

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:20-cv-03338-VEC**

Martinez et al v. Cuomo
Assigned to: Judge Valerie E. Caproni
Referred to: Magistrate Judge Katharine H. Parker (Settlement)
Cause: 42:12101 The Americans with Disabilities Act of 1990

Date Filed: 04/29/2020
Jury Demand: None
Nature of Suit: 446 Civil Rights:
Americans with Disabilities – Other
Jurisdiction: Federal Question

Plaintiff**Dennis Martinez**

represented by **Jessica Barlow**
Disability Rights New York
44 Exchange Blvd Ste 110
Rochester, NY 14614
(518)-512-4841
Fax: (585)-348-9823
Email: jessica.barlow@drny.org
ATTORNEY TO BE NOTICED

Plaintiff**Douglas Nguyen**

represented by **Jessica Barlow**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff**James Hallenbeck**

represented by **Jessica Barlow**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff**Jill Wildberger**

represented by **Jessica Barlow**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff**Disability Rights New York**

represented by **Jessica Barlow**
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

Andrew M. Cuomo
*in his official capacity as Governor of
New York State*

represented by **Andrew Stuart Amer**
New York State Department of Law (28
Liberty)
28 Liberty Street
New York, NY 10005
212-416-6127
Fax: 212-416-6009
Email: andrew.amer@ag.ny.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
------------	---	-------------

04/29/2020	<u>1</u>	COMPLAINT against Andrew M. Cuomo. (Filing Fee \$ 400.00, Receipt Number ANYSDC-19629435) Document filed by Disability Rights New York, James Hallenbeck, Douglas Nguyen, Dennis Martinez, Jill Wildberger..(Barlow, Jessica) (Entered: 04/29/2020)
04/29/2020	<u>2</u>	FILING ERROR – DEFICIENT PLEADING – PDF ERROR – CIVIL COVER SHEET filed..(Barlow, Jessica) Modified on 4/29/2020 (pc). (Entered: 04/29/2020)
04/29/2020	<u>3</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Andrew M. Cuomo, re: <u>1</u> Complaint. Document filed by Disability Rights New York, James Hallenbeck, Dennis Martinez, Douglas Nguyen, Jill Wildberger..(Barlow, Jessica) (Entered: 04/29/2020)
04/29/2020	<u>4</u>	MOTION for Temporary Restraining Order . Document filed by Disability Rights New York, James Hallenbeck, Dennis Martinez, Douglas Nguyen, Jill Wildberger. (Attachments: # <u>1</u> Memo of Law, # <u>2</u> Affidavit Supporting Documents for the Memo of Law, # <u>3</u> Complaint).(Barlow, Jessica) (Entered: 04/29/2020)
04/29/2020		***NOTICE TO ATTORNEY REGARDING PARTY MODIFICATION. Notice to attorney Jessica Barlow. The party information for the following party/parties has been modified: Governor Andrew M. Cuomo. The information for the party/parties has been modified for the following reason/reasons: party text was omitted;. (pc) (Entered: 04/29/2020)
04/29/2020		***NOTICE TO ATTORNEY REGARDING DEFICIENT CIVIL COVER SHEET. Notice to attorney Jessica Barlow to RE-FILE Document No. <u>2</u> Civil Cover Sheet. The filing is deficient for the following reason(s): Second page is missing;. Re-file the document using the event type Civil Cover Sheet found under the event list Other Documents and attach the correct PDF. Use civil cover sheet issued by S.D.N.Y. dated June 2017. The S.D.N.Y. Civil Cover Sheet dated June 2017 is located at http://nysd.uscourts.gov/file/forms/civil-cover-sheet.. (pc) (Entered: 04/29/2020)
04/29/2020		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above-entitled action is assigned to Judge Valerie E. Caproni. Please download and review the Individual Practices of the assigned District Judge, located at https://nysd.uscourts.gov/judges/district-judges . 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 https://nysd.uscourts.gov/rules/ecf-related-instructions.. (pc) (Entered: 04/29/2020)
04/29/2020		Magistrate Judge Katharine H. Parker 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: https://nysd.uscourts.gov/sites/default/files/2018-06/AO-3.pdf . (pc) (Entered: 04/29/2020)
04/29/2020		Case Designated ECF. (pc) (Entered: 04/29/2020)
04/29/2020	<u>5</u>	CIVIL COVER SHEET filed..(Barlow, Jessica) (Entered: 04/29/2020)
04/29/2020	<u>6</u>	ELECTRONIC SUMMONS ISSUED as to Andrew M. Cuomo..(pc) (Entered: 04/29/2020)
04/29/2020	<u>7</u>	ORDER TO SHOW CAUSE FOR PRELIMINARY INJUNCTION AND TEMPORARY RESTRAINING ORDER granting <u>4</u> Motion for TRO. ORDERED, that the above named Defendant show cause before at a teleconference, in the City, County and State of New York, on May 5, 2020 at 2:00 p.m. ORDERED that personal service of a copy of this order and annexed affidavit upon the Defendant or his Counsel on or before 5:00 o'clock in the afternoon, April 30, 2020. Plaintiff must post proof of service by close of business on May 1, 2020. Defendant must file responsive papers by May 4, 2020. The parties must appear for the hearing on May 5, 2020 at 2:00 p.m. by calling (888) 363-4749, using the access code 3121171 and the security code 6350. (Signed by Judge Valerie E. Caproni on 4/29/2020) (ama) (Entered: 04/29/2020)
04/29/2020		Set/Reset Hearings: Telephone Conference set for 5/5/2020 at 02:00 PM before Judge Valerie E. Caproni. (ama) (Entered: 04/29/2020)

