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**U.S. District Court  
Southern District of New York (Foley Square)  
CIVIL DOCKET FOR CASE #: 1:20-cv-03020-JPO**

State of New York v. United States Department of Labor et al  
Assigned to: Judge J. Paul Oetken  
Cause: 05:702 Administrative Procedure Act

Date Filed: 04/14/2020  
Date Terminated: 08/25/2020  
Jury Demand: None  
Nature of Suit: 899 Other Statutes:  
Administrative Procedures Act/Review or  
Appeal of Agency Decision  
Jurisdiction: U.S. Government Defendant

**Plaintiff**

**State of New York**

represented by **Daniela Nogueira**  
NYS Office of The Attorney General  
28 Liberty Street  
New York, NY 10005  
212-416-6544  
Email: daniela.nogueira@ag.ny.gov  
*ATTORNEY TO BE NOTICED*

**Fiona Jeannette Kaye**  
NYS Office of The Attorney General  
28 Liberty Street  
New York, NY 10005  
212-416-8036  
Email: Fiona.Kaye@ag.ny.gov  
*ATTORNEY TO BE NOTICED*

**Matthew Colangelo**  
New York State Office of the Attorney  
General (28 Liberty)  
28 Liberty Street, 15th Floor  
New York, NY 10005  
212 416 6057  
Fax: 212 416 6007  
Email: Matthew.Colangelo@ag.ny.gov  
*ATTORNEY TO BE NOTICED*

V.

**Defendant**

**United States Department of Labor**

represented by **Jennifer Ann Jude**  
United States Attorney's Office SDNY  
86 Chambers St.

New York, NY 10007  
 (212)-637-2663  
 Fax: (212)-637-2686  
 Email: jennifer.jude@usdoj.gov  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Stephen Seungkun Cha-Kim**  
 United States Attorney's Office  
 Southern District Of New York  
 86 Chambers Street, Third Floor  
 New York, NY 10007  
 212-637-2768  
 Fax: 212-637-2702  
 Email: Stephen.Cha-Kim@usdoj.gov  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Eugene Scalia**

*in his official capacity as Secretary of Labor*

represented by **Jennifer Ann Jude**  
 (See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Stephen Seungkun Cha-Kim**  
 (See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Amicus**

**Service Employees International Union**

represented by **Allyson Leigh Belovin**  
 Levy Ratner, P.C.  
 80 Eighth Avenue, Floor 8  
 New York, NY 10011  
 212-627-8100  
 Fax: 212-627-8182  
 Email: abelovin@levyratner.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Amicus**

**1199SEIU, United Healthcare Workers East**

represented by **Allyson Leigh Belovin**  
 (See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
04/14/2020	<a href="#"><u>1</u></a> <b>R</b>	COMPLAINT against Eugene Scalia, United States Department of Labor. (Filing Fee \$ 400.00, Receipt Number ANYSDC-19440148) Document filed by State of New York. (Attachments: # <a href="#"><u>1</u></a> Exhibit 1, # <a href="#"><u>2</u></a> Exhibit 2, # <a href="#"><u>3</u></a> Exhibit 3, # <a href="#"><u>4</u></a> Exhibit 4).(Colangelo, Matthew) (Entered: 04/14/2020)

