

**United States Court of Appeals for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007**

DEBRA ANN LIVINGSTON
CHIEF JUDGE

Date: January 14, 2022
Docket #: 22-75
Short Title: Emilee Carpenter, LLC v. James

CATHERINE O'HAGAN WOLFE
CLERK OF COURT

DC Docket #: 21-cv-6303
DC Court: WDNY
(ROCHESTER)
DC Judge: Geraci

DOCKETING NOTICE

A notice of appeal filed by Appellant Emilee Carpenter and Emilee Carpenter, LLC in the above referenced case was docketed today as 22-75. This number must appear on all documents related to this case that are filed in this Court. For pro se parties the docket sheet with the caption page, and an Acknowledgment and Notice of Appearance Form are enclosed. In counseled cases the docket sheet is available on PACER. Counsel must access the Acknowledgment and Notice of Appearance Form from this Court's website <http://www.ca2.uscourts.gov>.

The form must be completed and returned within 14 days of the date of this notice. The form requires the following information:

YOUR CORRECT CONTACT INFORMATION: Review the party information on the docket sheet and note any incorrect information in writing on the Acknowledgment and Notice of Appearance Form.

The Court will contact one counsel per party or group of collectively represented parties when serving notice or issuing our order. Counsel must designate on the Acknowledgment and Notice of Appearance a lead attorney to accept all notices from this Court who, in turn will, be responsible for notifying any associated counsel.

CHANGE IN CONTACT INFORMATION: An attorney or pro se party who does not immediately notify the Court when contact information changes will not receive notices, documents and orders filed in the case.

An attorney and any pro se party who is permitted to file documents electronically in CM/ECF must notify the Court of a change to the user's mailing address, business address, telephone number, or e-mail. To update contact information, a Filing User must access PACER's Manage

My Appellate Filer Account, <https://www.pacer.gov/psco/cgi-bin/cmecf/ea-login.pl>. The Court's records will be updated within 1 business day of a user entering the change in PACER.

A pro se party who is not permitted to file documents electronically must notify the Court of a change in mailing address or telephone number by filing a letter with the Clerk of Court.

CAPTION: In an appeal, the Court uses the district court caption pursuant to FRAP 12(a), 32(a). For a petition for review or original proceeding the Court uses a caption pursuant to FRAP 15(a) or 21(a), respectively. Please review the caption carefully and promptly advise this Court of any improper or inaccurate designations in writing on the Acknowledgment and Notice of Appearance form. If a party has been terminated from the case the caption may reflect that change only if the district court judge ordered that the caption be amended.

APPELLATE DESIGNATIONS: Please review whether appellant is listed correctly on the party listing page of the docket sheet and in the caption. If there is an error, please note on the Acknowledgment and Notice of Appearance Form. Timely submission of the Acknowledgment and Notice of Appearance Form will constitute compliance with the requirement to file a Representation Statement required by FRAP 12(b).

For additional information consult the Court's instructions posted on the website.

Inquiries regarding this case may be directed to 212-857-8512.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

**Emilee Carpenter, LLC d/b/a Emilee
Carpenter Photography and Emilee
Carpenter,**

Plaintiffs,

v.

Letitia James, in her official capacity as
Attorney General of New York; **Johnathan
J. Smith**, in his official capacity as Interim
Commissioner of the New York State
Division of Human Rights; and **Weeden
Wetmore**, in his official capacity as District
Attorney of Chemung County,

Defendants.

Case No. 6:21-cv-06303

NOTICE OF APPEAL

PLEASE TAKE NOTICE that Plaintiffs Emilee Carpenter, LLC, and Emilee Carpenter hereby appeal to the United States Court of Appeals for the Second Circuit from the final Judgment (ECF No. 69) entered on December 14, 2021, and from the Decision and Order (ECF No. 68) both granting Defendants' 12(b)(6) motions to dismiss and denying Plaintiffs' motion for a preliminary injunction, entered on December 13, 2021.

Respectfully submitted this 12th day of January, 2022.

Raymond J. Dague
New York Bar No. 1242254
Dague & Martin, P.C.
4874 Onondaga Road
Syracuse, New York 13215
(315) 422-2052
(315) 474-4334 (facsimile)
rjdague@daguelaw.com

By: s/ Jonathan A. Scruggs
Jonathan A. Scruggs
Arizona Bar No. 030505
Bryan D. Neihart*
Arizona Bar No. 035937
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, Arizona 85260
(480) 444-0020
(480) 444-0028 (facsimile)
jscruggs@ADFlegal.org
bneihart@ADFlegal.org

ATTORNEYS FOR PLAINTIFFS

*Admitted *Pro Hac Vice*

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of January, 2022, I electronically filed the foregoing document with the Clerk of Court and that the foregoing document will be served via the CM/ECF system on all counsel of record.

s/ Jonathan A. Scruggs

Jonathan A. Scruggs

Attorney for Plaintiffs

U.S. DISTRICT COURT
U.S. District Court, Western District of New York (Rochester)
CIVIL DOCKET FOR CASE #: 6:21-cv-06303-FPG
Internal Use Only

Emilee Carpenter, LLC et al v. James et al
Assigned to: Hon. Frank P. Geraci, Jr.
Cause: 42:1983 Civil Rights Act

