

At I.A.S. Part IV of the Supreme Court of the State of New York, held in and for the County of New York at the Courthouse located at 60 Centre Street, New York, NY 10003 on the 07 Day of December, 2021.

PRESENT: **HON. FRANK P. NERVO**  
HON. \_\_\_\_\_ J.S.C.  
JUSTICE OF THE SUPREME COURT

*MS # 1: STAY*

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

-----X  
Anthony Marciano, individually, and on behalf of all other individuals similarly situated,

Plaintiff/Petitioner,

-against-

INDEX NO. 160914/21

**ORDER TO SHOW  
CAUSE AND  
TEMPORARY  
RESTRAINING ORDER**

BILL DE BLASIO, MAYOR OF THE CITY OF NEW YORK, in his official capacity; DAVE A. CHOCKSHI, COMMISSIONER OF HEALTH AND MENTAL HYGIENE, in his official capacity; DERMOT SHEA, POLICE COMMISSIONER, in his official capacity; THE NEW YORK CITY BOARD OF HEALTH; and THE CITY OF NEW YORK

Defendants/Respondents.  
-----X

**PLEASE TAKE NOTICE**, that upon review of the Verified Article 78 Petition and Complaint, the annexed affidavit of Anthony Marciano, dated November 30, 2021, and "Exhibits 1 to 7" thereto; together with the affirmation of Patricia Finn, Esq., attorney for the Petitioner/Plaintiff Anthony Marciano, and all others similarly situated, dated November 30, 2021, the accompanying Memorandum of Law, and all papers and proceedings had herein and between the parties, sufficient cause appearing thereof,

LET Respondents\Defendants BILL DE BLASIO, MAYOR OF THE CITY OF NEW YORK, in his official capacity; DAVE A. CHOKSHI, COMMISSIONER OF THE NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE, in his official capacity; DERMOT SHEA, POLICE COMMISSIONER, in his official capacity; THE NEW YORK CITY BOARD OF HEALTH; and THE CITY OF NEW YORK, <sup>OR THEIR COUNSEL,</sup> show cause before IAS Part <sup>IV</sup> of **in-person either at 60 Centre or 80 Centre Street** this Court, <sup>appearances virtually permitted,</sup> located at 60 Centre St, New York, NY 10007 in a **counsel shall contact the Part IV Clerk on Dec. 13 for the assigned courtroom** Room **TBD** thereof, on the **14** day of **Dec.**, 2021 at **11:30 a.** M., or as soon thereafter as counsel may be heard, why an Order should not be entered by this Court:

1. To Stay the enforcement of "ORDER OF THE COMMISSIONER OF HEALTH AND MENTAL HYGIENE TO REQUIRE COVID-19 VACCINATION FOR CITY EMPLOYEES AND CERTAIN CITY CONTRACTORS" (the "Vaccination Order", or the "Order") signed by Respondent Health Commissioner, dated October 20, 2021, and annexed hereto as EXHIBIT 1, and the "SUPPLEMENTAL ORDER OF THE COMMISSIONER OF HEALTH AND MENTAL HYGIENE TO REQUIRE COVID-19 VACCINATION FOR CITY EMPLOYEES AND CERTAIN CITY CONTRACTORS (the "Supplemental Order") signed by Respondent Health Commissioner, dated October 31, 2021, and annexed hereto as EXHIBIT 2.
2. granting such other and further relief as this court deems just and proper.

**ORDERED**, that pending the hearing ~~and determination~~ on this application, the Respondents\Defendants BILL DE BLASIO, MAYOR OF THE CITY OF NEW YORK, in his official capacity; DAVE A. CHOKSHI, COMMISSIONER OF THE NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE, in his official capacity; DERMOT SHEA, POLICE COMMISSIONER, in his official capacity; THE NEW YORK CITY BOARD OF HEALTH; and THE CITY OF NEW YORK, and their agents, servants, employees, attorneys, representatives, assignees, be and thereby are, enjoined and restrained from enforcing, "ORDER OF THE COMMISSIONER OF HEALTH AND MENTAL HYGIENE TO REQUIRE COVID-19 VACCINATION FOR CITY EMPLOYEES AND CERTAIN CITY CONTRACTORS" (the "Vaccination Order", or the "Order") signed by Respondent Health Commissioner, dated October 20, 2021, and annexed hereto as EXHIBIT 1., and the "SUPPLEMENTAL ORDER OF THE COMMISSIONER OF HEALTH AND MENTAL HYGIENE TO REQUIRE COVID-19 VACCINATION FOR CITY EMPLOYEES AND CERTAIN CITY CONTRACTORS (the "Supplemental Order") signed by Respondent Health Commissioner, dated October 31, 2021, and annexed hereto as EXHIBIT 2.

TRO, if any,  
to be heard  
on argument  
date

JSC

and, *it is further*  
*ordered that,*  
^ **SUFFICIENT CAUSE** appearing thereof, ~~at~~ service of a copy of this order, and any other papers upon which this order is granted, made upon BILL DE BLASIO, MAYOR OF THE CITY OF NEW YORK, in his official capacity; DAVE A. CHOKSHI, COMMISSIONER OF THE NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE, in his official capacity; DERMOT SHEA, POLICE COMMISSIONER, in his official capacity; THE NEW YORK CITY BOARD OF HEALTH; and THE CITY OF NEW YORK, by serving the New York City Law Department, Office of the Corporation Counsel, Attorney for

Respondents/Defendants, 100 Church Street, New York, New York 10007, and/or electronically

via the electronic mail address for service provided by the Corporation Counsel:

**and Eugenia Fowlkes, Esq. at efowlkes@law.nyc.gov on or before Dec 8, 2021**

ServiceECF@law.nyc.gov.<sup>^</sup> *shall be deemed good and sufficient service.*

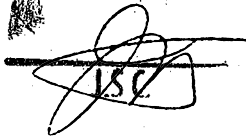
**ORDERED**, that answering papers, if any, shall be served upon Petitioners/Plaintiffs counsel, Patricia Finn, Attorney P.C., 58 East Route 59 Nanuet, NY 10954, and filed with the **via NYSCEF** Court ~~so as to be received in hand by BOTH the Court and Plaintiff's counsel~~ no later than

~~\_\_\_\_\_ M. on Dec. 13~~, 2021. *Ordered that,* ~~Reply papers, if any, shall be served upon~~

~~Plaintiff's counsel and filed with the Court so as to be received in hand by BOTH the Court and Plaintiff's counsel no later than \_\_\_\_\_ M. on \_\_\_\_\_, 2021.~~ **There shall be**

**no papers in reply.**

**ORDERED** that any requests for adjournments shall be made at the time of argument, as above. No other adjournment requests **ENTER:** shall be entertained, absent further order.

**ORAL ARGUMENT  
DIRECTED**  


  
\_\_\_\_\_  
J.S.C.  
**HON. FRANK P. NERVO**  
J.S.C.

**DATES SET FORTH HEREIN MAY NOT BE ADJOURNED OR MODIFIED ABSENT ADVANCE ORDER OF THE COURT.**