04/14/2020	<a href="#">2</a>	CIVIL COVER SHEET filed..(Colangelo, Matthew) (Entered: 04/14/2020)
04/14/2020	<a href="#">3</a> <b>R</b>	MOTION for Summary Judgment . Document filed by State of New York..(Colangelo, Matthew) (Entered: 04/14/2020)
04/14/2020	<a href="#">4</a> <b>R</b>	MEMORANDUM OF LAW in Support re: <a href="#">3</a> <b>R</b> MOTION for Summary Judgment . . Document filed by State of New York..(Colangelo, Matthew) (Entered: 04/14/2020)
04/14/2020	<a href="#">5</a>	MOTION to Expedite ( <i>Plaintiff's motion to shorten Defendants' time to respond to Plaintiff's motion for summary judgment</i> ). Document filed by State of New York.. (Colangelo, Matthew) (Entered: 04/14/2020)
04/15/2020	<a href="#">6</a>	REQUEST FOR ISSUANCE OF SUMMONS as to United States Department of Labor, re: <a href="#">1</a> <b>R</b> Complaint,. Document filed by State of New York..(Colangelo, Matthew) (Entered: 04/15/2020)
04/15/2020	<a href="#">7</a>	REQUEST FOR ISSUANCE OF SUMMONS as to Eugene Scalia, in his official capacity as Secretary of Labor, re: <a href="#">1</a> <b>R</b> Complaint,. Document filed by State of New York..(Colangelo, Matthew) (Entered: 04/15/2020)
04/15/2020		<b>***NOTICE TO ATTORNEY REGARDING PARTY MODIFICATION. Notice to attorney Matthew Colangelo. The party information for the following party/parties has been modified: Eugene Scalia, United States Department of Labor, State of New York. The information for the party/parties has been modified for the following reason/reasons: do not include party names as party text. (pc)</b> (Entered: 04/15/2020)
04/15/2020		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above-entitled action is assigned to Judge J. Paul Oetken. Please download and review the Individual Practices of the assigned District Judge, located at <a href="https://nysd.uscourts.gov/judges/district-judges">https://nysd.uscourts.gov/judges/district-judges</a> . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at <a href="https://nysd.uscourts.gov/rules/ecf-related-instructions">https://nysd.uscourts.gov/rules/ecf-related-instructions</a> ..(pc) (Entered: 04/15/2020)
04/15/2020		Magistrate Judge Debra C. Freeman is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: <a href="https://nysd.uscourts.gov/sites/default/files/2018-06/AO-3.pdf">https://nysd.uscourts.gov/sites/default/files/2018-06/AO-3.pdf</a> . (pc) (Entered: 04/15/2020)
04/15/2020		Case Designated ECF. (pc) (Entered: 04/15/2020)
04/15/2020	<a href="#">8</a>	NOTICE OF APPEARANCE by Fiona Jeannette Kaye on behalf of State of New York.. (Kaye, Fiona) (Entered: 04/15/2020)
04/15/2020	<a href="#">9</a>	ELECTRONIC SUMMONS ISSUED as to Eugene Scalia..(pc) (Entered: 04/15/2020)
04/15/2020	<a href="#">10</a>	ELECTRONIC SUMMONS ISSUED as to United States Department of Labor..(pc) (Entered: 04/15/2020)
04/16/2020	<a href="#">11</a>	CONSENT LETTER MOTION for Leave to File Letter motion to permit service of the summons and complaint by email addressed to Judge J. Paul Oetken from Matthew Colangelo dated April 16, 2020. Document filed by State of New York..(Colangelo, Matthew) (Entered: 04/16/2020)
04/16/2020	12	ORDER granting <a href="#">11</a> Letter Motion for Leave to File Document. GRANTED. PLAINTIFF MAY SERVE THE SUMMONS AND COMPLAINT ON DEFENDANTS