Date Filed: 04/06/2021
Date Terminated: 12/14/2021
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Emilee Carpenter, LLC
doing business as
Emilee Carpenter Photography

represented by **Raymond J. Dague**
Dague & Martin, P.C.
4874 Onondaga Road
Syracuse, NY 13215
315-422-2052
Fax: 315-474-4334
Email: Raymond@Daguelaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Bryan D. Neihart
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, AZ 85260
480-388-8007
Fax: 480-444-0025
Email: bneihart@adflegal.org
PRO HAC VICE
ATTORNEY TO BE NOTICED

Jonathan A. Scruggs
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, AZ 85260
480-388-8007
Fax: 480-444-0025
Email: jscruggs@ADFlegal.org
ATTORNEY TO BE NOTICED

Plaintiff

Emilee Carpenter

represented by **Raymond J. Dague**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Bryan D. Neihart
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Jonathan A. Scruggs
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

represented by

Leticia James
*in her official capacity as Attorney
General of New York*

Heather Lynn McKay
New York State Attorney General's Office
Department of Law
144 Exchange Boulevard
Rochester, NY 14614
585-327-3207
Fax: 585-546-7514
Email: heather.mckay@ag.ny.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Richard W. Sawyer
New York Office of the Attorney General
28 Liberty St.
New York, NY 10005
212-416-6182
Email: richard.sawyer@ag.ny.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Sandra Elizabeth Pullman
New York State Office of the Attorney
General
28 Liberty Street
20th Floor
New York, NY 10005
212 416-8623
Email: sandra.pullman@ag.ny.gov
ATTORNEY TO BE NOTICED

Defendant

Johnathan J. Smith
*in his official capacity as Interim
Commissioner of the New York State
Division of Human Rights*

represented by **Heather Lynn McKay**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Richard W. Sawyer
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Weedon Wetmore
*in his official capacity as District
Attorney of Chemung County*

represented by **Mohammad Hyder Hussain**
Chemung County Law Department
203 Lake Street
#114
Elmira, NY 14901
716-830-3447
Email: hussain3@gmail.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Amicus

**New Yorker's Family Research
Foundation and New Yorkers for
Constitutional Freedoms**

represented by **Beth A. Parlato**
Parlato Law Firm
400 Seven Day Road
Darien, NY 14040
716-270-0750
Fax: 716-270-0751
Email: bparlato@parlatolaw.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Arthur G. Baumeister , Jr.
Baumeister Denz, LLP
174 Franklin Street
Suite 2
Buffalo, NY 14202
716-852-1300
Fax: 716-852-1344
Email: abaumeister@bdlegal.net
ATTORNEY TO BE NOTICED

Amicus

**State of Nebraska, Alabama, Arkansas,
Kansas, Kentucky, Louisiana,
Mississippi, Missouri, Montana,
Oklahoma, South Carolina, Texas,
Utah, and West Virginia**

represented by **James A. Campbell**
Office of the Nebraska Attorney General
2115 State Capitol
Lincoln, NE 68509
402-471-2682
Email: jim.campbell@nebraska.gov
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Thomas J. Marcelle
Thomas Marcelle, Attorney at Law
2 E-Comm Sq.
3rd Floor
Albany, NY 12207
518-427-1720
Fax: 518-427-1764
Email: tjmarcelle@yahoo.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Amicus

Frederick Douglass Foundation

represented by **Philip Joseph Vecchio**
Philip Joseph Vecchio, P.C.
24 Huntswood Lane
East Greenbush, NY 12061
518-857-2897
Fax: 518-479-4335
Email: pvecchio@nycap.rr.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Amicus

Coalition of African American Pastors

represented by **Philip Joseph Vecchio**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Amicus

Conservative Clergy of Color

represented by **Philip Joseph Vecchio**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Amicus

The Restoration Project

represented by **Philip Joseph Vecchio**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Amicus

**New York Civil Liberties Union
Foundation**

represented by **Gabriella M Larios**
New York Civil Liberties Union
125 Broad Street
19th Floor
New York, NY 10004
212-607-3300
Email: glarios@nyclu.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Lindsey Kaley
American Civil Liberties Union
Foundation
125 Broad Street
18th Floor
New York, NY 10004
212-549-2500
Email: lkaley@aclu.org
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Ricca Prasad
American Civil Liberties Union
Foundation
125 Broad Street
18th Floor
New York, NY 10004
585-944-6123
Email: rprasad@aclu.org
TERMINATED: 10/06/2021
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Amicus

**American Civil Liberties Union
Foundation**

represented by **Gabriella M Larios**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Lindsey Kaley
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Ricca Prasad
(See above for address)
TERMINATED: 10/06/2021
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Amicus

**Americans United for Separation of
Church and State**

represented by **Fernando Santiago**
Santiago Burger LLP
2280 East Avenue
Rochester, NY 14610
585-563-7514
Fax: 585-563-7526

Email: fernando@litgrp.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Kenneth D. Upton , Jr.
Americans United for Separation of
Church and State
1310 L Street NW
Suite 200
Washington, DC 20005
202-466-3234
Fax: 202-466-3353
Email: upton@au.org
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Richard B. Katskee
Americans United for Separation of
Church and State
1310 L Street NW
Suite 200
Washington, DC 20005
202-466-3234
Fax: 202-466-2587
Email: katskee@au.org
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Sarah R. Goetz
Americans United for Separation of
Church and State
1310 L Street NW
Suite 200
Washington, DC 20005
202-466-3234
Fax: 202-466-3353
Email: goetz@au.org
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Amicus

