

THE CANNABIS INDUSTRY INFORMATION MEMO

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Second Circuit Limits Reach of Injunction Affecting New York's Cannabis Licensing Program

As we previously wrote, New York State (State) and the Office of Cannabis Management (OCM) appealed a district court's decision not to dismiss a preliminary injunction barring the OCM from issuing 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 Tuesday, March 28, 2023, the U.S. Court of Appeals for the Second Circuit (Court) granted the State and OCM's motion to narrow the scope of the Preliminary Injunction pending their appeal.

The Court modified the Preliminary Injunction so that it only bars the OCM from issuing CAURD licenses in the Finger Lakes region (Orleans, Monroe, Wayne, Genesee, Wyoming, Livingston, Ontario, Yates and Seneca counties). The State and OCM had initially argued that, based on licensing procedures and the number of CAURD applications received, that Variscite, a Michigan-based dispensary applicant, would only be eligible for a license in the Finger Lakes region.

While the Court's order will now allow the OCM to issue CAURD licenses in the Central New York, Western New York, Mid-Hudson and Brooklyn geographic areas, the Court must still decide on the merits of the State and OCM's appeal with respect to the Preliminary Injunction, which could have larger implications for the State's cannabis licensing program as a whole.

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.