04/29/2020		Set/Reset Deadlines: Show Cause Response due by 5/4/2020. (ama) (Entered: 04/29/2020)
04/29/2020	<u>8</u>	LETTER addressed to Judge Valerie E. Caproni from Jessica Barlow, Esq. dated April 29, 2020 re: Service. Document filed by Disability Rights New York, James Hallenbeck, Dennis Martinez, Douglas Nguyen, Jill Wildberger. (Attachments: # <u>1</u> Proof of Service).(Barlow, Jessica) (Entered: 04/29/2020)
04/30/2020	<u>9</u>	NOTICE OF APPEARANCE by Andrew Stuart Amer on behalf of Andrew M. Cuomo..(Amer, Andrew) (Entered: 04/30/2020)
04/30/2020	<u>10</u>	NOTICE OF APPEARANCE by Jessica Barlow on behalf of Disability Rights New York, James Hallenbeck, Dennis Martinez, Douglas Nguyen, Jill Wildberger..(Barlow, Jessica) (Entered: 04/30/2020)
04/30/2020	<u>11</u>	MEMO ENDORSEMENT on re: <u>8</u> Letter Service, filed by Disability Rights New York, Douglas Nguyen, Dennis Martinez, Jill Wildberger, James Hallenbeck. ENDORSEMENT: The service via email described in this letter is sufficient. Plaintiffs need not pursue personal service. SO ORDERED. (Signed by Judge Valerie E. Caproni on 4/30/20) (yv) (Entered: 04/30/2020)
05/04/2020	<u>12</u>	DECLARATION of Tim Ruffinen in Opposition re: <u>4</u> MOTION for Temporary Restraining Order .. Document filed by Andrew M. Cuomo..(Amer, Andrew) (Entered: 05/04/2020)
05/04/2020	<u>13</u>	MEMORANDUM OF LAW in Opposition re: <u>4</u> MOTION for Temporary Restraining Order . . Document filed by Andrew M. Cuomo..(Amer, Andrew) (Entered: 05/04/2020)
05/05/2020	<u>14</u>	ORDER: IT IS HEREBY ORDERED THAT: 1. Plaintiffs may file a reply brief by May 8, 2020. 2. A referral to Magistrate Judge Parker for a settlement conference will be entered separately. SO ORDERED., (Replies due by 5/8/2020.) (Signed by Judge Valerie E. Caproni on 5/05/2020) (ama) (Entered: 05/05/2020)
05/05/2020	<u>15</u>	ORDER OF REFERENCE TO A MAGISTRATE JUDGE: Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for Settlement. Referred to Magistrate Judge Katharine H. Parker. SO ORDERED. (Signed by Judge Valerie E. Caproni on 5/05/2020) (ama) (Entered: 05/05/2020)
05/05/2020		Minute Entry for proceedings held before Judge Valerie E. Caproni: Telephone Conference held on 5/5/2020. Jessica Barlow and Mark Fleadner attorneys present for plaintiff. Andrew Amer attorney for defendant present. Court Reporter Andrew Walker present. (anc) (Entered: 05/07/2020)
05/06/2020	<u>16</u>	ORDER SCHEDULING SETTLEMENT CONFERENCE: This matter has been referred to me for settlement purposes. (Doc. No. 15.) A telephonic settlement conference in this matter is hereby scheduled for May 19, 2020 at 10:00 a.m. The parties shall use the Court Solutions platform. Parties must send the person with decision making authority to settle the matter to the conference. The parties are instructed to complete the Settlement Conference Summary Report and prepare pre-conference submissions in accordance with Judge Parkers Individual Rules of Practice. Pre-conference submissions must be received by the Court no later than May 12, 2020 by 5:00 p.m.; as further set forth herein. (Telephone Conference set for 5/19/2020 at 10:00 AM before Magistrate Judge Katharine H. Parker.) (Signed by Magistrate Judge Katharine H. Parker on 5/6/2020) (mro) (Entered: 05/06/2020)
05/07/2020	<u>17</u>	REPLY MEMORANDUM OF LAW in Support re: <u>4</u> MOTION for Temporary Restraining Order . . Document filed by Disability Rights New York, James Hallenbeck, Dennis Martinez, Douglas Nguyen, Jill Wildberger. (Attachments: # <u>1</u> Affidavit Supporting Declarations).(Barlow, Jessica) (Entered: 05/07/2020)
05/11/2020	<u>18</u>	ORDER: WHEREAS on April 29, 2020, Plaintiffs filed a motion for a preliminary injunction (Dkt. 4); IT IS HEREBY ORDERED THAT: Plaintiffs' motion for a preliminary injunction is GRANTED. An opinion will follow. Defendant is directed to immediately implement in-frame ASL interpretation during his daily press briefings. SO ORDERED. (Signed by Judge Valerie E. Caproni on 5/11/2020) (ama) (Entered: 05/11/2020)