ADL (Anti-Defamation League)

represented by **Fernando Santiago**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Amicus

**Bend the Arc: A Jewish Partnership for
Justice**

represented by **Fernando Santiago**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Amicus

**Central Conference of American
Rabbis**

represented by **Fernando Santiago**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Amicus

**Global Justice Institute, Metropolitan
Community Churches**

represented by **Fernando Santiago**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Amicus

Hindu American Foundation

represented by **Fernando Santiago**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Amicus

Men of Reform Judaism

represented by **Fernando Santiago**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Amicus

Methodist Federation for Social Action

represented by **Fernando Santiago**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Amicus

National Council of Jewish Women

represented by **Fernando Santiago**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Amicus

**New York Conference, United Church
of Christ**

represented by **Fernando Santiago**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Amicus

**Reconstructionist Rabbinical
Association**

represented by **Fernando Santiago**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Amicus

Union for Reform Judaism

represented by **Fernando Santiago**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Amicus

Women of Reform Judaism

represented by **Fernando Santiago**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Amicus

Commonwealth of Massachusetts

represented by **Adam M. Cambier**
Office of the Attorney General of
Massachusetts
One Ashburton Place
Boston, MA 02108

617-963-2278
 Fax: 617-727-5762
 Email: adam.cambier@mass.gov
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Amicus

**Massachusetts, California, Connecticut,
 Delaware, the District of Columbia,
 Hawaii, Illinois, Maine, Maryland,
 Michigan, Minnesota, Nevada, New
 Jersey, New Mexico, North Carolina,
 Oregon, Pennsylvania**

represented by **Adam M. Cambier**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Amicus

**Massachusetts, California, Connecticut,
 Delaware, the District of Columbia,
 Hawaii, Illinois, Maine, Maryland,
 Michigan, Minnesota, Nevada, New
 Jersey, New Mexico, North Carolina,
 Oregon, Pennsylvania**

Date Filed	#	Docket Text
04/06/2021	<u>1</u>	COMPLAINT against All Defendants \$ 402 receipt number 0209-4210224, filed by Emilee Carpenter, LLC, Emilee Carpenter. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Civil Cover Sheet, # <u>4</u> Summons to Letitia James, # <u>5</u> Summons to Johnathan J. Smith, # <u>6</u> Summons to Weedon Wetmore)(Scruggs, Jonathan) (Entered: 04/06/2021)
04/06/2021	<u>2</u>	Corporate Disclosure Statement by Emilee Carpenter, Emilee Carpenter, LLC. (Scruggs, Jonathan) (Entered: 04/06/2021)
04/06/2021	<u>3</u>	MOTION for Preliminary Injunction by Emilee Carpenter, Emilee Carpenter, LLC. (Attachments: # <u>1</u> Memorandum in Support of Plaintiffs' Preliminary Injunction Motion, # <u>2</u> Filed Verified Complaint and Exhibits 1-2, # <u>3</u> Notice of Preliminary Injunction Motion, # <u>4</u> List of Witnesses and Exhibits fore Preliminary Injunction Hearing, # <u>5</u> Declaration Declaration of Emilee Carpenter in Support of Plaintiffs' Motion for Preliminary Injunction, # <u>6</u> Appendix Table of Contents to Appendix in Support of Plaintiffs' Motion for Preliminary Injunction, # <u>7</u> Appendix Appendix in Support of Plaintiffs' Motion for Preliminary Injunction, # <u>8</u> Text of Proposed Order Granting Plaintiffs' Motion for Preliminary Injunction)(Scruggs, Jonathan) (Entered: 04/06/2021)
04/07/2021		Case assigned to Hon. Frank P. Geraci, Jr.. Notification to Chambers of on-line civil opening. (TF) (Entered: 04/07/2021)
04/07/2021		Notice of Availability of Magistrate Judge: A United States Magistrate of this Court is available to conduct all proceedings in this civil action in accordance with 28 U.S.C. 636c and FRCP 73. The Notice, Consent, and Reference of a Civil Action to a Magistrate Judge form (AO-85) is available for download at http://www.uscourts.gov/services-forms/forms . (TF) (Entered: 04/07/2021)
04/07/2021		AUTOMATIC REFERRAL to Mediation The ADR Plan is available for download at http://www.nywd.uscourts.gov/alternative-dispute-resolution .(TF) (Entered: 04/07/2021)
04/07/2021	<u>4</u>	Summons Issued as to Leticia James, Johnathan J. Smith, Weedon Wetmore. (Attachments: # <u>1</u> summons, # <u>2</u> summons)(TF) (Entered: 04/07/2021)
04/27/2021	<u>5</u>	AFFIDAVIT of Service for Summons, Complaint, Preliminary Injunction Motion and Related Documents served on Letitia James on April 23, 2021, filed by Emilee Carpenter, Emilee Carpenter, LLC. (Scruggs, Jonathan) (Entered: 04/27/2021)

