston, Monroe, Ontario, Orleans, Seneca, Wayne, Wyoming, Yates Cayuga, Cortland, Madison, Onondaga, Oswego, Fulton, Herkimer, Montgomery, Oneida, Otsego, Schoharie, Broome, Chemung, Chenango, Delaware, Schuyler, Steuben, Tioga, Tompkins Clinton, Essex, Franklin, Hamilton, Jefferson, Lewis, and St. Lawrence. Any additional regions which meet the criteria after such date will be deemed to be incorporated into this Executive Order without further revision and will be permitted to re-open phase one industries, subject to the same terms and conditions.
- All enforcement mechanisms by state or local governments shall continue to be in full force an effect until June 13, 2020 unless later extended or amended by a future Executive Order.
- The directive contained in Executive Order 202.15 authorizing the Department of Taxation and Finance to accept digital signatures in lieu of handwritten signatures on documents related to the determination or collection of tax liability, is hereby modified to authorize such acceptance for the duration of the disaster emergency.
- The directive contained in Executive Order 202.3 which closed movie theaters until further notice and was later extended by Executive Order 202.14 and EO 202.28, is hereby modified to provide that a drive-in movie theater, shall not be required to close, but shall be treated as any other business per Executive Order 202.6, which designated certain businesses as essential or non-essential and subjected such businesses to in-person presence restrictions in the workplace.



GIVEN under my hand and the Privy Seal of the

State in the City of Albany this

fourteenth day of May in the year two

thousand twenty.

BY THE GOVERNOR


Secretary to the Governor



EXHIBIT “G”



No. 202.34

EXECUTIVE ORDER

**Continuing Temporary Suspension and Modification of Laws
Relating to the Disaster Emergency**

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to continue;

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I hereby issue the following directives for the period from the date of this Executive Order through June 27, 2020:

- Business operators and building owners, and those authorized on their behalf shall have the discretion to ensure compliance with the directive in Executive Order 202.17 (requiring any individual over age two, and able to medically tolerate a face-covering, be required to cover their nose and mouth with a mask or cloth face-covering when in a public place), including the discretion to deny admittance to individuals who fail to comply with the directive in Executive Order 202.17 or to require or compel their removal if they fail to adhere to such directive, and such owner or operator shall not be subject to a claim of violation of the covenant of quiet enjoyment, or frustration of purpose, solely due to their enforcement of such directive. Nothing in this directive shall prohibit or limit the right of State and local enforcement authorities from imposing fines or other penalties for any violation of the directive in Executive Order 202.17. This directive shall be applied in a manner consistent with the American with Disabilities Act or any provision of either New York State or New York City Human Rights Law, or any other provision of law.
- Executive Order 202.31, which extended the provisions of Executive Orders 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.10, 202.11, 202.13, 202.14, 202.28 which each closed or otherwise restricted public or private businesses or places of public accommodation, and Executive Order 202.32 as modified by Executive Order 202.33 which required postponement, cancellation, or restriction on size of all non-essential gatherings of more than ten individuals, and which together constitute New York On PAUSE, is hereby continued until and unless later amended or extended by a future Executive Order, provided, however:
 - As soon as a region meets the prescribed public health and safety metrics, as determined by the Department of Health, they will be eligible for Phase One reopening.
 - Businesses or entities open pursuant to Department of Health guidance must be operated subject to the guidance promulgated by the Department of Health.
 - As of May 28, 2020 the regions meeting the prescribed public health and safety metrics required for Phase One reopening are: Finger Lakes, Central New York, Mohawk Valley, Southern Tier, North Country, Western New York, Capital Region, Mid-Hudson, and Long Island. Such regions include the counties of Genesee, Livingston, Monroe, Ontario, Orleans, Seneca, Wayne, Wyoming, Yates, Cayuga, Cortland, Madison, Onondaga, Oswego, Fulton,

Herkimer, Montgomery, Oneida, Otsego, Schoharie, Broome, Chemung, Chenango, Delaware, Schuyler, Steuben, Tioga, Tompkins, Clinton, Essex, Franklin, Hamilton, Jefferson, Lewis, St. Lawrence, Allegany, Cattaraugus, Chautauqua, Erie, Niagara, Albany, Columbia, Greene, Saratoga, Schenectady, Rensselaer, Warren, Washington, Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, Westchester, Nassau, and Suffolk. Any additional regions which meet the criteria after such date will be deemed to be incorporated into this Executive Order without further revision and will be permitted to re-open Phase One industries, subject to the same terms and conditions.



