

Siri | Glimstad

200 Park Avenue, Seventeenth Floor, New York, NY 10166
sirillp.com | P: (212) 532-1091 | F: (646) 417-5967

February 19, 2021

VIA EMAIL AND FEDEX

New York State Department of Health
Dr. Howard A. Zucker, Commissioner
Corning Tower Building, 14th Fl.
Empire State Plaza
Albany, NY 12237
Howard.Zucker@health.ny.gov

Governor Andrew Cuomo
NYS State Capitol Building
Albany, NY 12224
Gov.Cuomo@chamber.state.ny.us
Andrew.Cuomo@exec.ny.gov

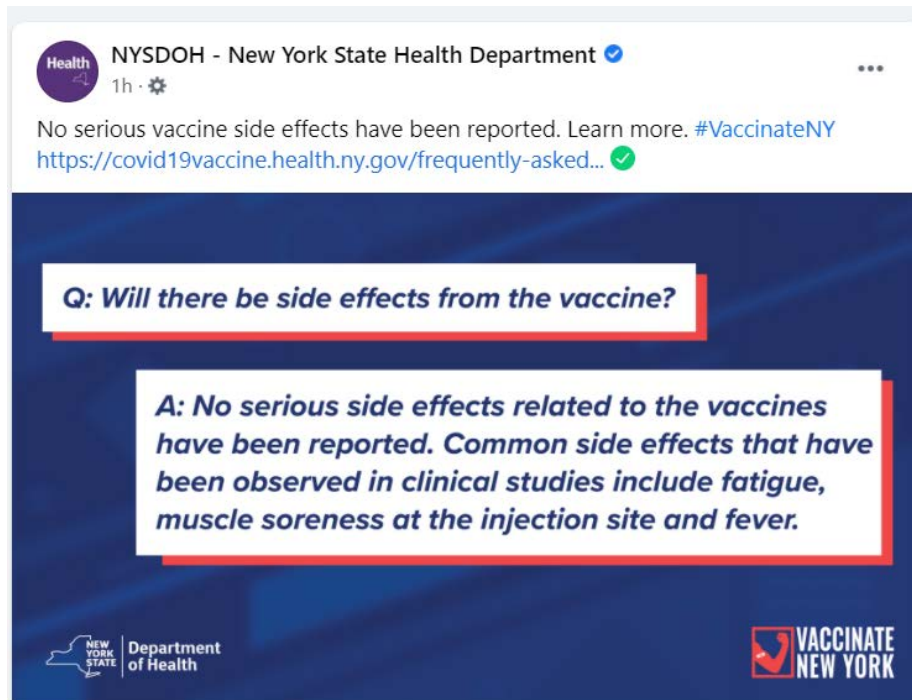
Re: *COVID-19 #VaccinateNY Campaign*

Dear Dr. Zucker and Governor Cuomo:

Our clients appreciate that cooperation in removing prior ads which, *inter alia*, claimed that the COVID-19 vaccines were approved by the FDA. However, another part of your social media messaging also needs removal and correction. A new graphic falsely claims that “No serious vaccine side effects have been reported” and “no serious side effects related to the vaccines have been reported.” See <https://www.facebook.com/NYSDOH/posts/10157749758301254>. Our client, the Informed Consent Action Network, and several concerned New Yorkers, demand that you remove these false claims and issue a correction forthwith. Failure to do so may result in a lawsuit against you seeking an injunction against this conduct.

A. NYSDOH’s Social Media Posts Falsely Claim No Serious Side Effects Have Been Reported

The New York State Department of Health’s Facebook page includes the following graphic:



B. NYS’s Social Media Post Is False and Misleading

This graphic and its accompanying message falsely claim that “no serious vaccine side effects have been reported.” This is plainly false. In the vaccines’ clinical trials, there were serious adverse events documented following vaccination found by the trial investigators to not only be “linked” to the vaccines, but in fact related to the vaccines. For Pfizer’s vaccine, these include shoulder injury, ventricular arrhythmia, and lymphadenopathy. See <https://www.fda.gov/media/144245/download> at 41. For Moderna’s vaccine, these include intractable nausea and vomiting, facial swelling, rheumatoid arthritis, Dyspnea with exertion, peripheral edema, Autonomic dysfunction, and B-cell lymphocytic lymphoma. See <https://www.fda.gov/media/144434/download> at 43-44.

Post-authorization, there have been numerous serious adverse reactions related to the COVID-19 vaccines. The CDC, for example, has acknowledged that serious vaccine side effects related to the COVID-19 vaccines have been reported, including “[a]naphylaxis, an acute and potentially life-threatening allergic reaction.” See <https://www.cdc.gov/vaccines/covid-19/clinical-considerations/managing-anaphylaxis.html>; see also <https://www.nbcnews.com/health/health-news/more-allergic-reactions-covid-vaccine-reported-overall-remain-rare-n1253007> (“Since the report was finalized Dec. 23, eight more cases of vaccine-related anaphylaxis were confirmed, the CDC said, bringing the total number so far to 29.”).

In fact, in the approximately two months since the EUAs were issued, the CDC’s Vaccine Adverse Events Reporting System (“VAERS”) has received just under 16,000 reports of adverse

events following COVID-19 vaccination and **over 3,000 reports of serious adverse events** related to a COVID-19 vaccination through February 12, 2021. See attached. Based on the Code of Federal Regulations, a serious adverse event is defined as occurring if one of the following is reported: death, life-threatening illness, hospitalization or prolongation of hospitalization, permanent disability, congenital anomaly, or birth defect. See <https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/cfrsearch.cfm?fr>. Notably, it is established that this passive system collects a drastically low percentage of actual adverse events that occur, with one study finding that only 1% of vaccine adverse events are reported to VAERS. See <https://digital.ahrq.gov/sites/default/files/docs/publication/r18hs017045-lazarus-final-report-2011.pdf>.

You are hereby notified to remove all instances of this graphic, its text, and its accompanying message and to issue an appropriate retraction forthwith. Failure to do so may result in a lawsuit on behalf of our clients seeking an injunction to force your compliance.

Very truly yours,

A handwritten signature in blue ink, appearing to be 'A. Siri', written in a cursive style.

Aaron Siri, Esq.
Elizabeth A. Brehm, Esq.