

2024

BUSINESS IN 2023

WEEKLY WEBINAR SERIES

2022

2021

2020



BOND

SCHOENECK
& KING ATTORNEYS

Introduction



Adam P. Mastroleo

Member

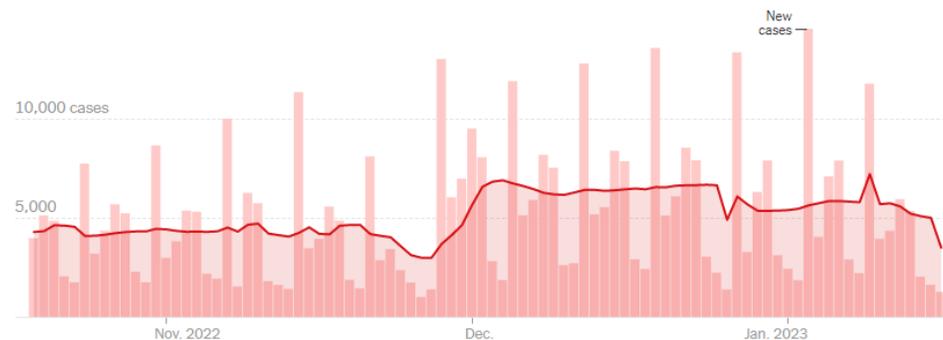
amastroleo@bsk.com

Syracuse, NY

Current COVID Data in New York

New reported cases

All time Last 90 days



Test positivity rate



Hospitalized



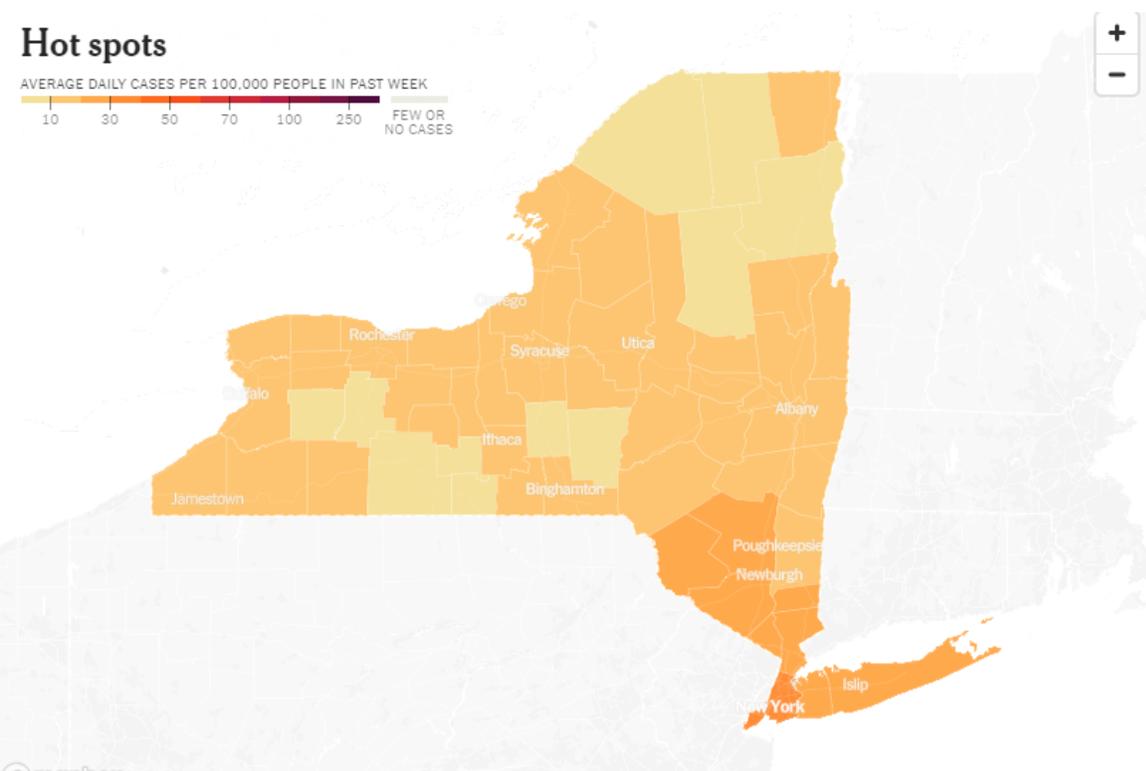
Deaths



DAILY AVG. ON JAN. 16 PER 100,000 14-DAY CHANGE

Cases	3,497	18	-36%
Test positivity	13%	—	-7%
Hospitalized	3,842	20	-13%
In I.C.U.s	399	2	-8%
Deaths	31	<1	+22%

