

**City of New York v County of Rockland**

2023 NY Slip Op 32576(U)

July 26, 2023

Supreme Court, New York County

Docket Number: Index No. 451368/2023

Judge: Lyle E. Frank

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. LYLE E. FRANK PART 11M

Justice

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THE CITY OF NEW YORK, MOLLY WASOW PARK,

Petitioner,

- v -

COUNTY OF ROCKLAND, NEW YORK, EDWIN J. DAY, COUNTY OF ORANGE, NEW YORK, STEVEN M. NEUHAUS, COUNTY OF DUTCHESS, NEW YORK, WILLIAM F.X. ONEIL, COUNTY OF ONONDAGA, NEW YORK, J RYAN MCMAHON, COUNTY OF BROOME, NEW YORK, JASON T. GARNAR, COUNTY OF CAYUGA, NEW YORK, DAVID S. GOULD, COUNTY OF CHAUTAUQUA, NEW YORK, PAUL M. WENDEL, COUNTY OF CHEMUNG, NEW YORK, CHRISTOPHER J. MOSS, COUNTY OF CORTLAND, NEW YORK, KEVIN J. FITCH, COUNTY OF DELAWARE, NEW YORK, TINA MOLE, COUNTY OF FULTON, NEW YORK, SCOTT HORTON, COUNTY OF GENESEE, NEW YORK, L MATTHEW LANDERS, COUNTY OF GREENE, NEW YORK, PATRICK S. LINGER, COUNTY OF HERKIMER, NEW YORK, VINCENT J. BONO, COUNTY OF MADISON, NEW YORK, JOHN M. BECKER, COUNTY OF NIAGARA, NEW YORK, REBECCA WYDYSH, COUNTY OF ONEIDA, NEW YORK, ANTHONY J. PICENTE, COUNTY OF ORLEANS, NEW YORK, LYNNE M. JOHNSON M. JOHNSON, COUNTY OF OSWEGO, NEW YORK, JAMES WEATHERUP, COUNTY OF OTSEGO, NEW YORK, DAVID BLISS, COUNTY OF PUTNAM, NEW YORK, KEVIN M. BYRNE, COUNTY OF RENSSELAER, NEW YORK, STEVEN F. MCLAUGHLIN, TOWN OF RIVERHEAD, NEW YORK, YVETTE M. AGUIAR, COUNTY OF SARATOGA, NEW YORK, THEODORE T. KUSNIERZ, COUNTY OF SCHOHARIE, NEW YORK, WILLIAM A. FEDERICE, COUNTY OF SCHUYLER, NEW YORK, CARL H. BLOWERS, COUNTY OF SUFFOLK, NEW YORK, STEVEN BELLONE, COUNTY OF SULLIVAN, NEW YORK, JOSHUA A. POTOSEK, COUNTY OF TIOGA, NEW YORK, MARTHA C. SAUERBREY, COUNTY OF WARREN, NEW YORK, KEVIN B. GERAGHTY, COUNTY OF WYOMING, NEW YORK, REBECCA J. RYAN, JOHN OR JANE DOE COUNTIES, JOHN OR JANE DOE,

Respondent.

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INDEX NO. 451368/2023
MOTION DATE 06/09/2023
MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 33, 60, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 115, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 260, 263, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 443, 444, 445, 446, 447, 449, 450, 453, 454, 471, 476, 477, 478, 479, 480, 481, 482, 483, 507

were read on this motion to/for PREL INJUNCTION/TEMP REST ORDR.

The instant action arises out of petitioners', The City of New York and Molly Wasow Park, in her official capacity as Commissioner of the New York City Department of Social Services (collectively "the City") challenge to respondents' Executive Orders with respect to petitioners' attempt to relocate migrants to the respective counties and towns. Petitioners seek to consolidate this action with five actions already pending in other counties, as well as a preliminary injunction enjoining respondents from enforcing its Executive Orders.

The Court has already issued numerous orders with respect to 28 respondents named in the instant petition, accordingly the Court now addresses the remaining respondents, County of Rockland, New York, Edwin J. Day, in his official capacity as County Executive of Rockland County, County of Orange, New York, Steven M. Neuhaus, in his official capacity as County Executive of Orange County and County of Putnam, Kevin M. Byrne, in his official capacity as County Executive of Putnam County.

Preliminarily, the Court notes that the Putnam County respondents have alerted the Court, as well as the parties in the within action, via NYSCEF Doc. 583, that Putnam County no longer has a valid Executive Order as such has expired today, July 26, 2023. Accordingly, as this Court has held with similarly situated respondents, the petition is dismissed as against the Putnam County respondents.

With respect to the Rockland and Orange County respondents, it is undisputed that there are actions pending in those respective counties. The Court finds, as it previously has with similarly situated respondents, that the City has failed to establish any compelling circumstances as to warrant that venue remain in New York County in violation of the applicable statutes that mandate the judicial proceeding or action against a county to be in said county or in the “judicial district where the respondent made the determination complained of.” CPLR §§ 504, 506(b).

Accordingly, it is hereby

ORDERED that the petition is dismissed in its entirety as against the County of Putnam, Kevin M. Byrne, in his official capacity as County Executive of Putnam County; and it is further

ORDERED that the motion for a change of venue and to sever is granted and venue of this action as against respondents, County of Rockland, New York, Edwin J. Day, in his official capacity as County Executive of Rockland County, is changed from this Court to the Supreme Court, County of Rockland; and it is further

ORDERED that the motion for a change of venue and to sever is granted and venue of this action as against respondents, the County of Orange, New York, Steven M. Neuhaus, in his official capacity as County Executive of Orange County, is changed from this Court to the Supreme Court, County of Orange; and it is further

ORDERED that the Clerk of this Court shall transfer the file in this action to the Clerk of the Supreme Court, County of Rockland and County of Orange and shall mark his records to reflect such transfer; and it is further

ORDERED that, within 30 days from entry of this order, counsel for movant shall serve a copy of this order with notice of entry upon the Clerk of this Court, shall pay the appropriate

transfer fee, if any, and shall contact the staff of the Clerk of this Court and cooperate in effectuating the transfer; and it is further

ORDERED that the Clerk of the Court shall coordinate the transfer of the file in this action with the Clerk of the Supreme Court, Rockland County, and Orange County so as to ensure an efficient transfer and minimize insofar as practical the reproduction of documents, including with regard to any documents that may be in digital format; and it is further

ORDERED that such service upon the Clerk of the Court and the Clerk of the General Clerk’s Office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the “E-Filing” page on the court’s website at the address [www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh)); and it is further

ORDERED that any relief not addressed specifically herein is expressly denied.

7/26/2023

DATE

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LYLE E. FRANK, J.S.C.

CHECK ONE:

CASE DISPOSED  
GRANTED  DENIED  
SETTLE ORDER  
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION  
GRANTED IN PART  OTHER  
SUBMIT ORDER  
FIDUCIARY APPOINTMENT  REFERENCE