

19-267-cv(L)

*State of New York v. U.S. Dep't of Justice*

**United States Court of Appeals  
FOR THE SECOND CIRCUIT**

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 13<sup>th</sup> day of July, two thousand twenty.

PRESENT:

ROBERT A. KATZMANN,  
*Chief Judge,*  
JOSÉ A. CABRANES,  
ROSEMARY S. POOLER,  
PETER W. HALL,  
DEBRA ANN LIVINGSTON,  
DENNY CHIN,  
RAYMOND J. LOHIER, JR.,  
SUSAN L. CARNEY,  
RICHARD J. SULLIVAN,  
JOSEPH F. BIANCO,  
WILLIAM J. NARDINI,  
STEVEN J. MENASHI,  
*Circuit Judges.*

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STATE OF NEW YORK, STATE OF  
CONNECTICUT, STATE OF NEW JERSEY,  
STATE OF WASHINGTON,  
COMMONWEALTH OF MASSACHUSETTS,  
COMMONWEALTH OF VIRGINIA, STATE OF  
RHODE ISLAND, CITY OF NEW YORK,

*Plaintiffs-Appellees,*

v.

No. 19-267-cv(L)

No. 19-275-cv(con)

UNITED STATES DEPARTMENT OF JUSTICE,  
WILLIAM P. BARR, IN HIS OFFICIAL  
CAPACITY AS ATTORNEY GENERAL OF  
THE UNITED STATES,

*Defendants-Appellants.*

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For Plaintiffs-Appellees State of New York, Connecticut, New Jersey, Rhode Island, and Washington, and Commonwealths of Massachusetts and Virginia:

Barbara D. Underwood, Solicitor General, Anisha S. Dasgupta, Deputy Solicitor General, Linda Fang and Ari Savitzky, Assistant Solicitors General, *for* Letitia James, Attorney General of the State of New York, New York, NY.

For Plaintiff-Appellee City of New York:

Richard Dearing, Devin Slack, Jamison Davies, *for* James E. Johnson, Corporation Counsel of the City of New York, New York, NY.

Following disposition of this appeal on February 26, 2020, Plaintiffs-Appellees filed petitions for rehearing *en banc* and an active judge of the Court requested a poll on whether to rehear the case *en banc*. A poll having been conducted and there being no majority favoring *en banc* review, the petitions for rehearing *en banc* are hereby **DENIED**.

José A. Cabranes, *Circuit Judge*, joined by Debra Ann Livingston, Richard J. Sullivan, Joseph F. Bianco, William J. Nardini, and Steven J. Menashi, *Circuit Judges*, concurs by opinion in the denial of rehearing *en banc*.

Raymond J. Lohier, Jr., *Circuit Judge*, joined by Peter W. Hall, *Circuit Judge*, concurs by opinion in the denial of rehearing *en banc*.


Richard J. Sullivan, *Circuit Judge*, joined by José A. Cabranes, Debra Ann Livingston, and Joseph F. Bianco, *Circuit Judges*, concurs by opinion in the denial of rehearing *en banc*.

Robert A. Katzmann, *Chief Judge*, dissents by opinion from the denial of rehearing *en banc*.

Rosemary S. Pooler, *Circuit Judge*, joined by Denny Chin and Susan L. Carney, *Circuit Judges*, dissents by opinion from the denial of rehearing *en banc*.

Michael H. Park, *Circuit Judge*, took no part in the consideration or decision of the petitions.

FOR THE COURT:  
CATHERINE O'HAGAN WOLFE, CLERK

  
Catherine O'Hagan Wolfe