		BY EMAIL. SO ORDERED. (HEREBY ORDERED by Judge J. Paul Oetken)(Text Only Order) (el) (Entered: 04/16/2020)
04/16/2020	<a href="#">13</a>	ORDER with respect to <a href="#">5</a> Letter Motion to Expedite. Defendants are hereby directed to respond to Plaintiffs motion for expedited consideration of Plaintiff's motion for summary judgment by April 17, 2020. (See Dkt. No. 5.) Plaintiff's counsel is directed to serve this order on Defendants by email by 6:00 p.m. today, April 16, 2020. SO ORDERED.. (Signed by Judge J. Paul Oetken on 4/16/2020) (js) (Entered: 04/16/2020)
04/16/2020		Set/Reset Deadlines as to <a href="#">5</a> MOTION to Expedite ( <i>Plaintiff's motion to shorten Defendants' time to respond to Plaintiff's motion for summary judgment</i> ).. Responses due by 4/17/2020 (js) (Entered: 04/16/2020)
04/17/2020	<a href="#">14</a> <b>R</b>	RESPONSE in Opposition to Motion re: <a href="#">5</a> MOTION to Expedite ( <i>Plaintiff's motion to shorten Defendants' time to respond to Plaintiff's motion for summary judgment</i> ). . Document filed by Eugene Scalia, United States Department of Labor..(Cha-Kim, Stephen) (Entered: 04/17/2020)
04/17/2020	<a href="#">15</a>	NOTICE OF APPEARANCE by Stephen Seungkun Cha-Kim on behalf of Eugene Scalia, United States Department of Labor..(Cha-Kim, Stephen) (Entered: 04/17/2020)
04/17/2020	<a href="#">16</a>	NOTICE OF APPEARANCE by Jennifer Ann Jude on behalf of Eugene Scalia, United States Department of Labor..(Jude, Jennifer) (Entered: 04/17/2020)
04/20/2020	<a href="#">17</a>	NOTICE OF APPEARANCE by Daniela Nogueira on behalf of State of New York.. (Nogueira, Daniela) (Entered: 04/20/2020)
04/20/2020	18	ORDER granting in part and denying in part <a href="#">5</a> Letter Motion to Expedite. GRANTED IN PART. DEFENDANTS SHALL FILE A RESPONSE TO THE MOTION FOR SUMMARY JUDGMENT ON OR BEFORE APRIL 28, 2020. PLAINTIFF MAY FILE A REPLY WITHIN SEVEN DAYS OF THE FILING OF DEFENDANTS RESPONSE. (HEREBY ORDERED by Judge J. Paul Oetken)(Text Only Order) (el) (Entered: 04/20/2020)
04/23/2020	<a href="#">19</a>	LETTER MOTION for Leave to File Reply in Support of Cross-Motion <i>and Set Oral Argument Date</i> addressed to Judge J. Paul Oetken from Stephen Cha-Kim dated 4/23/2020. Document filed by Eugene Scalia, United States Department of Labor..(Cha-Kim, Stephen) (Entered: 04/23/2020)
04/25/2020	<a href="#">20</a>	LETTER MOTION for Leave to File Excess Pages addressed to Judge J. Paul Oetken from Stephen Cha-Kim dated 4/25/2020. Document filed by Eugene Scalia, United States Department of Labor..(Cha-Kim, Stephen) (Entered: 04/25/2020)
04/27/2020	21	ORDER granting in part and denying in part <a href="#">19</a> Letter Motion for Leave to File Document. GRANTED IN PART. DEFENDANTS SHALL FILE THEIR RESPONSE TO PLAINTIFFS MOTION FOR SUMMARY JUDGMENT, AS WELL AS ANY CROSS-MOTION, ON OR BEFORE APRIL 28, 2020, IN A SINGLE BRIEF. PLAINTIFF SHALL FILE ANY REPLY IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT AND ANY OPPOSITION TO DEFENDANT'S CROSS-MOTION, IN A SINGLE BRIEF, ON OR BEFORE MAY 5, 2020. DEFENDANTS SHALL FILE ANY REPLY IN FURTHER SUPPORT OF THEIR CROSS-MOTION ON OR BEFORE MAY 9, 2020. SO ORDERED. (HEREBY ORDERED by Judge J. Paul Oetken)(Text Only Order) (el) (Entered: 04/27/2020)
04/27/2020	22	ORDER granting <a href="#">20</a> Letter Motion for Leave to File Excess Pages. GRANTED. DEFENDANTS MAY FILE A BRIEF UP TO BUT NOT EXCEEDING THIRTY-FIVE (35) PAGES. SO ORDERED. (HEREBY ORDERED by Judge J. Paul Oetken) (Text Only Order) (el) (Entered: 04/27/2020)