04/27/2021	<u>6</u>	AFFIDAVIT of Service for Summons, Complaint, Preliminary Injunction Motion and Related Documents served on Johnathan J. Smith on April 23, 2021, filed by Emilee Carpenter, Emilee Carpenter, LLC. (Scruggs, Jonathan) (Entered: 04/27/2021)
04/27/2021	<u>7</u>	AFFIDAVIT of Service for Summons, Complaint, Preliminary Injunction Motion and Related Documents served on Weedon Wetmore on April 23, 2021, filed by Emilee Carpenter, LLC, Emilee Carpenter., SUMMONS Returned Executed by Emilee Carpenter, LLC, Emilee Carpenter. Weedon Wetmore served on 4/23/2021, answer due 5/14/2021. (Scruggs, Jonathan) (Entered: 04/27/2021)
04/27/2021		RE: <u>5</u> and <u>6</u> – SUMMONS Returned Executed by Emilee Carpenter, LLC, Emilee Carpenter. Leticia James served on 4/23/2021, answer due 5/14/2021; Johnathan J. Smith served on 4/23/2021, answer due 5/14/2021. (TF) (Entered: 04/28/2021)
04/28/2021	<u>8</u>	NOTICE of Appearance by Mohammad Hyder Hussain on behalf of Weedon Wetmore (Hussain, Mohammad) (Entered: 04/28/2021)
05/05/2021	<u>9</u>	NOTICE of Appearance by Heather Lynn McKay on behalf of Leticia James, Johnathan J. Smith (McKay, Heather) (Entered: 05/05/2021)
05/06/2021	<u>10</u>	MOTION to appear pro hac vice for Bryan D. Neihart (Filing fee \$ 200 receipt number 0209-4239735.) by Emilee Carpenter, Emilee Carpenter, LLC. (Attachments: # <u>1</u> Exhibit A to Pro Hac Vice Notice, # <u>2</u> Text of Proposed Order)(Dague, Raymond) (Entered: 05/06/2021)
05/06/2021	<u>11</u>	MOTION for Extension of Time to File Response/Reply as to <u>1</u> Complaint, <u>3</u> MOTION for Preliminary Injunction by Emilee Carpenter, Emilee Carpenter, LLC.(Scruggs, Jonathan) (Entered: 05/06/2021)
05/10/2021	<u>12</u>	ORDER granting <u>11</u> Motion for Extension of Time to File Response/Reply. Defendants' responsive pleading to Plaintiffs' complaint and response to Plaintiffs' preliminary injunction motion are each due on or before June 16, 2021. Plaintiffs' response to Defendants' responsive pleading (if any) and Plaintiffs' reply in support of their preliminary injunction motion are each due on or before July 7, 2021. Defendants' reply in support of their responsive pleading (if any) is due on or before July 21, 2021. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 05/10/2021. (SFR) (Entered: 05/10/2021)
05/10/2021	<u>13</u>	ORDER granting <u>10</u> Motion for Pro Hac Vice. Signed by Hon. Frank P. Geraci, Jr. on 5/10/2021. (TF) (Entered: 05/10/2021)
06/02/2021	<u>14</u>	MOTION to appear pro hac vice (Filing fee \$ 200 receipt number 0209-4264481.) by Beth A. Parlato. (Attachments: # <u>1</u> Affidavit of Beth Parlato in Support, # <u>2</u> Declaration of Beth Parlato in Support, # <u>3</u> Affidavit of Sponsor Arthur Baumeister, # <u>4</u> Attorney Oath, # <u>5</u> Text of Proposed Order, # <u>6</u> ECF Registration)(Baumeister, Arthur) (Entered: 06/02/2021)
06/03/2021		Confirmed admission to NY state bar for attorney Beth A. Parlato. (KM) (Entered: 06/03/2021)
06/04/2021	<u>15</u>	MOTION for Leave to File <i>Amici Brief</i> by State of Nebraska. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Text of Proposed Order)(Marcelle, Thomas) (Entered: 06/04/2021)
06/04/2021	<u>16</u>	MOTION to appear pro hac vice (Filing fee \$ 200 receipt number 0209-4266537.) by State of Nebraska. (Attachments: # <u>1</u> Affidavit Sponsor Form, # <u>2</u> Affidavit PHV form, # <u>3</u> Text of Proposed Order)(Marcelle, Thomas) (Entered: 06/04/2021)
06/04/2021	<u>17</u>	ORDER granting <u>14</u> Motion for Pro Hac Vice. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 06/04/2021. (SFR) (Entered: 06/04/2021)
06/04/2021	<u>18</u>	MOTION for Leave to File <i>Amici Brief on behalf of New Yorker's Family Research Foundation and New Yorkers for Constitutional Freedoms</i> by Beth A. Parlato. (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Memorandum in Support)(Baumeister, Arthur) (Entered: 06/04/2021)
06/07/2021		E-Filing Notification regarding docket which was modified to correctly show the amicus parties. (KM) (Entered: 06/07/2021)

