



# Labor & Employment Issues Client Alert

Pitta LLP  
For Clients  
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**“Every record has been destroyed or falsified, every book rewritten,  
every picture has been repainted, every statue and street building has been renamed,  
every date has been altered.**

**And the process is continuing day by day and minute by minute. History has stopped.  
Nothing exists except an endless present in which the Party is always right.”**

**-George Orwell, 1984-**

## **GOVERNOR CUOMO ISSUES EXECUTIVE ORDER MAKING NEW YORKERS WHO VOLUNTARILY TRAVEL TO COVID-19 HIGH-RISKS STATES INELIGIBLE FOR SICK LEAVE BENEFITS**

On June 27, 2020 Governor Andrew Cuomo issued an Executive Order that will make New Yorkers that voluntarily travel to high-risk states ineligible for paid New York State emergency paid sick leave benefits. The Governor said, “if we are going to maintain the progress we’ve seen, we need everyone to take responsibility.”

States all across the country have seen sharp spikes in COVID-19 infections. Yesterday, the states of Florida, Texas and Arizona reported record COVID-19 infection rates. New York State defines high-risk states as states that have positive tests rates higher than 10 per 100,000 residents, or higher than a 10% positive rate over a seven-day rolling average.

Previously, Governor Cuomo signed an Executive Order that will require any traveler to a state with a high infection rate to quarantine for 14 days. That Executive Order was made in conjunction with New Jersey and Connecticut.

Here is [guidance](#) from the New York State Department of Health for travelers to states with high infection rates.

## **FEDERAL JUDGE HOLDS THAT NYS WAS WRONG TO RESTRICT RELIGIOUS GATHERINGS WHILE ALLOWING PROTESTS**

On June 26, 2020 United States District Court Judge Gary L. Sharpe in *Rev. Steven Soos et. al. v. Cuomo* ruled that New York State is in violation of the First Amendment by restricting religious gatherings during the COVID-19 while simultaneously permitting large protests in the wake of the death of George Floyd and the opening of other activities and businesses.

Judge Sharpe issued a preliminary injunction that voids parts of Governor Cuomo’s Executive Order that included a fine on anyone who gathered in excess of set limits. The injunction includes a prohibition on “enforcing any limitation for outdoor gatherings provided that such participants in such gatherings follow social distancing requirements as set forth in the applicable executive orders and guidance.”

Although Judge Sharpe only issued a preliminary injunction, he said that “plaintiffs have demonstrated a likelihood of success on the merits with respect to their free exercise claim.” The decision can be appealed to the United States Court of Appeals for the Second Circuit.

### **U.S. DOL ISSUES GUIDANCE FOR WHEN HEALTH PLANS MUST COVER COVID-19 TESTS**

Last week, the United States Department of Labor issued new COVID-19 guidance that outlines when group health plans must cover COVID-19 tests for workers. Under the Families First Coronavirus Response Act (the FFCRA) and the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act) health plans must pay for at-home COVID-19 tests for workers with symptoms or potential exposure to COVID-19, but they do not have to cover employer-mandated tests for workers returning to a workplace.

According to the guidance, health plans must cover co-pays for workers who get COVID-19 tests from medical facilities. If a worker gets more than one COVID-19 tests, the plan must cover the costs for each exam.

The guidance also mandates that health plans fully cover other services administered in the course of determining whether a COVID-19 test is appropriate. For example, if a doctor orders a flu test and chest X-ray before calling for a COVID-19 test, the health plan must pay for all of it at no cost to the worker.

This is a link to the [guidance](#).

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**“We believe in the ideas of family, mutuality,  
the sharing of benefits and burdens  
for the good of all, feeling one another’s pain,  
sharing one another’s blessing  
recognizing that at the heart of the matter  
we are bound to each other.”  
-Mario M. Cuomo-**

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