

SECOND CIRCUIT MODIFIES INJUNCTION AND OPENS THE DOOR FOR DISPENSARIES IN WNY

Hodgson Russ Cannabis & Hemp Alert
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Last November, the District Court for the Northern District of New York issued an injunction amid a lawsuit by Variscite NY One (“Variscite”), a Michigan entity, which had been denied approval to operate a recreational cannabis business within the state.

The lawsuit challenged provisions of the Conditional Adult-Use Retail Dispensary Program (“CAURD”) licensing criteria which required that an entity have a “significant presence” in New York and also required that ownership or control of that entity be by “justice-involved” individuals. Variscite requested the injunction primarily to stop New York from processing any applications for storefront cannabis dispensary licenses under the CAURD program in addition to prohibiting New York from enforcing any parts of the cannabis law that favors New York residents over out-of-state residents. The District Court enjoined CAURD licensing in five of the fourteen regions for which New York proposed to issue licenses.

On Tuesday, the U.S. Court of Appeals for the Second Circuit modified the November injunction and cleared the way for cannabis dispensaries for a majority of the State. The Second Circuit’s modification will allow OCM to issue licenses to every region of New York, including Western New York, except for the Finger Lakes. To date, 66 licenses have been issued for retail dispensaries.

Following the Court’s decision, Governor Hochul released a statement, “New York’s brand-new cannabis industry is making significant progress to promote social equity and right the wrongs of the past, creating the fairest and safest market in the nation. I am pleased that a federal appellate court has limited an injunction in favor of the State of New York in the matter of *Variscite NY One, Inc. v. Office of Cannabis Management, et al.* This decision will allow New York’s social equity entrepreneurs to open safe, regulated cannabis dispensaries in Central New York, Western New York, the Mid-Hudson Region, and Brooklyn. For the first time, New Yorkers in nearly every region of the state will have access to safer, high-quality, adult-use cannabis products. I am committed to ensuring New York continues to lead the nation in our safe equitable approach to the cannabis market.”

OCM announced recently that it plans to double the number of licenses it will award in its CAURD program. Western New York, which currently has 11 licenses granted, could see well over 20 retail dispensaries in the near future.

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