06/08/2021	<u>19</u>	ORDER granting <u>15</u> Motion for Leave to File Amici Brief. Signed by Hon. Frank P. Geraci, Jr. on 6/7/2021. (TF) (Entered: 06/08/2021)
06/08/2021	<u>20</u>	ORDER granting <u>18</u> Motion for Leave to File Amici Curiae Brief. Signed by Hon. Frank P. Geraci, Jr. on 6/7/2021. (TF) (Entered: 06/08/2021)
06/08/2021	<u>21</u>	ORDER granting <u>16</u> Motion for Pro Hac Vice by State of Nebraska. Signed by Hon. Frank P. Geraci, Jr. on 6/7/2021. (TF) (Entered: 06/08/2021)
06/10/2021	<u>22</u>	MEMORANDUM/BRIEF re <u>19</u> Order on Motion for Leave to File by State of Nebraska, Alabama, Arkansas, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Oklahoma, South Carolina, Texas, Utah, and West Virginia. (Marcelle, Thomas) (Entered: 06/10/2021)
06/10/2021	<u>23</u>	MEMORANDUM/BRIEF <i>Order on Motion for Leave to file</i> by New Yorker's Family Research Foundation and New Yorkers for Constitutional Freedoms. (Parlato, Beth) (Entered: 06/10/2021)
06/16/2021	<u>24</u>	First MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>FRCP 12(b)(6), 12(h)(2)(B)</i> , Second MOTION to Dismiss for Lack of Jurisdiction <i>FRCP 12(b)(1)</i> , Third MOTION for Judgment on the Pleadings <i>FRCP 12(c); FRCP 12(h)(2)(B)</i> , Fourth MOTION for More Definite Statement <i>FRCP 12(b)(e)</i> , Fifth MOTION for Extension of Time to File Answer re <u>3</u> MOTION for Preliminary Injunction <i>FRCP 12(a)(4)</i> , MOTION to Strike <u>3</u> MOTION for Preliminary Injunction <i>FRCP 12(b)(f)</i> by Weedon Wetmore. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Memorandum in Support)(Hussain, Mohammad) (Entered: 06/16/2021)
06/16/2021	<u>25</u>	MEMORANDUM OF LAW IN SUPPORT OF STATE DEFENDANTS MOTION TO DISMISS by Leticia James, Johnathan J. Smith. (Attachments: # <u>1</u> Memorandum in Support of State Defendants' Motion to Dismiss)(McKay, Heather) Modified docket text on 6/17/2021 (LB). (Entered: 06/16/2021)
06/16/2021	<u>26</u>	MEMORANDUM in Opposition re <u>3</u> MOTION for Preliminary Injunction filed by Leticia James, Johnathan J. Smith. (Attachments: # <u>1</u> Declaration of Johnathan J. Smith with Exhibits A–L, # <u>2</u> Declaration of Heather L. McKay with Exhibits M–O, # <u>3</u> Declaration of Jessica Clarke with Exhibits Q–S)(McKay, Heather) (Entered: 06/16/2021)
06/17/2021		E–Filing Notification regarding <u>25</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM: Memorandum filed improperly as a motion. Clerk terminated motion and modified docket text to correctly reflect filing event. ACTION REQUIRED: A Notice of Motion is required; docket using Motion and link to <u>25</u> Memorandum. (LB) (Entered: 06/17/2021)
06/17/2021	<u>27</u>	Amended MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Leticia James, Johnathan J. Smith. (Attachments: # <u>1</u> Memorandum in Support)(McKay, Heather) (Entered: 06/17/2021)
06/21/2021	<u>28</u>	MOTION Leave to File Amicus Curiae Brief by Frederick Douglass Foundation, Coalition of African American Pastors, Conservative Clergy of Color, The Restoration Project. (Attachments: # <u>1</u> Memorandum in Support Memorandum in Support, # <u>2</u> Supplement Proposed Amicus Curiae Brief)(Vecchio, Philip) (Entered: 06/21/2021)
06/23/2021	<u>29</u>	NOTICE of Appearance by Sandra Elizabeth Pullman on behalf of Leticia James (Pullman, Sandra) (Entered: 06/23/2021)
06/23/2021	<u>30</u>	MOTION FOR LEAVE TO APPEAR AS AMICI CURIAE/MOTION for Leave to File <i>Amicus Brief in Support of Defendants</i> by New York Civil Liberties Union Foundation, American Civil Liberties Union Foundation. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Exhibit, # <u>3</u> Text of Proposed Order)(Larios, Gabriella) Modified on 6/24/2021 (TF). (Entered: 06/23/2021)
06/23/2021	<u>31</u>	MOTION to appear pro hac vice (Filing fee \$ 200 receipt number 0209–4284446.) by American Civil Liberties Union Foundation. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Text of Proposed Order)(Larios, Gabriella) (Entered: 06/23/2021)
06/23/2021	<u>32</u>	MOTION to appear pro hac vice (Filing fee \$ 200 receipt number 0209–4284478.) by American Civil Liberties Union Foundation. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Text of Proposed Order)(Larios, Gabriella) (Entered: 06/23/2021)