GIVEN under my hand and the Privy Seal of the State in the City of Albany this twenty-eighth day of May in the year two thousand twenty.

BY THE GOVERNOR

Secretary to the Governor

EXHIBIT “H”



State of New York

Executive Chamber

No. 202.41

EXECUTIVE ORDER

Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to continue;

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, and to issue any directive during a disaster emergency necessary to cope with the disaster, I hereby continue the directives contained in Executive Order 202.31, unless superseded by a subsequent directive; and

IN ADDITION, I hereby temporarily suspend or modify the following and issue the following directives for the period from the date of this Executive Order through July 13, 2020:

- The directive contained in Executive Order 202.7, as extended and as amended by Executive Order 202.36, requiring all salons, tattoo parlors, piercing parlors, and related personal care services to be closed to members of the public is hereby again modified to the extent necessary to allow for the opening of such personal care services, and only to the extent and in regions consistent with Department of Health guidance promulgated for Phase Three reopening.
- Executive Order 202.35, which extended the provisions of Executive Orders 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.10, 202.11, 202.13, 202.14, 202.28, and 202.31, and 202.34 which each closed or otherwise restricted public or private businesses or places of public accommodation, and Executive Order 202.38 which required postponement, cancellation, or restriction on size of all non-essential gatherings of more than ten individuals, and which together constitute New York On PAUSE, is hereby continued until and unless later amended or extended by a future Executive Order, provided, however:
 - That effective on June 12, 2020, the reductions and restrictions on the in-person workforce at non-essential businesses or other entities shall no longer apply to Phase Three industries, as determined by the Department of Health, in eligible regions, including:
 - Restaurants / Food Services; and
 - Personal Care.
 - Businesses or entities in industries open in Phase Three must be operated subject to the guidance promulgated by the Department of Health.
 - As of June 12, 2020 the regions meeting the prescribed public health and safety metrics required for Phase Three reopening are: Finger Lakes, Central New York, Mohawk Valley, Southern Tier, and the North Country. Any additional regions which meet the criteria after such date will be deemed to be incorporated into this Executive Order without further

revision and will be permitted to re-open Phase Three industries, subject to the same terms and conditions.

GIVEN under my hand and the Privy Seal of the

State in the City of Albany this

thirteenth day of June in the year two

thousand twenty.



BY THE GOVERNOR

Secretary to the Governor

EXHIBIT “I”



No. 202.45

EXECUTIVE ORDER

**Continuing Temporary Suspension and Modification of Laws
Relating to the Disaster Emergency**

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to continue;

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, I hereby extend any directive contained in Executive Order 202.34 and 202.35, provided such directive has not been superseded by a subsequent directive, and further, I hereby temporarily suspend or modify, for the period from the date of this Executive Order through July 26, 2020 the following:

- Paragraph (e) of subdivision 1 of Section 581 of the Labor Law, to the extent necessary to authorize the Commissioner of Labor to issue a finding related to experience rating charges as permitted by the Families First Coronavirus Response Act and incurred beginning with the benefit week starting March 9, 2020;
- Subdivision 4 of section 1 of chapter 25 of the laws of 2020 is modified to the extent necessary to provide that in addition to any travel to a country for which the Centers for Disease Control and Prevention has a level two or three travel health notice, an employee shall not be eligible for paid sick leave benefits or any other paid benefits pursuant to this chapter if such employee voluntarily travels which commences after June 25, 2020 to a state with a positive test rate higher than 10 per 100,000 residents, or higher than a 10% test positivity rate, over a seven day rolling average, and which the commissioner of the department of health has designated as meeting these conditions as outlined in the advisory issued pursuant to Executive Order 205, and the travel was not taken as part of the employee's employment or at the direction of the employee's employer;
- Section 28-66 of the Charter of the City of Buffalo, to the extent necessary to allow the Mayor to waive the additions prescribed therein on unpaid 2019-2020 city taxes for the months of April, May and June of 2020, and to require payments of 2019-2020 city taxes that are made after June 30, 2020 to be made without additions for the months of April, May and June of 2020;

