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## Introduction



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## NY Division of Human Rights Developments



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## Farm Labor Unionization Update



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## Unionization of Farm Laborers

- New York State Legislature Amended the New York State Labor Law to provide farm laborers with the right to organize and negotiate a collective bargaining agreement
- Effective January 1, 2020
- New York State Public Employment Relations Board (“PERB”) – agency that enforces the provisions applicable to farm laborers



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## Unionization of Farm Laborers

- Eastern Long Island has seen activity: Local 338, RWDSU/UFCW
- A Petition for Investigation and Certification of Representatives Pursuant to Section 705 of the New York State Employment Relations Act must be filed with the Board:
  - Once an employer receives this Petition for Certification it will be very difficult to stop a union from forming
  - **This may be the first time that the employer even learns that employees want to unionize**
- Once the Petition for Certification is filed- difficult to stop the process



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## Unionization of Farm Laborers

Will there be an election?

- Probably not, unless:
  - Union **cannot** show that a majority of employees have executed a dues deduction authorization card (cards submitted directly to PERB – employer never gets to see the cards)
  - Employer has clear and convincing evidence that dues deduction authorization cards were received by the Union due to fraud or coercion
  - There is more than one union attempting to be certified as the bargaining organization



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## Update from Albany



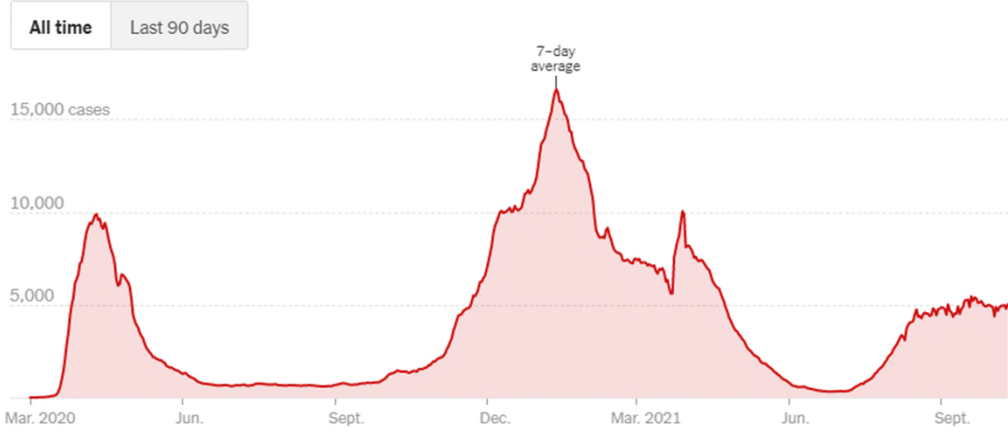
### Caitlin A. Anderson

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New reported cases



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DAILY AVG. ON OCT. 4      14-DAY CHANGE

Cases	4,865	-7%
Tests	159,983	+17%
Hospitalized	2,695	-5%
Deaths	39	+18%

DAILY AVG. ON OCT. 11      14-DAY CHANGE

Cases	5,019	+2%
Tests	155,342	+3%
Hospitalized	2,583	-7%
Deaths	35	-13%

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## Vaccination progress

- All New Yorkers:
  - 64% fully vaccinated
  - 72% one dose
- 12 and older:
  - 75% fully vaccinated
  - 84% one dose

## Vaccine Mandate Updates

- Office of Mental Health: Vaccine mandate for psychiatric hospitals
- Office for People with Developmental Disabilities: Vaccine mandate for certified specialty hospital employees.
- Both mandates:
  - Must submit to weekly testing beginning Oct. 12 if unvaccinated.
  - Must have one dose by Nov. 1, no test out option.
  - **Medical exemption only.**

## Vaccine Mandate Updates

- *Dr. A. v. Gov. Hochul*: Preliminary Injunction granted TODAY
  - Previously: U.S. District Court Judge Hurd extended TRO to October 12, 2021.
    - Cancelled hearing for TRO, is only relying on written arguments.
- What is the legal standard for a preliminary injunction?
  - Balancing test: (1) likelihood of irreparable harm, (2) either (a) likelihood of success on merits or (b) sufficiently serious questions as to merits + balance of hardships, (3) balance of hardship tips in plaintiffs' favor regardless of the likelihood of success, and (4) injunction in public interest.
  - Generally: Cases involving legislation/regulation are “entitled to a higher degree of deference and should not be enjoined lightly.”



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## *Dr. A. v. Gov. Hochul*

- What does the preliminary injunction do here?
  - The State cannot enforce any requirement that employers deny or revoke religious exemptions for the COVID-19 vaccine under the emergency regulation.
  - The State cannot take action against any medical professional who has obtained a religious exemption from the COVID-19 vaccine.



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## *Dr. A. v. Gov. Hochul*

- Remaining Questions:
  - Will the State appeal the decision?
  - What about the new emergency regulations from OMH and OPWDD?



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## Other New York COVID-19 News

- No, there is no mandate from DMV that a person must be vaccinated to renew their license.
- Ivermectin: 14 court cases filed in New York so that plaintiffs (or their relatives) may use ivermectin.
  - Ivermectin: approved and more commonly used to treat/prevent parasites in animals, is approved in U.S. for *some* human infections (parasitic worms, head lice, some skin conditions). Not approved for treating COVID-19.
  - Of these cases: 4 judges have ordered hospitals to administer Ivermectin, 4 resolved prior to decision.



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## COVID Leave Summary and “Mailbag” Questions



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### Update from Albany

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