06/23/2021	<u>33</u>	MOTION to appear pro hac vice <i>by amici curia Religious and Civil–Rights Organizations</i> (Filing fee \$ 200 receipt number 0209–4284743.) by Americans United for Separation of Church and State. (Attachments: # <u>1</u> Exhibit Admission Petition Form with Sponsor Affidavit, Attorney's & Civility Oaths and Attorney Database & ECF Registration, # <u>2</u> Text of Proposed Order)(Santiago, Fernando) (Entered: 06/23/2021)
06/23/2021	<u>34</u>	MOTION to appear pro hac vice <i>of Kenneth D. Upton, Jr.</i> (Filing fee \$ 200 receipt number 0209–4284744.) by Americans United for Separation of Church and State. (Attachments: # <u>1</u> Exhibit Admission Petition Form with Sponsor Affidavit, Attorney's & Civility Oaths and Attorney Database & ECF Registration, # <u>2</u> Text of Proposed Order)(Santiago, Fernando) (Entered: 06/23/2021)
06/23/2021	<u>35</u>	MOTION to appear pro hac vice <i>of Sarah R. Goetz</i> (Filing fee \$ 200 receipt number 0209–4284745.) by Americans United for Separation of Church and State. (Attachments: # <u>1</u> Exhibit Admission Petition Form with Sponsor Affidavit, Attorney's & Civility Oaths and Attorney Database & ECF Registration, # <u>2</u> Text of Proposed Order)(Santiago, Fernando) (Entered: 06/23/2021)
06/23/2021	<u>36</u>	MOTION for Leave to File <i>Amicus Curiae Brief by amici curiae Religious and Civil–Rights Organizations Americans United for Separation of Church and State, ADL (Anti–Defamation League), Bend the Arc: A Jewish Partnership for Justice, Central Conference of American Rabbis, Global Justice Institute, Metropolitan Community Churches, Hindu American Foundation, Men of Reform Judaism, Methodist Federation for Social Action, National Council of Jewish Women, New York Conference, United Church of Christ, Reconstructionist Rabbinical Association, Union for Reform Judaism and Women of Reform Judaism</i> by Americans United for Separation of Church and State. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Text of Proposed Order)(Santiago, Fernando) (Entered: 06/23/2021)
06/24/2021		E–Filing Notification: modified entry re <u>30</u> MOTION for Leave to File <i>Amicus Brief and incorrect party role chosen, party Americans United for Separation of Church and State removed as defendant.</i> (TF) (Entered: 06/24/2021)
06/28/2021	<u>37</u>	MOTION to appear pro hac vice <i>for Adam M. Cambier</i> (Filing fee \$ 200 receipt number 0209–4288123.) by Commonwealth of Massachusetts. (Attachments: # <u>1</u> Petition for Attorney Admission, # <u>2</u> Affidavit of Sponsor, # <u>3</u> Attorney Oath, # <u>4</u> ECF Registration)(Schoenfeld, Alan) (Entered: 06/28/2021)
06/28/2021	<u>38</u>	PROPOSED ORDER RE STATES MOTION FOR LEAVE TO FILE AMICI CURIAE BRIEF by Coalition of African American Pastors, Conservative Clergy of Color, Frederick Douglass Foundation, The Restoration Project.(Vecchio, Philip) Modified on 6/29/2021 (TF). (Entered: 06/28/2021)
06/29/2021		E–Filing Notification: Document filed improperly as a motion. Court terminated motion and modified docket text to correctly reflect filing event. No action required. <u>38</u> Amended MOTION for Leave to File <i>Amici Curiae Brief</i> (TF) (Entered: 06/29/2021)
06/29/2021		E–Filing Notification: <u>37</u> MOTION to appear Pro Hac Vice for Adam M. Gambier: Sponsoring Affidavit is missing date of admission to the Western District of New York. ACTION REQUIRED: Re–file completed document using docketing event Continuation of Exhibits. (DDS) (Entered: 06/29/2021)
06/29/2021	<u>39</u>	CONTINUATION OF EXHIBITS by Commonwealth of Massachusetts. to <u>37</u> MOTION to appear pro hac vice <i>for Adam M. Cambier</i> (Filing fee \$ 200 receipt number 0209–4288123.) filed by Commonwealth of Massachusetts. (Schoenfeld, Alan) (Entered: 06/29/2021)
07/01/2021	40	TEXT ORDER granting <u>28</u> Motion for Leave to File Amicus Curiae Brief by Frederick Douglass Foundation, Coalition of African American Pastors, Conservative Clergy of Color, The Restoration Project. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 07/01/2021. (SFR) (Entered: 07/01/2021)
07/01/2021	41	TEXT ORDER granting <u>37</u> Motion for Pro Hac Vice. The application of Adam M. Cambier to be admitted pro hac vice to this Court is GRANTED. Signed by Hon. Frank P. Geraci, Jr. on 07/01/2021. (SFR) (Entered: 07/01/2021)