IN ADDITION, by virtue of the authority vested in me by Section 925-a of the Real Property Tax Law to extend during a State disaster emergency the period for paying property taxes without interest or penalties upon request of the chief executive officer of an affected county, city, town, village or school district, I do hereby extend by twenty-one days the period for paying, without interest or penalty, property taxes that are due in the following localities that have requested such an extension: Village of Ossining, Westchester County; Village of Pomona, Rockland County;

IN ADDITION, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I hereby issue the following directives for the period from the date of this Executive Order through July 26, 2020:

- The directive contained in Executive Order 202.35, as extended and as amended by Executive Order 202.38 and Executive Order 202.42, which amended the directive in Executive Order 202.10 that limited all non-essential gatherings, is hereby further modified to allow gatherings of fifty (50) or fewer individuals for any lawful purpose or reason, so long as any such gatherings occurring indoors do not exceed 50% of the maximum occupancy for a particular indoor area, and provided that the location of the gathering is in a region that has reached Phase 4 of the State's reopening, and provided further that social distancing, face covering, and cleaning and disinfection protocols required by the Department of Health are adhered to.
- Executive Order 202.41, which extended the provisions of Executive Orders 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.10, 202.11, 202.13, 202.14, 202.28, 202.31, 202.34, and 202.35 which each closed or otherwise restricted public or private businesses or places of public accommodation, is hereby continued until and unless later amended or extended by a future Executive Order, provided, however:
 - That effective on June 26, 2020, the reductions and restrictions on the in-person workforce at non-essential businesses or other entities shall no longer apply to Phase Four industries, as determined by the Department of Health, in eligible regions, including:
 - Higher Education;
 - Film and Music Production;
 - Low-risk indoor arts and entertainment;
 - Low-risk outdoor arts and entertainment; and
 - Professional Sports without fans.
 - Businesses or entities in industries open in Phase Four must be operated in compliance with the guidance promulgated by the Department of Health.
 - As of June 26, 2020 the regions meeting the prescribed public health and safety metrics required for Phase Four reopening are: Finger Lakes, Central New York, Mohawk Valley, Southern Tier, and the North Country. Any additional regions which meet the criteria after such date will be deemed to be incorporated into this Executive Order without further revision and will be permitted to re-open Phase Four industries, subject to the same terms and conditions.
 - Any previous directive that restricted operation of any industry, business, or facility that is permitted to open in Phase One, Phase Two, Phase Three, or Phase Four is hereby superseded, only insofar as it is inconsistent with any Executive Order allowing businesses, industries, and facilities to reopen.
- The directive contained in Executive Order 202.44 regarding elective surgeries is hereby amended to provide that the directive contained in Executive Order 202.10 authorizing the Commissioner of Health to direct all general hospitals, ambulatory surgery centers, office-based surgery practices and diagnostic and treatment centers to increase the number of beds available to patients, including by canceling all elective surgeries and procedures, is hereby modified to authorize general hospitals to perform elective surgeries and procedures so long as the established criteria are met currently, whether or not such criteria were met on the dates set forth in such directive, and as modified by the June 14th Department of Health guidance.
- Executive Order 202.34, which extended the directive contained in Executive Orders 202.28, 202.18, 202.14 and 202.4 as amended by Executive Order 202.11 related to the closure of schools statewide, is hereby continued to provide that all schools shall remain closed to in-person instruction except for the purpose of provision of special education services. School districts must ensure the availability of meals, and child care, with an emphasis on serving children of essential workers. Meals may be provided by an alternative entity, provided that the school district shall be responsible for ensuring that all children have access to free meals. Should the students not have access through an alternative entity, the school district must provide the meals.