05/11/2020	<u>19</u>	LETTER addressed to Judge Valerie E. Caproni from Andrew Amer dated May 11, 2020 re: Implementing Preliminary Injunction Order. Document filed by Andrew M. Cuomo..(Amer, Andrew) (Entered: 05/11/2020)
05/12/2020	<u>20</u>	LETTER addressed to Judge Valerie E. Caproni from Jessica Barlow, Esq. dated May 11, 2020 re: Defendant's Timeline for Implementing the Preliminary Injunction Order. Document filed by Disability Rights New York, James Hallenbeck, Dennis Martinez, Douglas Nguyen, Jill Wildberger..(Barlow, Jessica) (Entered: 05/12/2020)
05/12/2020	<u>21</u>	OPINION AND ORDER: For the foregoing reasons, Plaintiffs' motion for a preliminary injunction was GRANTED on May 11, 2020. Defendant was ordered to immediately implement in-frame ASL interpretation during his daily press briefings. If in-frame ASL translation cannot be implemented by May 13, 2020, Defendant must submit a detailed affidavit by May 13, 2020, explaining why and providing a date by which it will be implemented. The Court urges the parties to proceed with the currently-scheduled settlement conference. If the case fails to settle, the deadline for fact discovery is June 8, 2020. A pretrial conference will be held on June 12, 2020 at 10:00 a.m. SO ORDERED., (Fact Discovery due by 6/8/2020., Pretrial Conference set for 6/12/2020 at 10:00 AM before Judge Valerie E. Caproni.) (Signed by Judge Valerie E. Caproni on 5/12/2020) (ama) (Entered: 05/12/2020)
05/12/2020	<u>22</u>	TRANSCRIPT of Proceedings re: CONFERENCE held on 5/5/2020 before Judge Valerie E. Caproni. 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 6/2/2020. Redacted Transcript Deadline set for 6/12/2020. Release of Transcript Restriction set for 8/10/2020..(McGuirk, Kelly) (Entered: 05/12/2020)
05/12/2020	<u>23</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERENCE proceeding held on 5/5/2020 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: 05/12/2020)
05/12/2020	24	ORDER. The Court is in receipt of Plaintiffs letter requesting that the Plaintiffs be excused from attending the telephonic settlement conference scheduled for next week due to difficulties setting up videophone relay service, among other reasons. The Court provides reasonable accommodation to litigants with disabilities and is open to utilizing any other platform that Plaintiffs believe will allow them to participate fully in the settlement conference. Alternatively, the Court will excuse Plaintiffs from attending the conference so long as they are reachable during the conference. If Plaintiffs wish to utilize a different technology, they should email Christopher Aiello at Parker_NYSDChambers@nysd.uscourts.gov and provide information about the platform. (HEREBY ORDERED by Magistrate Judge Katharine H. Parker) (Text Only Order) (Parker, Katharine) (Entered: 05/12/2020)