

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

In the matter of
JULIA ROCK, and
NEW YORK FOCUS, INC.,

Petitioners,

- against -

NEW YORK STATE DEPARTMENT OF
LABOR,

Respondent,

For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules.

Index No.

HYBRID COMPLAINT AND
VERIFIED PETITION

Petitioner-Plaintiffs Julia Rock and New York Focus, Inc. (collectively “Petitioners”), for their hybrid verified petition for judgment pursuant to Article 78 of New York Civil Practice Law and Rules and their complaint seeking a declaratory judgment pursuant to CPLR § 3001, by and through their undersigned counsel, respectfully allege as follows:

PRELIMINARY STATEMENT

1. This is a Freedom of Information Law (FOIL) action seeking to prevent the New York State Department of Labor from continuing to violate New Yorkers’ rights to obtain public records. The Department of Labor (DOL) is infringing those rights in two ways — it is attempting to apply a massively expansive interpretation of state law to prevent disclosure of records, and it is imposing unlawful limits on requesters’ rights to appeal under FOIL.

2. FOIL, N.Y. Pub. Officers Law § 84 *et seq.*, is one of the most important methods for the public to keep tabs on government agencies in New York. In passing the law, the Legislature declared that the “people’s right to know the process of governmental decision-making

and to review the documents and statistics leading to determinations is basic to our society.” N.Y. Pub. Officers Law § 84.

3. To promote democratic oversight and a flourishing self-government, the Legislature explained that “the public, individually and collectively and represented by a free press, should have access to the records of government in accordance with the provisions” of FOIL. *Id.*

4. That “free press” includes Petitioner Julia Rock, who reports for *New York Focus*, a news outlet that publishes in-depth journalism about New York State government. As part of that reporting, Ms. Rock and other journalists at *New York Focus* regularly file FOIL requests to seek documents, including from DOL.

5. But DOL is impeding Petitioners’ right to obtain public records.

6. First, it is applying an unlawfully expansive interpretation of a state law, Labor Law § 537, to withhold records responsive to a FOIL request from Ms. Rock. While the labor law allows withholding certain “unemployment insurance information,” DOL is ignoring the law’s carve-outs for information about DOL personnel and the department itself — information that, contrary to DOL’s claims, must be disclosed to the public.

7. Second, DOL has a policy or practice of imposing an unlawful restriction on the right of FOIL requesters to administratively appeal adverse FOIL decisions. Rather than accepting appeals electronically — and despite accepting requests electronically — DOL requires requesters to send appeals by physical mail.

8. But FOIL does not permit agencies to impose additional restrictions on requesters’ appeal rights beyond those imposed in the statute itself.

9. DOL's appeal-by-mail policy limits requesters' FOIL rights in two ways. First, the policy makes it more difficult for requesters to submit an appeal. Second, it artificially limits the time that requesters have for submitting appeals. While FOIL provides for 30 days to submit an appeal, DOL's policy claims the department must *receive* the mailed appeal by that deadline — meaning the DOL unilaterally provides requesters less than the statutory 30-day timeframe to appeal.

10. DOL claimed that this unlawful policy was determinative in Ms. Rock's case.

11. Within FOIL's 30-day appeal deadline, Ms. Rock electronically submitted her appeal of DOL's improper denial of her request. DOL received the appeal, but it waited 10 days to tell her its policy required appeals to be mailed. Ms. Rock proceeded to mail her appeal, and did so while still within the 30-day window. But DOL claimed that it received the mail after FOIL's appeal deadline had expired, and it denied her appeal on that basis.

12. Because DOL improperly denied Ms. Rock's request based on Labor Law § 537 and denied her appeal based on its unlawful appeal-by-mail policy, Petitioners are filing this petition and verified complaint.

13. Petitioners respectfully request this Court to order DOL to promptly produce the documents sought in Ms. Rock's FOIL request. Petitioners also request this Court to enjoin DOL from continuing its unlawful FOIL policy or, at minimum, declare that the policy is unlawful. And Petitioners ask that this Court award them costs and fees.

VENUE AND JURISDICTION

14. Pursuant to CPLR §§ 7804(b) and 506(b), venue in this proceeding lies in Albany County, the judicial district in which DOL's principal offices are located, where its agent made the determinations petitioned against and complained of, and where it failed to perform the duties required of it by law.

15. Petitioners have exhausted their administrative appeals under FOIL. This Court therefore has jurisdiction over this matter pursuant to FOIL § 89(4)(b) and CPLR Article 78.

