

THE CANNABIS INDUSTRY INFORMATION MEMO

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Puff, Puff, Pause: Federal Court Upholds Injunction Blocking New York's Cannabis Dispensary Rollout

As we previously wrote, on Nov. 10, 2022, the U.S. District Court for the Northern District of New York (Court) enjoined the New York State Office of Cannabis Management (OCM) from issuing any conditional adult-use retail dispensary (CAURD) licenses in the Finger Lakes, Central New York, Western New York, Mid-Hudson and Brooklyn geographic areas (Preliminary Injunction). On Jan. 31, 2023, the Court denied motions to dismiss the Preliminary Injunction, further delaying the rollout of New York's CAURD locations (Decision).

In its Decision, the Court wrote that Variscite, a Michigan-based dispensary applicant, is unconstitutionally disadvantaged in obtaining a CAURD license because the New York cannabis regulations favor New York residents over out-of-state residents. The Court also declined to limit the scope of the Preliminary Injunction to the Finger Lakes region despite the harm the Preliminary Injunction is likely to cause farmers, commercial landlords, consumers and New York State in general.

The OCM and New York State have since appealed the Decision, and it will now go up to the U.S. Court of Appeals for the Second Circuit. While New York's first legal recreational cannabis sale happened on Dec. 29, 2022, only two licensed retailers have opened so far, both of which are in Manhattan. With all eyes now shifting to how the Second Circuit may rule, New York State must still resolve its issue of [gray market shops that have continued to thrive](#) without any competition from licensed dispensaries.

Bond's cannabis attorneys continue to closely monitor developments surrounding New York's cannabis industry. For questions about the information provided above or about the cannabis industry in general, please contact [Dustin M. Dorsino](#) or the Bond attorney with whom you are regularly in contact.



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