

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 19th day of February, two thousand twenty-five.

PRESENT:

BARRINGTON D. PARKER, JR.,
JOSEPH F. BIANCO,
WILLIAM J. NARDINI,
Circuit Judges.

NEW YORK STATE VEGETABLE GROWERS
ASSOCIATION, INC., A & J KIRBY FARMS,
LLC, PORPIGLIA FARMS, INC., CRIST BROS
ORCHARDS, INC., CAHOON FARMS, INC.,
LYNN-ETTE & SONS INC.,

Plaintiffs-Appellants,

v.

24-525-cv

LETITIA JAMES, IN HER OFFICIAL CAPACITY
AS ATTORNEY GENERAL OF NEW YORK,
JOHN WIRENIUS, IN HIS OFFICIAL CAPACITY
AS CHAIRPERSON OF THE NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD,
SARAH G. COLEMAN, IN HER OFFICIAL
CAPACITY AS THE DEPUTY CHAIR OF THE
NEW YORK PUBLIC EMPLOYMENT
RELATIONS BOARD AND AN
ADMINISTRATIVE LAW JUDGE OF NEW
YORK PUBLIC EMPLOYMENT RELATIONS

BOARD, MARIAM MANICHAIKUL, IN HER
OFFICIAL CAPACITY AS THE DIRECTOR OF
THE NEW YORK PUBLIC EMPLOYMENT
RELATIONS BOARDS OFFICE OF PRIVATE
EMPLOYMENT PRACTICES &
REPRESENTATION AND AN
ADMINISTRATIVE LAW JUDGE OF NEW
YORK PUBLIC EMPLOYMENT RELATIONS
BOARD,

*Defendants-Appellees.**

FOR PLAINTIFFS-APPELLANTS:

JOSHUA H. VIAU (Boris Gauier, *on the brief*),
Fisher Phillips LLP, Atlanta, Georgia, (Scott
Allen, Jr., Lippes Mathias LLP, Buffalo, New
York, *on the brief*).

FOR DEFENDANTS-APPELLEES:

JOSEPH M. SPADOLA, Assistant Solicitor General
(Barbara D. Underwood, Solicitor General, and
Andrea Oser, Deputy Solicitor General, *on the
brief*), for Letitia James, Attorney General for
the State of New York, New York, New York.

Appeal from an order of the United States District Court for the Western District of New
York (John L. Sinatra, Jr., *Judge*).

**UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND
DECREED** that the order, entered on February 21, 2024, is **AFFIRMED**.

Plaintiffs-Appellants New York State Vegetable Growers Association, Inc., A & J Kirby
Farms, LLC, Porpiglia Farms, Inc., Crist Bros Orchards, Inc., Cahoon Farms, Inc., and Lynn-Ette
& Sons Inc. appeal from the district court’s order denying in part their motion for a preliminary
injunction. Appellants—five agricultural employers and an agricultural organization—initiated
the instant action against Defendants-Appellees Letitia James, John Wirenius, Sarah G. Coleman,
and Mariam Manichaikul, alleging that the New York State Employment Relations Act (“SERA”),

* The Clerk of the Court is respectfully directed to amend the caption on this Court’s docket to be consistent
with the caption on this order.

N.Y. Lab. Law §§ 700–718, as amended by the Farm Laborers Fair Labor Practices Act of July 17, 2019 (“FLFLPA”), ch. 105, 2019 N.Y. Laws 848–56, and related rules and procedures promulgated by the New York Public Employment Relations Board (“PERB”), N.Y. Comp. Codes R. & Regs. tit. 12, §§ 263.1–263.123, are unconstitutional in several different respects.¹ The district court denied the motion, partially due to a lack of standing and ripeness, and partially due to a failure to establish a likelihood of success on the merits and irreparable harm absent injunctive relief. *See generally N.Y. State Vegetable Growers Assoc., Inc. v. James*, No. 23-CV-1044 (JLS), 2024 WL 1161115 (W.D.N.Y. Feb. 21, 2024). We assume the parties’ familiarity with the underlying facts, procedural history, and issues on appeal, to which we refer only as necessary to explain our decision to affirm.

We review a district court’s denial of a motion for a preliminary injunction for abuse of discretion and, in doing so, review any underlying questions of law *de novo*. *State Farm Mut. Auto. Ins. Co. v. Tri-Borough NY Med. Prac. P.C.*, 120 F.4th 59, 79 (2d Cir. 2024). A district court abuses its discretion if it rests its decision on an error of law or a clearly erroneous factual finding, or if its decision, though not necessarily the product of a legal error or clearly erroneous factual finding, cannot be located within the range of permissible decisions. *Id.*

Upon review of the record and relevant case law, we conclude that the district court’s denial in part of the motion for a preliminary injunction was not an abuse of discretion. In doing so, we have thoroughly considered Appellants’ arguments and conclude that they do not provide any basis to disturb the district court’s determinations. Accordingly, for substantially the same reasons

¹ Kathy Hochul, Governor of New York, was also initially named as a defendant, but was voluntarily dismissed from the action without prejudice.

articulated by the district court in its decision, the order denying in part the motion for a preliminary injunction is **AFFIRMED**.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court