PARTIES

16. Petitioner Julia Rock is a journalist at *New York Focus*. She reports on, among other things, DOL and other areas of New York State government.

17. Petitioner New York Focus, Inc. is a 501(c)(3) not-for-profit organization headquartered in New York City. It publishes *New York Focus*, an independent nonprofit news outlet investigating power in the Empire State.

18. Respondent DOL is a public agency subject to the requirements of the Freedom of Information Law, N.Y. Public Officers Law § 84 *et seq.* DOL maintains its office at Building 12, W.A. Harriman Campus, Albany, N.Y. 12226.

STATEMENT OF FACTS

19. Ms. Rock and *New York Focus* regularly report on issues that involve DOL, including in articles concerning claims for unemployment benefits.¹ Affirmation of Julia Rock (“Rock Aff.”) ¶ 2. To do so, they have repeatedly submitted FOIL requests to DOL and plan to continue to do so in support of their ongoing reporting. *Id.* ¶¶ 3-5.

20. One such request is Ms. Rock’s FOIL request number R000033-010825. She submitted it to DOL electronically, via an online portal, on January 7, 2025. *Id.* ¶ 6; Ex. A.²

21. The request seeks “[t]he 2024 call logs” for two sets of agency numbers: (1) the phone number (888) 209-8124, which is the contact number for DOL’s Telephone Claims Center;

¹ See, e.g., Julia Rock, *New York Will Boost Unemployment Benefits, Labor and Businesses Celebrate*, *N.Y. Focus* (May 8, 2025), <https://nysfocus.com/2025/05/08/unemployment-benefits-insurance-debt-final-state-budget-new-york>.

² Exhibits refer to the exhibits attached to the Rock Affirmation.

and (2) “All claims center employee phones that receive forwarded calls from (888) 209-8124.”

Ex. A.

22. On January 17, 2025, DOL informed Ms. Rock electronically that her request was “denied pursuant to NY Labor Law § 537.” Rock Aff. ¶ 7; Ex. B.

23. FOIL provides for administrative appeals of adverse agency decisions, stating: “any person denied access to a record may within thirty days appeal in writing such denial to the head, chief executive or governing body of the entity.” N.Y. Pub. Off. Law § 89(4)(a).

24. Complying with that provision, Ms. Rock timely filed an administrative appeal on January 21, 2025. Rock Aff. ¶ 8; Ex. C.

25. Ms. Rock submitted the appeal electronically, as she had the original FOIL request. *Id.*

26. FOIL states that agencies must decide administrative appeals within 10 business days. N.Y. Pub. Off. Law § 89(4)(a). On February 4, 2025, 10 business days after Ms. Rock filed her appeal, DOL replied to it — however, it refused to decide the appeal. Rock Aff. ¶ 9; Ex. D.

27. Instead of complying with the statute’s demand that it decide appeals within 10 business days, DOL stated that Ms. Rock’s appeal “will not be entertained” because she did not physically mail it. *Id.*

28. In the interest of expeditiously obtaining the documents she requested, Ms. Rock submitted her appeal by mail on February 5, 2025. Rock Aff. ¶ 10.

29. This mailed version of the appeal was again sent within FOIL’s 30-day appeal deadline.

30. However, DOL claimed that it did not receive the letter until February 19, 2025, and it alleged that Ms. Rock's appeal was therefore untimely. On March 6, 2025, it denied her appeal. Rock Aff. ¶ 11; Ex. E.

31. DOL further stated that "[e]ven if your appeal had been timely," DOL would have denied it because the requested records all "fall within the range of information the Department deems confidential under Labor Law § 537 and would not have been released." *Id.*

FIRST CAUSE OF ACTION

(Article 78 Review of Wrongful Denial of FOIL Request)

32. Petitioners hereby reassert and reallege each and every allegation contained in the preceding paragraphs as if fully set forth herein.

33. Petitioners commence this proceeding, which is in the nature of a writ of prohibition and a writ of mandamus, pursuant to CPLR Article 78 and N.Y. Pub. Off. Law § 89(4)(b).

34. Under FOIL, all documents held by government entities like DOL are presumed open for public inspection and copying. Documents may be withheld from public inspection only if expressly permitted by a specific statutory exemption, and such exemptions must be interpreted narrowly to ensure the public has the maximum possible access to government records.

