

**SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION
THIRD JUDICIAL DEPARTMENT**

-----x

F.F. on behalf of her minor children, Y.F., E.F. Y.F.;
M. & T. M. on behalf of their minor children, C.M.
and B.M.; E.W., on behalf of his minor son, D.W.;
Rabbi M., on behalf of his minor children I.F.M,
M.M & C.M.; M.H. on behalf of W.G.; C.O., on behalf
of her minor children, C.O., M.O, Z.O. and Y.O;
Y. & M. on behalf of their minor children M.G.,
P.G., M.G., S.G., F.G. and C.G.; J.M. on behalf of
his minor children C.D.M. & M.Y.M.; J.E., on
behalf of his minor children, P.E., M.E., S.E., D.E.,
F.E. and E.E.; C.B. & D.B., on behalf of their
minor children, M.M.B. and R.A.B.; T.F., on behalf
of her minor children, E.F., H.F. and D.F.; L.C., on
behalf of her minor child, M.C.; R.K., on behalf of her
minor child, M.K.; R.S. & D.S., on behalf of their minor
children, E.S. and S.S.; J.M. on behalf of her minor
children, S.M. & A.M.; F.H., on behalf of her minor
children, A.H., H.H. and A.H.; M.E. on behalf of his
minor children, M.E. & P.E.; D.B., on behalf of her
minor children, W.B., L.B. & L.B.; R.B., on behalf
of her minor child, J.B.; L.R., on behalf of her minor
child, E.R.; G.F., on behalf of his minor children, C.F.
& A.F.; D.A., on behalf of her minor children, A.A. &
A.A.; T.R., on behalf of her minor children, S.R. and
F.M.; B.N., on behalf of her minor children, A.N., J.N.
& M.N.; M.K. on behalf of her minor child, A.K.; L.B.,
on behalf of her minor children, B.B., A.B. & S.B.;
A.V.M., on behalf of her minor children, B.M. and G.M.;
N.L., on behalf of her minor children, H.L. & G.L.; L.G.,
on behalf of her minor children, M.C. and C.C.; L.L., on
behalf of her minor child, B.L.; C.A., on behalf of her
minor children, A.A., Y.M.A., Y.A. and M.A.; K.W., on
behalf of her minor child, K.W.; B.K., on behalf of her
minor children, N.K., S.K., R.K. and L.K.; W.E. and C.E.,
on behalf of their minor child, A.E.; R.J. & A.J., on behalf
of their minor child, A.J.; S.Y. & Y.B., on behalf of their
minor children, I.B. and J.B.; T.H., on behalf of her
minor child, J.H.; K.T., on behalf of her minor children,
A.J.T. & A.J.T.; L.M., on behalf of her minor child, M.M.,
D.Y.B., on behalf of her minor child, S.B.; A.M., on
behalf of her minor child, G.M.; F.M., on behalf of his
three minor children, A.M.M., D.M.M. and K.M.M.

H.M., on behalf of her minor child, R.M.; M.T. & R.T., on behalf of their minor child, R.T.; E.H., on behalf of her minor children M.M.S.N. and L.Y.N., Rabbi M.B. on behalf of his minor child, S.B. and S.L. & J.F. on behalf of their minor child C.L., A-M.P., on behalf of her minor child, M.P.; R.L, on behalf of her minor children G.L, A.L and M.L.; N.B., on behalf of her minor child M.A.L.; B.C., on behalf of her minor child, E.H. and J.S. & W.C. on behalf of their minor children M.C. and N.C., S.L., on behalf of his three minor children, A.L., A.L. and A.L., L.M., on behalf of her two minor children, M.M. and M.M., N.H., on behalf of his three minor children, J.H., S.H. and A.H., on their own behalves and on behalf of thousands of similarly-situated parents and children in the State of New York,

Plaintiffs-Appellants,

vs.

STATE OF NEW YORK; ANDREW CUOMO, GOVERNOR
LETITIA JAMES, ATTORNEY GENERAL,

Defendants-Respondents.

-----x

AFFIRMATION OF MICHAEL H. SUSSMAN, ESQ.

Michael H. Sussman, an attorney duly admitted to practice law in the State of New York and in good standing to do so, hereby states and affirms:

1. I am lead counsel for plaintiffs/appellants in this matter. I make his Affirmation based upon my personal involvement in the litigation below and upon review of my office files.
2. Plaintiffs/appellants seek emergency review of the denial by Supreme Court of Albany County [Hartman, A.J.S.C.] by Decision and Order dated August 23, 2019 of their application for a preliminary injunction to maintain the *status quo* and enjoin the exclusion from school of 26,000 caused by the repeal of section 2164 [9] of the Public Health Law which, for 55 years, had allowed an exemption from vaccination for those with a sincerely-held religious belief

opposing this practice. No prior application has been made to this Court. In light of the imminent opening of New York's day care centers and schools and Supreme Court's finding that irreparable harm will derive from implementation of this repeal, appellants seek prompt review of this application.

3. Attached hereto as Exhibits are the following documents:

1. Verified Complaint which initiated this action along with Affidavits of Holland and Rabbi Epstein
2. Decision by Justice Michael Mackey denying TRO
3. Decision by Acting Justice Denise Hartman denying preliminary injunction
4. Transcript of debate in legislature on June 13, 2019
5. Appellants' Notice of Appeal from Justice Hartman's Decision and Order which was filed on August 27, 2019
6. Appellants' three Memoranda of Law as Submitted Below
7. Transcript of oral argument held before Justice Hartman on August 14, 2019

4. I respectfully request oral argument on this application for entry of preliminary injunction. I have provided respondents' counsel with notice of this application [on Sunday, August 25, 2019] and provided her with the papers filed in support of this application at 2:00p.m. on August 27, 2019.

Dated: August 27, 2019

Yours,

Michael H. Sussman

SUSSMAN & ASSOCIATES
1 Railroad Avenue
PO BOX 1005
GOSHEN, NEW YORK 10924
(845)-294-3991
(845)-294-1623
sussman1@frontiernet.net