Current COVID Data in New York



	CASES DAILY AVG.	PER 100,000	14-DAY CHANGE	TEST POSITIVITY	HOSPITALIZED AVG. PER 100,000	14-DAY CHANGE	DEATHS DAILY AVG.	PER 100,000
New York	3,497	18	-36%	13%	20	-13%	30.7	0.16
New York City >	3,039	36	Flat	13%	24	-2%	25.4	0.30
Orange >	113	29	-24%	19%	14	-44%	0.3	0.09
Sullivan >	20	26	-1%	13%	7	-72%	0.1	0.13
Putnam >	24	25	-1%	16%	15	Flat	<0.1	0.04
Rockland >	79	24	-16%	17%	6	-42%	0.4	0.14
Westchester >	217	22	-19%	16%	25	+11%	1.1	0.12
Nassau >	299	22	-39%	14%	49	+5%	1.5	0.11
Suffolk >	300	20	-46%	13%	30	+2%	1.5	0.10
Ulster >	36	20	+28%	15%	14	-36%	<0.1	0.04
Dutchess >	59	20	-12%	20%	14	+2%	0.3	0.08

Wage and Hour Developments in 2022



Subhash Viswanathan

Member

suba@bsk.com

Syracuse, NY

Overview – 2022 Wage and Hour Developments

- New York Law
 - Increases to Minimum Wage, Exempt Salary Levels, Hospitality Industry Tip Credits, and Meal and Lodging Allowances
 - Pay Transparency Law
 - Extension of Paid COVID-19 Vaccination Leave Law
- Federal Law
 - Proposed Independent Contractor Rule

Minimum Wage Increase Effective 12/31/22

- Employees other than fast food employees:
 - \$14.20 per hour (up from \$13.20 per hour) in Upstate New York (all areas outside of New York City, Nassau, Suffolk, and Westchester counties)
- Fast food employees:
 - \$15.00 per hour across the state (no change)

Increases to Executive and Administrative Exempt Salary Levels Effective 12/31/22

- \$1,064.25 per week for employers in Upstate New York (increase of \$74.25 per week)
- New York minimum salary levels are inclusive of board, lodging, or other allowances and facilities
- USDOL announced in 2022 its intent to increase the federal minimum salary level of \$684.00 per week for the executive, administrative, and professional employees in 2023
 - Likely will not be more than \$1,064.25 per week, but professional employees in New York likely will be impacted

Increases to Hospitality Industry Maximum Tip Credits Effective 12/31/22

- Food service workers (delivery workers excluded)
 - \$4.75 per hour in Upstate New York, \$9.45 tipped minimum wage (\$0.35 per hour increase to the tip credit, \$0.65 per hour increase to the tipped minimum wage)
- Service employees
 - \$2.35 per hour in Upstate New York, \$11.85 tipped minimum wage (\$0.15 per hour increase to the tip credit, \$0.85 per hour increase to the tipped minimum wage)

Increases to Meal and Lodging Allowances Effective 12/31/22

- \$4.90 per meal for employers in Upstate New York (\$0.35 per meal increase)
- \$6.00 per day for lodging in Upstate New York (\$0.40 per day increase)
- \$11.35 per day for a house/apartment with utilities in Upstate New York (\$0.80 per day increase)

New York State Pay Transparency Law

- Signed December 21, 2022, effective September 17, 2023
- Amendments have been proposed, which will likely be adopted
- The law will require disclosure of the following information in advertisements for jobs, promotions, or transfer opportunities:
 - The compensation or range of compensation; and
 - The job description if it exists
- If paid on a commission basis, the advertisement can simply state that compensation will be based on commission

New York State Pay Transparency Law (cont.)

- Applies to employers with four or more employees
- As amended, the disclosure requirements would apply to:
 - Jobs that will physically be performed, at least in part, in New York
 - Jobs that will physically be performed outside of New York but will report to a supervisor, office, or other work site in New York
- “Advertise” means to make available to a pool of potential applicants for internal or public viewing, including electronically, a written description of an employment opportunity
- NYSDOL regulations are expected before the effective date

Extension of Paid COVID-19 Vaccination Leave Law

- Paid COVID-19 Vaccination Leave Law
 - Went into effect March 12, 2021
 - Initially was set to expire on December 31, 2022
 - On June 28, 2022, the law was extended to December 31, 2023
- Requires employers to provide up to four hours of paid leave for each COVID-19 vaccine injection
 - Includes booster shots

USDOL Proposed Independent Contractor Rule

- Return to “economic realities” test that existed before 2021 independent contractor rule was issued
 - Degree of control exercised by the employer over the worker
 - The worker’s skill or initiative
 - The permanency of the relationship between the parties
 - The worker’s opportunity for profit or loss
 - The worker’s investment in equipment or other resources as compared to the employer’s investment
 - The extent to which the work is an integral part of the employer’s business
- All factors are given equal weight

USDOL Proposed Independent Contractor Rule (cont.)