GIVEN under my hand and the Privy Seal of the
 State in the City of Albany this twenty-
 sixth day of June in the year two
 thousand twenty.

BY THE GOVERNOR

Secretary to the Governor

EXHIBIT “J”



State of New York

Executive Chamber

No. 202.48

EXECUTIVE ORDER

CONTINUING TEMPORARY SUSPENSION AND MODIFICATION OF LAWS RELATING TO THE DISASTER EMERGENCY

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to continue;

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, do hereby continue the suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Order 202 and each successor Executive Order up to and including Executive Order 202.14, as continued and contained in Executive Order 202.27, 202.28, , and 202.38, for another thirty days through August 5, 2020, except the following:

- The suspension or modification of the following statutes and regulations, and the following directives, are not continued, and such statutes, codes, and regulations are in full force and effect as of July 7, 2020:
 - The suspension of Education law section 3604(7), and any associated directives, which allowed for the Commissioner of Education to reduce instructional days, as such suspensions and directives have been superseded by statute, contained in Chapter 107 of the Laws of 2020;
 - The suspension of Section 33.17 of the Mental Hygiene Law and associated regulations to the extent necessary to permit providers to utilize staff members transport individuals receiving services from the Office of Mental Health or a program or provider under the jurisdiction of the Office of Mental Health during the emergency;
 - The suspensions of sections 2800(1)(a) and (2)(a); 2801(1) and (2); 2802(1) and (2); and 2824(2) of the Public Authorities Law, to the extent consistent and necessary to allow the director of the Authorities Budget Office to disregard such deadlines due to a failure by a state or local authority to meet the requirements proscribed within these sections during the period when a properly executed declaration of a state of emergency has been issued, are continued only insofar as they allow a state or local authority a sixty day extension from the original statutory due date for such reports;
 - Section 390-b of the Social Services Law and regulations at sections 413.4 and 415.15 of Title 18 of the NYCRR;
 - Subdivision 8 of section 8-407 of the Election Law;

