

STATE OF NEW YORK  
SUPREME COURT COUNTY OF ALBANY

---

CHEMUNG COUNTY; CHRISTOPHER J. MOSS, in his official capacity as Chemung County Executive; and WILLIAM SCHROM in his official capacity as Chemung County Sheriff,

**SUMMONS**

Petitioners/Plaintiffs,

Index No.

-against-

RJI No.

KATHLEEN HOCHUL, in her official capacity as New York State Governor; and ROSSANA ROSADO, in her official capacity as the Commissioner of NY Division of Criminal Justice Services,

Respondents/Defendants.

---

TO THE ABOVE-NAMED RESPONDENT/DEFENDANT:


**YOU ARE HEREBY SUMMONED** and required to serve upon Petitioners/Plaintiffs' counsel a Verified Answer to the Second Cause of Action enumerated in the Verified Petition and Complaint in this action within twenty (20) days after the service of the Summons, exclusive of the day of service, or within thirty (30) days after service is complete if this Summons is not personally delivered to you within the State of New York. In case of your failure to answer, judgment will be taken against you by default for the relief demanded in the Verified Complaint.

Petitioners/Plaintiffs designate Albany County as the place of trial.

Pursuant to CPLR 506(b), the basis for venue is the county where the Respondents / Defendants made the determinations complained of.

Dated: March 13, 2025

**CHEMUNG COUNTY LAW DEPARTMENT**

By:   
M. Hyder Hussain, Esq.  
County Attorney  
167 Lake Street  
Elmira, NY 14902

Telephone: (607) 737-2985  
Email: [hhussain@chemungcountyny.gov](mailto:hhussain@chemungcountyny.gov)  
*Attorneys for Petitioners/Plaintiffs*

STATE OF NEW YORK  
SUPREME COURT COUNTY OF ALBANY

---

CHEMUNG COUNTY; CHRISTOPHER J. MOSS, in his official capacity as Chemung County Executive; and WILLIAM SCHROM in his official capacity as Chemung County Sheriff,

Petitioners/Plaintiffs,

-against-

KATHLEEN HOCHUL, in her official capacity as New York State Governor; and ROSSANA ROSADO, in her official capacity as the Commissioner of NY Division of Criminal Justice Services,

Respondents/Defendants.

---

**VERIFIED PETITION  
AND COMPLAINT**

Index No.

RJI No.

Petitioners/Plaintiffs Chemung County; Christopher J. Moss, in his official capacity as Chemung County Executive; and William Schrom in his official capacity as Chemung County Sheriff, (collectively the "County"), by their attorney, M. Hyder Hussain, Esq., Chemung County Attorney, alleges as follows:

**PRELIMINARY STATEMENT**

1. This is a hybrid special proceeding pursuant to CPLR Article 78 and action for declaratory judgment pursuant to CPLR Article 30, in which the County seeks an order annulling and vacating Respondent/Defendant Kathleen Hochul, in her official capacity as New York State Governor (the "Governor")'s Executive Order 47.3 (the "Order") and declaring the Order unconstitutional. A true and accurate copy of the Order is attached hereto as **Exhibit A**.

2. As established more fully herein, this Court should annul and vacate the Order because it is unconstitutional, beyond the Governor's authority, arbitrary and capricious, and/or an abuse of discretion.

3. The County has not made a previous application for the relief sought herein to this Court, or to any other court.

### **PARTIES**

4. Chemung County is a governmental entity organized and existing under the laws of New York State.

5. Christopher Moss is the County Executive for Chemung County, the chief elected official in Chemung County, and the administrative head of Chemung County government.

6. William Schrom is the Sheriff for Chemung County.

7. Kathleen Hochul is the Governor of the State of New York.

8. Rossana Rosada, is the Commissioner of NY Division of Criminal Justice Services.

### **JURISDICTION AND VENUE**

9. This Court has jurisdiction over this proceeding pursuant to CPLR Articles 30 and 78.

10. The venue is proper within the County of Albany pursuant to CPLR 506(b) and CPLR 7804(b).

### **FACTUAL ALLEGATIONS**

#### **The Order**

11. On February 17, 2025, New York State Department of Corrections and Community Supervision (“DOCCS”) officers commenced a strike (the “Strike”) based on allegations concerning forced overtime, understaffing, and unsafe work conditions, as well as in opposition to a 2021 law restricting the use of long-term solitary confinement as a disciplinary action (the “HALT Act”). *See* Affirmation of Christopher J. Moss, dated March 13, 2025 (“*Moss Aff.*”) ¶ 4.