04/27/2020	23	NOTICE. THE PARTIES ARE DIRECTED TO APPEAR TELEPHONICALLY FOR A HEARING REGARDING THE PENDING MOTION FOR SUMMARY JUDGMENT AND ANY CROSS-MOTION ON MAY 12, 2020, AT 2:00PM. COUNSEL FOR THE PARTIES ARE DIRECTED TO CALL (888) 557-8511 AT THE SCHEDULED TIME. THE ACCESS CODE IS 9300838. SO ORDERED. (HEREBY ORDERED by Judge J. Paul Oetken) (Text Only Order) (el) (Entered: 04/27/2020)
04/28/2020	<a href="#">24</a>	MOTION to Dismiss for Lack of Jurisdiction ., CROSS MOTION for Summary Judgment . Document filed by Eugene Scalia, United States Department of Labor..(Cha-Kim, Stephen) (Entered: 04/28/2020)
04/28/2020	<a href="#">25</a>	MEMORANDUM OF LAW in Support re: <a href="#">24</a> MOTION to Dismiss for Lack of Jurisdiction .CROSS MOTION for Summary Judgment . <i>and in Opposition to Plaintiff's Motion for Summary Judgment</i> . Document filed by Eugene Scalia, United States Department of Labor..(Cha-Kim, Stephen) (Entered: 04/28/2020)
05/05/2020	<a href="#">26</a>	DECLARATION of Matthew Colangelo in Opposition re: <a href="#">24</a> MOTION to Dismiss for Lack of Jurisdiction .CROSS MOTION for Summary Judgment .. Document filed by State of New York. (Attachments: # <a href="#">1</a> Exhibit 1 (Declaration of Dr. Heather Boushey), # <a href="#">2</a> Exhibit 2 (Declaration of Dr. Leighton Ku), # <a href="#">3</a> Exhibit 3 (Declaration of Deputy Commissioner Scott Palladino), # <a href="#">4</a> Exhibit 4 (Declaration of Megan Thorsfeldt)). (Colangelo, Matthew) (Entered: 05/05/2020)
05/05/2020	<a href="#">27</a> <b>R</b>	MEMORANDUM OF LAW in Opposition re: <a href="#">24</a> MOTION to Dismiss for Lack of Jurisdiction .CROSS MOTION for Summary Judgment . ( <i>Plaintiff's Memorandum of Law in Opposition to Defendants' Motion to Dismiss and Cross-Motion for Summary Judgment, and Reply in Support of Plaintiff's Motion for Summary Judgment</i> ). Document filed by State of New York..(Colangelo, Matthew) (Entered: 05/05/2020)
05/06/2020	<a href="#">28</a>	LETTER MOTION for Leave to File Excess Pages <i>for Reply Brief</i> addressed to Judge J. Paul Oetken from Jennifer Jude dated 5/6/20. Document filed by Eugene Scalia, United States Department of Labor..(Jude, Jennifer) (Entered: 05/06/2020)
05/07/2020	29	ORDER granting <a href="#">28</a> Letter Motion for Leave to File Excess Pages. GRANTED. DEFENDANTS MAY FILE A REPLY MEMORANDUM NOT TO EXCEED FIFTEEN (15) PAGES. SO ORDERED. (HEREBY ORDERED by Judge J. Paul Oetken)(Text Only Order) (el) (Entered: 05/07/2020)
05/09/2020	<a href="#">30</a>	REPLY MEMORANDUM OF LAW in Support re: <a href="#">24</a> MOTION to Dismiss for Lack of Jurisdiction .CROSS MOTION for Summary Judgment . <i>and in Opposition to Plaintiff's Motion for Summary Judgment</i> . Document filed by Eugene Scalia, United States Department of Labor..(Cha-Kim, Stephen) (Entered: 05/09/2020)
05/11/2020	<a href="#">31</a>	MOTION to File Amicus Brief . Document filed by Service Employees International Union, 1199SEIU, United Healthcare Workers East. (Attachments: # <a href="#">1</a> <b>R</b> [PROPOSED] BRIEF OF AMICI CURIAE SERVICE EMPLOYEES INTERNATIONAL UNION AND 1199SEIU, UNITED HEALTHCARE WORKERS EAST IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT). (Belovin, Allyson) (Entered: 05/11/2020)
05/12/2020		Minute Entry for proceedings held before Judge J. Paul Oetken: Telephone Conference held on 5/12/2020. Telephonic oral argument held. Decision reserved. (See transcript) (kgo) (Entered: 05/12/2020)
05/18/2020	<a href="#">32</a>	TRANSCRIPT of Proceedings re: CONFERENCE held on 5/12/2020 before Judge J. Paul Oetken. Court Reporter/Transcriber: Andrew Walker, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After