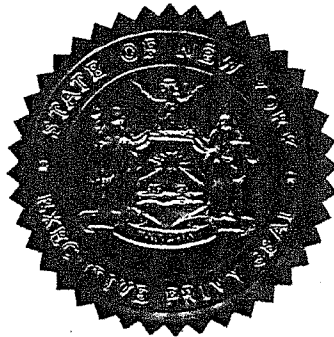
- o The suspension of Criminal Procedure Law to the extent it requires a personal appearance of the defendant, and there is consent, in any jurisdiction where the Court has been authorized to commence in-person appearances by the Chief Administrative Judge; provided further that the suspension or modification of the following provisions of law are continued:
 - Section 150.40 of the Criminal Procedure Law, is hereby modified to provide that the 20-day timeframe for the return date for a desk appearance ticket is extended to 90 days from receiving the appearance ticket;
 - Section 190.80 of the Criminal Procedure Law, is hereby modified to provide that the 45-day time limit to present a matter to the grand jury following a preliminary hearing or waiver continues to be suspended and is tolled for an additional 30 days;
 - Section 30.30 of the Criminal Procedure Law, is hereby modified to require that speedy trial time limitations remain suspended until such time as petit criminal juries are reconvened or thirty days, whichever is later;
 - Article 195 of the Criminal Procedure Law, is hereby suspended to the extent that it would prohibit the use of electronic appearances for certain pleas, provided that the court make a full and explicit inquiry into the waiver and voluntariness thereof;
 - Sections 190.45 and 190.50 of the Criminal Procedure Law, are hereby modified to the extent necessary to allow an incarcerated defendant to appear virtually with his or her counsel before the grand jury to waive immunity and testify in his or her own defense, provided the defendant elects to do so;
 - The suspension of Section 180.80 and 190.80 of the Criminal Procedure Law, as modified by Executive Order 202.28, is hereby continued for a period not to exceed thirty days in any jurisdiction where there is not a grand jury empaneled; and when a new grand jury is empaneled to hear criminal cases, then 180.80 and 190.80 of the criminal procedure law shall no longer be suspended beginning one week after such grand jury is empaneled;
 - The suspension of Sections 180.60 and 245.70 of the Criminal Procedure Law, as modified by Executive Order 202.28, which allowed protective orders to be utilized at preliminary hearings, is hereby continued for a period of thirty days; and
 - The suspension of Sections 182.20, in addition to the modification contained in Executive Order 202.28 of section 182.30 of the Criminal Procedure Law is hereby extended for a period of thirty days, to the extent that it would prohibit the use of electronic appearances for felony pleas, or electronic appearances for preliminary hearings or sentencing;
- o Business Corporation law sections 602, 605, and 708, as such suspensions have been superseded by statute, as contained in Chapter 122 of the Laws of 2020;
- o Banking Law Section 39 (2), as such suspension has been superseded by statute, as contained in Chapters 112 and 126 of the Laws of 2020, as well as the directives contained in Executive Order 202.9;
- o Insurance Law and Banking Law provisions suspended by virtue of Executive Order 202.13, which coincide with the expiration of the Superintendent's emergency regulations;
- o Subdivision (28) of Section 171 of the Tax Law, to the extent that the Commissioner has extended any filing deadline;
- o Sections 3216(d)(1)(c) and 4306 (g) of the Insurance Law, and any associated regulatory authority provided by directive in Executive Order 202.14, as the associated emergency regulations are no longer in effect;
- o The directive contained in Executive Order 202.28, as extended, that prohibited initiation of a proceeding or enforcement of either an eviction of any residential or commercial tenant, for nonpayment of rent or a foreclosure of any residential or commercial mortgage, for nonpayment of such mortgage, is continued only insofar as it applies to a commercial tenant or commercial mortgagor, as it has been superseded by legislation for a residential tenant, and residential mortgagor, in Chapters 112, 126, and 127 of the Laws of 2020; and
- o The directive contained in Executive Order 202.10 related to restrictions, as amended by Executive Order 202.11, related dispensing hydroxychloroquine or chloroquine, as recent findings and the U.S. Food & Drug Administration's revocation of the emergency use authorization has alleviated supply shortages for permitted FDA uses of these medications.
- The directives contained in Executive Order 202.3, that closed video lottery gaming or casino gaming, gym, fitness center or classes, and movie theaters, and the directives contained in Executive Order 202.5 that closed the indoor common portions of retail shopping malls, and all places of public amusement, whether indoors or outdoors, as amended, are hereby modified to provide that such directives remain in effect only until such time as a future Executive Order opening them is issued.

IN ADDITION, I hereby suspend or modify for thirty days through August 5, 2020:

- the provisions of Articles 11-A and 11-B of the State Finance Law, and any regulations authorized thereunder, to the extent necessary to respond to the direct and indirect economic, financial, and social effects of the COVID-19 pandemic.

IN ADDITION, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I do hereby issue the following directives for the period from the date of this Executive Order through August 5, 2020:

- The directive contained in Executive Order 202.41, that discontinued the reductions and restrictions on in-person workforce at non-essential businesses or other entities in Phase Three industries or entities, as determined by the Department of Health, in eligible regions, is hereby modified only to the extent that indoor food services and dining continue to be prohibited in New York City.



GIVEN under my hand and the Privy Seal of the State in the City of Albany this sixth day of July in the year two thousand twenty.

BY THE GOVERNOR

[Signature]
Secretary to the Governor

[Signature]

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

-----X
IL BACCO RESTAURANT CORP., Individually and
on Behalf of all Others Similarly Situated,

Plaintiff,

Against

ANDREW M. CUOMO, in his Official Capacity as
Governor of the State of New York, **ATTORNEY
GENERAL OF THE STATE OF NEW YORK**,
BILL de BLASIO, in his Official Capacity as Mayor
Of the City of New York, and **THE STATE OF NEW
YORK**,

Defendants.

-----X

CLASS ACTION COMPLAINT

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Pursuant to 22 NYCRR Sec. 130-1.1-a(a), the undersigned, an attorney admitted to practice in the
Courts of New York State, certifies that, upon information and belief and reasonable inquiry, the
contention contained in the annexed document are not frivolous.

Dated: August 28, 2020



James G. Mermigis, Esq.