07/01/2021	42	TEXT ORDER granting <u>30</u> Motion for Leave to File by New York Civil Liberties Union Foundation, American Civil Liberties Union Foundation. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 07/01/2021. (SFR) (Entered: 07/01/2021)
07/01/2021	43	TEXT ORDER granting <u>31</u> Motion for Pro Hac Vice. The application of Lindsey Kaley to be admitted pro hac vice to this Court is GRANTED. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 07/01/2021. (SFR) (Entered: 07/01/2021)
07/01/2021	44	TEXT ORDER granting <u>32</u> Motion for Pro Hac Vice. The application of Rica Prasad to be admitted pro hac vice to this Court is GRANTED. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 07/01/2021. (SFR) (Entered: 07/01/2021)
07/01/2021	45	TEXT ORDER granting <u>36</u> Motion for Leave to File by Religious and Civil–Rights Organizations Americans United for Separation of Church and State, ADL (Anti–Defamation League), Bend the Arc: A Jewish Partnership for Justice, Central Conference of American Rabbis, Global Justice Institute, Metropolitan Community Churches, Hindu American Foundation, Men of Reform Judaism, Methodist Federation for Social Action, National Council of Jewish Women, New York Conference, United Church of Christ, Reconstructionist Rabbinical Association, Union for Reform Judaism and Women of Reform Judaism by Americans United for Separation of Church and State. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 07/01/2021. (SFR) (Entered: 07/01/2021)
07/01/2021	46	TEXT ORDER granting <u>33</u> Motion for Pro Hac Vice. The application of Richard B. Katskee to be admitted pro hac vice to this Court is GRANTED. Signed by Hon. Frank P. Geraci, Jr. on 07/01/2021. (SFR) (Entered: 07/01/2021)
07/01/2021	47	TEXT ORDER granting <u>34</u> Motion for Pro Hac Vice. The application of Kenneth D. Upton to be admitted pro hac vice to this Court is GRANTED. Signed by Hon. Frank P. Geraci, Jr. on 07/01/2021. (SFR) (Entered: 07/01/2021)
07/01/2021	48	TEXT ORDER granting <u>35</u> Motion for Pro Hac Vice. The application of Sarah R. Goetz to be admitted pro hac vice to this Court is GRANTED. Signed by Hon. Frank P. Geraci, Jr. on 07/01/2021. (SFR) (Entered: 07/01/2021)
07/01/2021	49	TEXT ORDER: The Court is no longer accepting new motions for leave to file Amici Curiae in this matter. However, the Court will accept Amici Curiae from any counsel who has already been granted pro hac vice admission for the purpose of making such a filing. Such counsel are directed to file Amici Curiae as soon as practicable. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 07/01/2021. (SFR) (Entered: 07/01/2021)
07/01/2021	<u>50</u>	MEMORANDUM/BRIEF <i>Amici Curiae</i> by Coalition of African American Pastors, Conservative Clergy of Color, Frederick Douglass Foundation, The Restoration Project. (Vecchio, Philip) (Entered: 07/01/2021)
07/02/2021	<u>51</u>	MEMORANDUM/BRIEF <i>Amici Curiae</i> by American Civil Liberties Union Foundation, New York Civil Liberties Union Foundation. (Larios, Gabriella) (Entered: 07/02/2021)
07/02/2021	<u>52</u>	MEMORANDUM/BRIEF <i>Amici Curiae</i> by Religious and Civil–Rights Organizations by ADL (Anti–Defamation League), Americans United for Separation of Church and State, Bend the Arc: A Jewish Partnership for Justice, Central Conference of American Rabbis, Global Justice Institute, Metropolitan Community Churches, Hindu American Foundation, Men of Reform Judaism, Methodist Federation for Social Action, National Council of Jewish Women, New York Conference, United Church of Christ, Reconstructionist Rabbinical Association, Union for Reform Judaism, Women of Reform Judaism. (Santiago, Fernando) (Entered: 07/02/2021)
07/02/2021	<u>53</u>	MOTION for Leave to File <i>Brief as Amici Curiae</i> by Massachusetts, California, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Maine, Maryland, Michigan, Minnesota, Nevada, New Jersey, New Mexico, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and Washington. (Attachments: # <u>1</u> Exhibit – Proposed Amicus Brief, # <u>2</u> Text of Proposed Order)(Cambier, Adam) (Entered: 07/02/2021)
07/06/2021	54	TEXT ORDER granting <u>53</u> Motion for Leave to File Brief as Amici Curiae by Massachusetts, California, Connecticut, Delaware, the District of Columbia, Hawaii,