		that date it may be obtained through PACER. Redaction Request due 6/8/2020. Redacted Transcript Deadline set for 6/18/2020. Release of Transcript Restriction set for 8/17/2020..(McGuirk, Kelly) (Entered: 05/18/2020)
05/18/2020	<a href="#">33</a>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERENCE proceeding held on 5/12/2020 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days....(McGuirk, Kelly) (Entered: 05/18/2020)
06/10/2020	<a href="#">34</a>	AFFIDAVIT OF SERVICE. Eugene Scalia served on 4/15/2020, answer due 6/15/2020; United States Department of Labor served on 4/15/2020, answer due 6/15/2020. Document filed by State of New York..(Colangelo, Matthew) (Entered: 06/10/2020)
07/02/2020	<a href="#">35</a>	LETTER addressed to Judge J. Paul Oetken from Stephen Cha-Kim dated July 2, 2020 re: New Authority on State Standing. Document filed by Eugene Scalia, United States Department of Labor..(Cha-Kim, Stephen) (Entered: 07/02/2020)
07/03/2020	<a href="#">36</a>	LETTER addressed to Judge J. Paul Oetken from Matthew Colangelo dated July 3, 2020 re: Plaintiff's response to Defendants' notice of recent authority. Document filed by State of New York..(Colangelo, Matthew) (Entered: 07/03/2020)
08/03/2020	<a href="#">37</a> <b>R</b>	OPINION AND ORDER re: <a href="#">31</a> MOTION to File Amicus Brief filed by 1199SEIU, United Healthcare Workers East, Service Employees International Union, <a href="#">3</a> <b>R</b> MOTION for Summary Judgment filed by State of New York, <a href="#">24</a> MOTION to Dismiss for Lack of Jurisdiction . CROSS MOTION for Summary Judgment filed by United States Department of Labor, Eugene Scalia. For the foregoing reasons, Defendants' motion to dismiss is DENIED. Plaintiff's motion for summary judgment is GRANTED as to the work-availability requirement, the definition of "health care provider," and the temporal aspect of the documentation requirements, and is GRANTED in part and DENIED in part as to the intermittent-leave provision. Defendants' motion for summary judgment is GRANTED in part as to the intermittent-leave prohibition, and is otherwise DENIED. The Clerk of Court is directed to close the motions at Docket Numbers 3, 24, and 31. (Signed by Judge J. Paul Oetken on 8/3/2020) (tro) (Entered: 08/03/2020)
08/21/2020	<a href="#">38</a> <b>R</b>	LETTER MOTION for Leave to File Motion requesting entry of judgment pursuant to Fed. R. Civ. P. 58(d) addressed to Judge J. Paul Oetken from Fiona J. Kaye dated August 21, 2020. Document filed by State of New York..(Kaye, Fiona) (Entered: 08/21/2020)
08/24/2020	<a href="#">39</a> <b>R</b>	ORDER re: <a href="#">37</a> <b>R</b> Memorandum & Opinion. Having resolved the claims in this action by the Opinion and Order dated August 3, 2020, the Court hereby directs the Clerk of Court to enter judgment in accordance with that Opinion and Order and to close this case. SO ORDERED. (Signed by Judge J. Paul Oetken on 8/24/2020) (kv) Transmission to Orders and Judgments Clerk for processing. (Entered: 08/24/2020)
08/25/2020	<a href="#">40</a> <b>R</b>	CLERK'S JUDGMENT re: <a href="#">37</a> <b>R</b> Memorandum & Opinion <a href="#">39</a> <b>R</b> Order in favor of State of New York, United States Department of Labor, Eugene Scalia against State of New York, United States Department of Labor, Eugene Scalia. It is hereby ORDERED, ADJUDGED AND DECREED: That for the reasons stated in the Court's Order dated August 24, 2020, and the Court's Opinion and Order dated August 3, 2020, Defendants' motion to dismiss is DENIED. Plaintiffs motion for summary judgment is GRANTED as to the work-availability requirement, the definition of "health care provider," and the temporal aspect of the documentation requirements, and is GRANTED in part and DENIED in part as to the intermittent- leave provision. Defendants' motion for

	summary judgment is GRANTED in part as to the intermittent-leave prohibition, and is otherwise DENIED; accordingly, this case is closed. (Signed by Clerk of Court Ruby Krajick on 8/25/2020) (Attachments: # <a href="#">1</a> Right to Appeal) (km) (Entered: 08/25/2020)
08/25/2020	Terminate Transcript Deadlines (km) (Entered: 08/25/2020)

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