- Current USDOL rule
 - More weight given to degree of control and opportunity for profit
 - Limited consideration of whether the work is an integral part of the employer's business
 - Made it easier to classify workers as independent contractors for purposes of exclusion from coverage under the Fair Labor Standards Act
- Employers should review whether any current independent contractors should be reclassified as employees if the proposed rule is adopted

New York's Gun Control Legislation



Nicholas P. Jacobson

Associate

njacobson@bsk.com

Syracuse, NY

Where We Started: The *Bruen* Decision

- In *New York State Rifle & Pistol Association, Inc. v. Bruen*, the Supreme Court invalidated New York’s requirement that individuals demonstrate “proper cause” to obtain a permit conceal and carry a firearm outside their home or business
- “Proper cause” required a special need for self-protection different from that of members of the general public, such as specific threats, attacks, or other extraordinary dangers to personal safety

New York's Response: The Concealed Carry Improvement Act ("CCIA")

- On July 1, 2022, Gov. Hochul signed the CCIA, which prohibits individuals from carrying firearms in "sensitive locations," including (with limited exceptions):
 - Government buildings, healthcare facilities, religious institutions, casinos, libraries, public parks, schools, or colleges, and on public transportation and anywhere licensed to serve alcohol or cannabis
- The law also prohibits the possession of a firearm in a "restricted areas" (with limited exceptions):
 - Private property
 - Where the owner has not posted clear and conspicuous signage indicating that the possession of firearms is permitted

Immediate Legal Challenge: *Antonyuk v. Hochul*

- The CCIA was subject to immediate legal challenge in the N.D.N.Y. in *Antonyuk v. Hochul*
- District Court granted a temporary restraining order substantially limiting enforcement of the CCIA
 - Second Circuit granted temporary stay pending review by appellate panel
- District Court granted a preliminary injunction substantially limiting enforcement and denied the State's request for a stay pending appeal
 - Second Circuit granted temporary stay pending further review

Recent Developments

- Challengers to the CClA made an emergency request to the Supreme Court to vacate the Second Circuit's temporary stay; the State opposed
- On January 11, 2023, the Supreme Court issued a unanimous decision denying the challenger's emergency request to vacate the stay
- Justices Alito and Thomas issued a statement noting the decision was a procedural step rather than a ruling on the CClA's constitutionality

Where Do We Stand?

- While the law is currently in effect in light of the Second Circuit's temporary stay, the legal challenge is continuing
- Continue to monitor developments
- In the meantime, employers and business owners should consider adopting policies and posting signage advising of their rules regarding the possession of firearms on their property

Cybersecurity Developments in 2022



Amber L. Lawyer

Associate

alawyer@bsk.com

Syracuse, NY

Looking Forward / Looking Back

The 22-23 Higher Education Landscape



Seth F. Gilbertson

Senior Counsel

sgilbertson@bsk.com

Buffalo, NY

Speech issues, politics on campus, and social media

- Students generally less tolerant of opposing views, particularly speech they view as discriminatory
- Some politicians and political groups less tolerant of academic freedom and the teaching of lessons or viewpoints with which they disagree
- Social media and the “outrage economy” exacerbates divisions and turns campus debates into national news

Speech issues, politics on campus, and social media

Colleges and universities caught in the middle on issues such as:

- **Defending Free Speech Policies**
- **Controversial New Laws**
- **Enforcing Nondiscrimination Policies**
- **Managing Campus Protests**
- **Preventing Online Harassment**
- **Student Conduct**
- **Employee Discipline**

Redefining “student athlete”

- Name Image and Likeness (NIL) deals
- “Amateur” athletes as employees?
- Sports betting widespread and accepted
- Conference realignment
- Power Five Football and Men’s BB Tournament dominate
- Can the NCAA survive?

Student and employee mental health

- National “mental health crisis” hit college campuses hard
- Student demand for services higher than ever
 - Many struggle to keep up with demand for counseling
- Effects on workforce seen at all levels
 - Largest portion of accommodation requests
- Increased attention on handling of high-risk students

Web/digital accessibility

- Colleges and universities doing more than ever online
- Litigation continues
- OCR case processing changes opened door for unaffiliated complainants
 - **Regulations on the way**
- Many vendors noncompliant

Enrollment challenges

- Changing demographics continue to reshape higher education
- Continued strong job market making college less desirable or necessary for some potential students
- International student enrollment highly variable in recent years
- Colleges and universities squeezed between decreased enrollment and increased regulatory demands

Cybersecurity

- Colleges and universities have been a major focus of cybercriminals
 - Soft target for ransomware
- Challenge to the decentralized and open nature of campuses
 - Are technology offices policymakers or service providers?
- Insurance landscape is changing
 - Higher cost & less coverage

COVID Update

Adam Mastroleo, amastroleo@bsk.com

Wage and Hour Developments in 2022

Suba Viswanathan, suba@bsk.com

New York's Gun Control Legislation

Nick Jacobson, njacobson@bsk.com

Cybersecurity Developments in 2022

Amber Lawyer, alawyer@bsk.com

Looking Forward / Looking Back

The 22-23 Higher Education Landscape

Seth Gilbertson, sgilbertson@bsk.com

New York Employment Law: The Essential Guide

NYS Bar Association Members can buy the book from the bar [here](#).

Non-NYS Bar Association Members can purchase through Amazon [here](#).

Thank You

The information in this presentation is intended as general background information.
It is not to be considered as legal advice.
Laws can change often, and information may become outdated.

All rights reserved.

This presentation may not be reprinted or duplicated in any form without the express written authorization of Bond, Schoeneck & King PLLC.