

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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ASSOCIATED GENERAL CONTRACTORS  
OF NEW YORK STATE, LLC, ASSOCIATED  
GENERAL CONTRACTORS OF AMERICA, INC.,  
BUSINESS COUNCIL OF NEW YORK STATE,  
NORTHEASTERN SUBCONTRACTORS  
ASSOCIATION, INC., NATIONAL ELECTRICAL  
CONTRACTORS ASSOCIATION, ALLIED  
BUILDING METAL INDUSTRIES, INC., BUILDING  
CONTRACTORS ASSOCIATION, INC.,  
PRECAST/PRESTRESSED CONCRETE INSTITUTE  
(PCI) NORTHEAST, UTILITY CONTRACTORS  
ASSOCIATION OF NEW YORK, INC.,  
E.W. HOWELL CO., LLC, and W.M. SCHULTZ  
CONSTRUCTION, INC.,

Case No.: 1:26-cv-1139  
(AMN/DJS)

Plaintiffs,

-against-

KATHLEEN HOCHUL, *in her official capacity as  
Governor of the State of New York*; ROBERTA  
REARDON, *in her official capacity as Commissioner  
of the New York State Department of Labor*; SHAUN  
MCCREADY, *in his official capacity as Director  
of the Bureau of Public Work and Prevailing Wage  
Enforcement*; and LETITIA JAMES, *Attorney General  
of the State of New York*;

Defendants.

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### CONSENT ORDER FOR PRELIMINARY INJUNCTION

**THE HON. ANNE M. NARDACCI**, United States District Judge

**WHEREAS**, New York has passed an amendment to the prevailing wage law, N.Y. Labor Law § 220(3)(f), which will extend New York’s prevailing wage law regulatory framework to off-site custom fabrication, and is scheduled to take effect on June 18, 2026 (the “Amendment”);

**WHEREAS**, on May 28, 2026, Plaintiffs, by and through their attorneys, Hinckley, Allen & Snyder LLP, filed a Complaint against Defendants alleging that the Amendment is *ultra vires*, void *ab initio*, and unconstitutional under the Commerce, Due Process, Takings, Contracts, and Equal Protection Clauses of the United States Constitution (the “Complaint”);

**WHEREAS**, on May 28, 2026, Plaintiffs filed an Emergency Motion for a Temporary Restraining Order and Preliminary Injunction (the “Emergency Motion”) seeking to, *inter alia*, stop the Amendment from taking effect and enjoin its enforcement while the Complaint can be heard on the merits, given Plaintiffs’ allegations of immediate, irreparable harm;

**WHEREAS**, on May 29, 2026, the Court scheduled a hearing on the Emergency Motion for June 16, 2026, and directed Defendants to file all opposing papers to the Emergency Motion, if any, on or before Monday, June 8, 2026, and Plaintiffs to file reply papers, if any, on or before Thursday, June 11, 2026 (*see* Text Order, Dkt. No. 18); and

**WHEREAS**, Plaintiffs and Defendants, by and through their counsel, have voluntarily agreed to a preliminary injunction, and to a revised briefing schedule on the Emergency Motion and Defendants’ anticipated motion to dismiss, upon the following terms and conditions, as set forth in this Consent Order.

**IT IS THEREFORE ORDERED** that, pursuant to Rule 65 of the Federal Rules of Civil Procedure, a preliminary injunction shall be immediately entered as described herein:

1. The effective date of the Amendment is suspended and stayed unless and until the Court enters a subsequent Order (i) denying Plaintiffs’ Emergency Motion; (ii) granting a cross-motion by Defendants to dismiss the Complaint, if any; or (iii) otherwise terminating the suspension.
2. During the period of the preliminary injunction and suspension:

- a. Defendants<sup>1</sup> are barred from enforcing any aspect of the Amendment.
- b. No public owner, including agencies, municipalities, and school districts, and no private owner, including owners of private projects that are subject to New York State prevailing wages, shall be required to comply with the Amendment, or to include its terms as a condition of their contracts.
- c. No general contractor, subcontractor, fabricator, or other project participant, regardless of location, shall be required to comply with the Amendment or any of its conditions.
- d. Defendants are barred from taking any enforcement action, including civil penalties, debarment proceedings, or criminal referrals, against any of the Plaintiffs or their members, or any public owner, contractor, subcontractor, fabricator, or other project participant, on account of alleged noncompliance with the Amendment.

3. Defendants acknowledge proper service of the Summons, Complaint, Emergency Motion, and all supporting or related papers, and waive any objections based on improper service.

4. Defendants acknowledge that a bond is unnecessary in the context of the still-pending Emergency Motion and waive any argument that one is required.

5. The briefing schedule on the Emergency Motion set forth in Dkt. No. 18, and the briefing schedule on Defendants' anticipated motion to dismiss (if any), are hereby extended and set on consent as follows:

- a. Defendants' opposition to the Emergency Motion, together with any joint cross-motion to dismiss, are due on or before July 21, 2026;
- b. Plaintiffs' reply in support of the Emergency Motion and any opposition to the joint motion to dismiss are due on or before August 18, 2026; and
- c. Defendants' reply, if any, on the joint motion to dismiss is due on or before August 25, 2026.

Dated: June 8, 2026  
Albany, NY

  
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Anne M. Nardacci  
U.S. District Judge

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<sup>1</sup> Defendants shall refer to and include their respective agencies, employees, attorneys, representatives, and all other individuals and entities over whom they exercise control.