35. DOL has no reasonable basis for denying access to the requested records.

36. Specifically, DOL has misapplied FOIL's exemptions and Labor Law § 537, attempting to withhold material that may not properly be withheld. Labor Law § 537 excludes "personnel" information and "information about the department" — precisely the information that Ms. Rock seeks — from its definition of information that must be withheld.

37. DOL's actions have caused and continue to cause irreparable harm to the rights guaranteed to Petitioners and to the public at large under FOIL.

38. The information requested by Petitioners is of significant interest and concern to the general public.

39. Petitioners have exhausted their administrative remedies and have obtained none of the withheld information.

40. As a result of the foregoing, DOL has violated FOIL.

41. Petitioners have no other adequate remedy at law.

42. No prior application for the relief requested herein has been made to the Court.

SECOND CAUSE OF ACTION

(Injunctive relief barring DOL from continuing its unlawful practice and declaration that such practice is unlawful)

43. Petitioners hereby reassert and reallege each and every allegation contained in the preceding paragraphs as if fully set forth herein.

44. DOL has a policy or practice of violating FOIL and FOIL's implementing regulations, which do not permit the Department to impose additional restrictions on requesters' rights beyond those provided in the statute.

45. DOL's policy of requiring requesters to submit administrative appeals by physical mail imposes an additional limit on their appeal rights beyond any found in the statute.

46. This policy violates FOIL.

47. DOL's unlawful policy is further demonstrated through its responses to Ms. Rock's submissions in this case.

48. DOL accepted Ms. Rock's electronically-filed FOIL request.

49. DOL demonstrated that it received Ms. Rock's electronically-filed appeal, as it replied to (but refused to decide) the appeal within FOIL's 10-business-day deadline for issuing a decision.

50. DOL's unlawful practice violates the rights of Petitioners and the public under FOIL.

51. If DOL is permitted to continue its practice, the FOIL rights of Petitioners and the public will continue to be violated, and they will continue to suffer serious and irreparable harm.

52. DOL's unlawful practice also violates the purpose of FOIL, which the Legislature declared was intended to enable accountability and democratic participation in government. N.Y. Pub. Off. Law § 84.

53. Petitioners have no adequate remedy at law to address the ongoing and future violations of their rights under FOIL.

54. Accordingly, Petitioners are entitled to an injunction barring DOL from continuing its unlawful policy of requiring administrative appeals to be filed by mail in hard copy rather than electronically.

55. At a minimum, Petitioners are entitled to a declaration pursuant to CPLR § 3001 that DOL's policy violates FOIL.

CLAIM FOR RELIEF

For the foregoing reasons, Petitioners respectfully request that this Court:

a. Grant Petitioners' Article 78 Petition, directing DOL to comply with its duty under FOIL and to produce the requested records within twenty (20) days;

b. Enjoin DOL from continuing its policy of requiring administrative appeals to be filed by mail in hard copy rather than electronically;

c. Declare that DOL's policy of requiring administrative appeals to be filed by mail in hard copy rather than electronically violates FOIL;

d. Award Petitioners their costs and attorneys' fees pursuant to Public Officers Law § 89(4)(c); and

- e. Award Petitioners such other and further relief as the Court deems just and proper.

Dated: July 7, 2025

Respectfully submitted,

By: /s/ Michael Linhorst

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³ The Clinic is housed within Cornell Law School and Cornell University. Nothing in this Petition and Complaint should be construed to represent the views of these institutions, if any.

VERIFICATION

STATE OF NEW YORK)
) SS.:
 COUNTY OF KINGS)

REBECCA KLEIN, being duly sworn, deposes and says under penalty of perjury:

1. I am Publisher of New York Focus, Inc.
2. I have read the annexed Verified Petition. Based on my personal knowledge, and on information obtained in the regular course of business from records and from individuals with knowledge, the information contained herein is true to the best of my knowledge, information, and belief.

Rebecca Klein

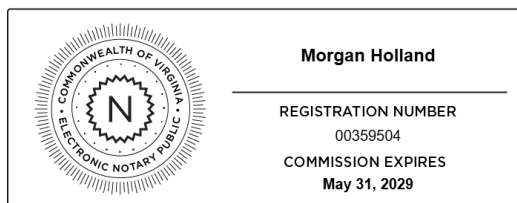
Rebecca Klein

Sworn before me this

7th day of July, 2025

Morgan Holland

 Portsmouth, VA
 Notary Public



Notarized remotely online using communication technology via Proof.