12. As a result of the Strike, on February 19, 2025, the Governor issued Executive Order 47, which declared a State Disaster Emergency in the State of New York. A true and accurate

copy of Executive Order 47 is attached hereto as **Exhibit B**. See also, **Exhibit C** *Moss Aff.* ¶ 5; **Exhibit D** *Schrom Aff.* ¶ 4.

13. Subsequently, the Governor issued Executive Orders 47.1 and 47.2, as well as the Order, related to Executive Order 47. Ex. B. See also, Ex. C *Moss Aff.* ¶ 5; Ex. D *Schrom Aff.* ¶ 5.

14. Pursuant to the Order, DOCCS must, upon the separation of any employee, investigate whether they were involved in the Strike, denote such individuals as having been removed for cause, and report such individuals to the Office of Employee Relations. *See* Ex. A.

15. Pursuant to the Order, all New York State agencies must: (i) as part of the process to determine if an applicant may be hired, determine whether that applicant participated in the Strike; (ii) as part of any background investigation, determine whether the individual was separated from employment as a result of the Strike; and (iii) not hire or appoint any individual separated from DOCCS employment due to participation in the Strike. *See* Ex. A, and Ex. B.

16. Pursuant to the Order, at least through April 9, 2025, no New York State County may appoint, transfer, or promote any former DOCCS employee found to have participated in the Strike. *See* Ex. A.

17. The directives in the Order purport to create a permanent blacklist of certain unionized employees.

18. The directives in the Order permanently revoke the Peace Officer status of individuals who participated in the Strike, such that the Order suspends and modifies New York Criminal Procedure Law Section 2.30(6) “to the extent necessary to prohibit a certificate attesting to satisfactory completion of training requirements to continue to remain valid after the interruption of service of any individual...in connection with such individual’s participation in the illegal and unlawful strike.” *See*, Ex. A

19. The directives in the Order temporarily forbid the County from appointing, transferring, or promoting any individual who participated in the Strike, and immediately declassifies them as peace officers, nullifying the training they successfully completed as a prerequisite to employment as Peace Officers.

### **The County**

20. The County currently suffers from a staff shortage in its jail. See, Ex. C *Moss Aff.* ¶ 6; Ex. D *Schrom Aff.* ¶ 6.

21. In order to address that shortage, Mr. Moss, in his official capacity as Chemung County Executive, seeks to employ certain persons living in the Chemung County community whom DOCCS has terminated for participation in the Strike. See, Ex. C *Moss Aff.* ¶ 6; Ex. D *Schrom Aff.* ¶ 6.

22. Additionally, Mr. Schrom, as the appointing authority, seeks certification to employ certain persons within the Chemung County community whom DOCCS has terminated for participation in the Strike. See, Ex. C *Moss Aff.* ¶ 7; Ex. D *Schrom Aff.* ¶ 7.

23. The Order prevents the County from employing these persons in its jail because they have been blacklisted by the State and have lost their Peace Officer status. See, Ex. C *Moss Aff.* ¶ 9-10; Ex. D *Schrom Aff.* ¶ 10-11.

24. The Order prevents the County Sheriff from employing these persons, at all, at least through April 9, 2025, by usurping his appointing authority. See, Ex. D *Schrom Aff.* ¶ 8-11.

### **AS AND FOR A FIRST CAUSE OF ACTION**

#### **The Order Should Be Vacated and Annulled**

25. The County repeats and realleges the allegations in paragraphs 1 through 24 as if set forth fully herein.

26. The Governor expressly relies upon N.Y. EXEC. L § 29-a as a basis for her authority to issue the Order and give it full force and effect of law in response to the Strike.

27. Pursuant to N.Y. EXEC. L § 29-a:

Subject to the state constitution, the federal constitution and federal statutes and regulations, the governor may by executive order *temporarily* suspend specific provisions of any statute, local law, ordinance, or orders, rules or regulations, or parts thereof, of any agency during a state disaster emergency, if compliance with such provisions would prevent, hinder, or delay action necessary to cope with the disaster.

N.Y. EXEC. L § 29-a(1) (emphasis added)

28. These suspensions are subject to specific standards and limits, including, *inter alia*, that the suspensions may not be in excess of thirty days, must “safeguard the health and welfare of the public and” be “reasonably necessary to the disaster effort,” and must “provide for the minimum deviation . . . consistent with the disaster action deemed necessary[.]” N.Y. EXEC. L § 29-a(2).