		Illinois, Maine, Maryland, Michigan, Minnesota, Nevada, New Jersey, New Mexico, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and Washington. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 07/06/2021. (SFR) (Entered: 07/06/2021)
07/06/2021	<u>55</u>	MEMORANDUM/BRIEF <i>as Amici Curiae</i> by Massachusetts, California, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Maine, Maryland, Michigan, Minnesota, Nevada, New Jersey, New Mexico, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and Washington. (Cambier, Adam) (Entered: 07/06/2021)
07/07/2021	<u>56</u>	REPLY to Response to Motion re <u>3</u> MOTION for Preliminary Injunction filed by Emilee Carpenter, Emilee Carpenter, LLC. (Scruggs, Jonathan) (Entered: 07/07/2021)
07/07/2021	<u>57</u>	RESPONSE in Opposition re <u>27</u> Amended MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Emilee Carpenter, Emilee Carpenter, LLC. (Attachments: # <u>1</u> Exhibit A to Memorandum of Law in Response to State Defendant's Motion to Dismiss, # <u>2</u> Exhibit B to Memorandum of Law in Response to State Defendant's Motion to Dismiss)(Scruggs, Jonathan) (Entered: 07/07/2021)
07/07/2021	<u>58</u>	RESPONSE in Opposition re <u>24</u> First MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>FRCP 12(b)(6), 12(h)(2)(B)</i> Second MOTION to Dismiss for Lack of Jurisdiction <i>FRCP 12(b)(1)</i> Third MOTION for Judgment on the Pleadings <i>FRCP 12(c); FRCP 12(h)(2)(B)</i> Fourth MOTION for More Definite Statement <i>FRCP 12(b)(e)</i> Fifth MOTION for Extension of Time to File Answer re <u>3</u> MOTION for Preliminary Injunction <i>FRCP 12(a)(4)</i> MOTION to Strike <u>3</u> MOTION for Preliminary Injunction <i>FRCP 12(b)(f)</i> filed by Emilee Carpenter, Emilee Carpenter, LLC. (Scruggs, Jonathan) (Entered: 07/07/2021)
07/21/2021	<u>59</u>	REPLY to Response to Motion re <u>3</u> MOTION for Preliminary Injunction , <u>24</u> First MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>FRCP 12(b)(6), 12(h)(2)(B)</i> Second MOTION to Dismiss for Lack of Jurisdiction <i>FRCP 12(b)(1)</i> Third MOTION for Judgment on the Pleadings <i>FRCP 12(c); FRCP 12(h)(2)(B)</i> Fourth MOTION for More Definite Statement <i>FRCP 12(b)(e)</i> Fifth MOTION for Extension of Time to File Answer re <u>3</u> MOTION for Preliminary Injunction <i>FRCP 12(a)(4)</i> MOTION to Strike <u>3</u> MOTION for Preliminary Injunction <i>FRCP 12(b)(f)</i> filed by Weedon Wetmore. (Hussain, Mohammad) (Entered: 07/21/2021)
07/21/2021	<u>60</u>	REPLY to Response to Motion re <u>27</u> Amended MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Leticia James, Johnathan J. Smith. (McKay, Heather) (Entered: 07/21/2021)
08/20/2021	<u>61</u>	Letter filed by Leticia James, Johnathan J. Smith as to Weedon Wetmore, Leticia James, Johnathan J. Smith <i>Statement of Supplemental Authority</i> . (Attachments: # <u>1</u> Exhibit 303 Creative LLC v Elenis)(McKay, Heather) (Entered: 08/20/2021)
08/24/2021	<u>62</u>	Letter filed by Emilee Carpenter, Emilee Carpenter, LLC as to Weedon Wetmore, Leticia James, Johnathan J. Smith (<i>Rule 28(j) Letter In Response to Defendants' Supplemental Authority</i>). (Scruggs, Jonathan) (Entered: 08/24/2021)
08/24/2021	<u>63</u>	Letter filed by Emilee Carpenter, Emilee Carpenter, LLC as to Weedon Wetmore, Leticia James, Johnathan J. Smith (<i>Rule 28(j) Letter re Coral Ridge v. Amazon Supplemental Authority</i>). (Scruggs, Jonathan) (Entered: 08/24/2021)
08/31/2021	<u>64</u>	Letter filed by Emilee Carpenter, Emilee Carpenter, LLC as to Weedon Wetmore, Leticia James, Johnathan J. Smith (<i>Rule 28(j) Letter re Amicus Brief in Updegrove v Herring, No. 21-1506 (4th Cir. Aug. 27, 2021)</i>). (Scruggs, Jonathan) (Entered: 08/31/2021)
09/08/2021	<u>65</u>	NOTICE of Appearance by Richard W. Sawyer on behalf of Leticia James, Johnathan J. Smith (Sawyer, Richard) (Entered: 09/08/2021)
10/01/2021	<u>66</u>	MOTION to Withdraw as Attorney <i>Ricca Prasad</i> by American Civil Liberties Union Foundation, New York Civil Liberties Union Foundation. (Attachments: # <u>1</u> Text of Proposed Order)(Prasad, Ricca) (Entered: 10/01/2021)
10/06/2021	<u>67</u>	ORDER granting <u>66</u> Motion to Withdraw as Attorney. Attorney Ricca Prasad terminated. Signed by Hon. Frank P. Geraci, Jr. on 10/4/2021. (TF) (Entered: 10/06/2021)

		10/06/2021)
12/13/2021	<u>68</u>	DECISION AND ORDER: Defendant Wetmore's motion to dismiss under Rule 12(b)(1) (ECF No. <u>24</u>) is DENIED. The State's motion to dismiss (ECF No. <u>27</u>) is GRANTED insofar as all claims against Defendants Letitia James and Johnathan J. Smith are dismissed, with prejudice, for failure to state a claim upon which relief may be granted. In addition, all claims against Defendant Weedon Wetmore are <i>sua sponte</i> dismissed, with prejudice, for failure to state a claim upon which relief may be granted. Plaintiff's motion for a preliminary injunction (ECF No. 3) is DENIED AS MOOT. The Clerk of Court is directed to enter judgment and close this case. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 12/13/2021. (MFM) -CLERK TO FOLLOW UP- (Entered: 12/13/2021)
12/14/2021	<u>69</u>	JUDGMENT in favor of Johnathan J. Smith, Leticia James, Weedon Wetmore against Emilee Carpenter, LLC, Emilee Carpenter. Signed by Clerk of Court on 12/14/2021. (TF) (Entered: 12/15/2021)
01/12/2022	<u>70</u>	NOTICE OF APPEAL as to <u>68</u> Order on Motion for Extension of Time to Answer,,, Order on Motion to Strike,,, Order on Motion to Dismiss for Failure to State a Claim,,, Order on Motion for Preliminary Injunction,,,,,,, Order on Motion to Dismiss/Lack of Jurisdiction,,, Order on Motion for Judgment on the Pleadings,,, Order on Motion for More Definite Statement,,, <u>69</u> Judgment by Emilee Carpenter, Emilee Carpenter, LLC. Filing fee \$ 505, receipt number ANYWDC-4472036. (Scruggs, Jonathan) (Entered: 01/12/2022)