29. The Order does not adhere to these specific standards and limits.

30. By creating a permanent blacklist of unionized individuals involved in the Strike, the Order is permanent, *i.e.*, in excess of thirty days.

31. Forbidding individuals from obtaining gainful employment and prohibiting government entities from hiring qualified persons does not safeguard the health and welfare of the public and is not reasonably necessary to respond to the Strike, *i.e.*, the “disaster effort,” and is entirely punitive in nature.

32. The foregoing realities do not provide for minimum deviation from the *status quo* in order to cope with the Strike; rather, they are pecuniary directives apparently intended to permanently punish those involved in the Strike and certain entities that may wish to hire such

persons, including the County, which has an immediate need to increase staffing with qualified, local persons in its jail.

33. Even giving the Governor the benefit of the deference required under New York State law, these realities demonstrate that the Order is unconstitutional, beyond the Governor's authority, arbitrary and capricious, and/or an abuse of discretion.

34. Accordingly, the Order should be vacated and annulled.

### **AS AND FOR A SECOND CAUSE OF ACTION**

#### **Declaratory Judgment**

35. The County repeats and realleges the allegations in paragraphs 1 through 34 as if set forth fully herein.

36. A justiciable controversy exists between the County and the Governor concerning the Order and its implications.

37. N.Y. Exec. L § 29-a empowers the Governor to issue temporary executive orders to confront disasters impacting the state expediently.

38. That empowerment is not without limits; these order must be temporary, safeguard the public's health and safety, be reasonably necessary to confront the disaster, and must deviate minimally from the *status quo*.

39. The Order exceeds these limits, creating permanent impacts on individuals associated with the Strike well after the Strike occurred and on entities wishing to hire them.

40. Thus, the Order is unconstitutional, beyond the Governor's authority, arbitrary and capricious, and/or an abuse of discretion.

41. The County is in immediate need of well-qualified persons to staff its jail.

42. Individuals separated from DOCCS employment and associated with the Strike would be well-qualified to staff the County jail.



43. Just such individuals live in the County community, and but for the Order, are ready, willing, and able to work in the jail.

44. The County cannot hire these persons due to the Order.


45. In the event the Court does not vacate and annul the Order, the County is entitled to a declaration that the Order does not restrict its authority to make appointments under the NY Municipal Home Rule Law. Specifically, the Order cannot prohibit the County from hiring individuals for its jail who were separated from DOCCS due to their involvement in the Strike, as the State lacks a significant interest in determining the County's local jail staffing decisions through emergency executive orders.

**REQUEST FOR RELIEF**

**WHEREFORE**, the County requests a final order and judgment pursuant to CPLR Articles 30 and 78: (a) vacating and annulling the Order; (b) in the event the Court does not annul or vacate the Order, declaring that the Order does not apply to the County to the extent it purports to forbid the County from hiring individuals to work in its jail who were separated from their employment with DOCCS due to involvement in the Strike; (c) granting the County costs; and (d) granting such other and further relief as this Court deems just and proper.

Dated: March 13, 2025

CHEMUNG COUNTY LAW DEPARTMENT

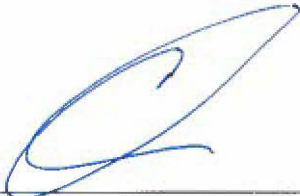
By:   
\_\_\_\_\_  
M. Hyder Hussain, Esq.  
County Attorney  
167 Lake Street  
Elmira, NY 14902  
Telephone: (607) 737-2985  
Email: [hhussain@chemungcountyny.gov](mailto:hhussain@chemungcountyny.gov)  
*Attorneys for Petitioners/Plaintiffs*

**VERIFICATION**

STATE OF NEW YORK     )  
COUNTY OF CHEMUNG   ) ss.

I, Christopher J. Moss, a Petitioner / Plaintiff in this matter, being duly sworn, depose and say: I have read the foregoing Verified Petition / Complaint, and know the contents thereof; the same are true to my own knowledge except as to matters therein stated to be true upon information and belief and that, as to those matters, I believe them to be true; I make this Verification both on behalf of the County of Chemung as well as in my official capacity as the ~~Notary Public~~.

Chemung County Executive.

  
\_\_\_\_\_  
Christopher J. Moss

Sworn to before me this 13  
day of March, 2025.

  
\_\_\_\_\_  
NOTARY PUBLIC

M. HYDER HUSSAIN  
Notary Public, State of New York  
Chemung County No. 02HU6356161  
Commission Expires March 27, 2024