

**SHORT FORM ORDER**

**SUPREME COURT - STATE OF NEW YORK**

**Present: HON. R. BRUCE COZZENS - SUPREME COURT JUSTICE**

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LONG ISLAND ROLLER REBELS,

Plaintiff,

**TRIAL/ IAS PART 1  
NASSAU COUNTY  
INDEX NO. 612363/2024  
MOT. SEQ #001**

-against-

COUNTY OF NASSAU, THE NASSAU COUNTY  
LEGISLATURE, BRUCE BLAKEMAN, in his official  
capacity as Nassau County Executive,

Defendants.

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The following papers read on this Motion for a Preliminary Injunction:

- Motion/Affidavits/Affirmations/Exhibits.....X
- Memorandum of Law in Support.....X
- Memorandum of Law in Opposition.....X
- Reply Affidavit/Affirmation.....X
- Reply Memorandum of Law.....X
- Pleadings.....X

The Plaintiff, LONG ISLAND ROLLER REBELS filed a Summons and Complaint on July 15, 2024 against the Defendants, COUNTY OF NASSAU, THE NASSAU COUNTY LEGISLATURE. BRUCE BLAKEMAN, in his official capacity as Nassau County Executive and a Motion for an Order of this Court pursuant to CPLR §6301 preliminarily enjoining the Defendants from enforcing Local Law 121-24 during the pendency of this action.

In their Complaint Plaintiff seeks preliminary and permanent injunctive relief enjoining enforcement of the Local Law. Plaintiff further seeks a declaration that Local Law 121-24 violates the New York State Human Rights Law, Executive Law §296, the New York Civil Rights Law §40-c and the New York Municipal Home Rule Law §10. Plaintiff seeks reasonable Attorney’s Fees and Costs.

Motion Seq.#001 is brought by the Plaintiff seeking an order pursuant to CPLR §6301 preliminarily enjoining the Defendants from enforcing Local Law 121-24 during the pendency of this action.

The Court notes there has been no discovery in this case. In order to provide relief to a movant under CPLR §6301 the Court must find there is a likelihood of ultimate success on the merits; irreparable injury if the relief is not granted and a finding that the balancing of the equities is in favor of the movant.

Local Law 121-24 was proposed as:

“A LOCAL LAW TO MAINTAIN A SAFE AND FAIR COMPETITIVE ENVIRONMENT FOR WOMEN AND GIRLS PARTICIPATING IN SPORTS AND ATHLETIC EVENTS”

In the Affirmation in Support the current President for the Plaintiff states:

3. “The mission and goal of the Roller Rebels is to educate about, promote and foster involvement in the sport of the flat track roller derby through competition on Long Island and abroad, while also giving back to our local community.”
4. Flat track roller derby is a fast-paced contact team sport that requires speed, strategy, and athleticism.”
10. “We currently have at least one league member who would be prohibited from participating in the league under the clear language of the Local Law. In the past we have also had at least one league member who would be prohibited under the clear language of the Local Law.

The Roller Rebels state they are members of the Women’s Flat Track Roller Derby Association (“WFTDA”) who “...welcomes all transgender women, intersex women, and gender expansive women to participate in its member leagues. The sex assigned at birth of any and all WFTDA participants is considered confidential and private.” The Long Island Roller Rebels are an adult recreational league.

In the first instance there is a presumption of regularity on the part of the municipality. The taxpayers of the County of Nassau have elected not only a County Executive but Legislators who have the mandate of the citizens to pass laws that are in accordance with the needs of the public they serve. The County has the mandate to use their limited recreational facilities in a manner consistent with the determination of the majority of their citizens.

The President of the Plaintiff has stated that Flat Track Roller Derby is a contact team sport requiring speed and athleticism. There can be no question (even without discovery) that a biological male regardless of transitioning would be possessed of greater athleticism and speed, strength, muscle mass, stronger hearts and greater bone density. The goal of the local law is to provide a safe environment for individuals who are born female to play.

In addition the power differential between adult individuals who are born male and those born female is substantial and therefore may be more dangerous. This would create additional risk to the individual and potential liability creating costs to the municipality. The municipality is not obligated to provide a recreational setting for each and every individual residing within its confines. The Plaintiff states that it is believed that the Local Law would apply to one member.

The Plaintiff is not only asking that transgender athletics be included on female teams but also that they not disclose the transgender identity. Potentially that creates an even greater risk to the females since they would not even be aware (nor it is assumed would they be permitted to inquire) if a player was a biological male. Common sense requires weight classifications for wrestling and boxing clearly to protect the safety of the individuals. Common Sense requires the same here.

It is not known how much time the facility authorizes for this type of activity. It would be reasonable for the local government to use their facilities for the benefit of the maximum number of the citizen taxpayers.

Defendant submits that the Local Law does not bar participants due to their sexual identity. Biological men are prohibited from participating in physical activities because of safety, fairness and equity reasons, *Woolcott v. Shubert*, 217 N.Y. 212 (1916). An individual born male is invited to play in a coed league.

Defendant argues that the Supremacy Clause of the United States Constitution (US Const. Art. VI, cl. 2) precludes and prohibits enforcement of the New York State Executive Law under the circumstances set forth in this case. Defendant argues that 20 U.S.C. §1681 (Title IX) was passed by Congress to protect the rights of girls and women. The Nassau County Law requires sports teams in applying for a permit to use County facilities to designate whether the group is biological male, biological female or co-ed. A biological male can not participate on biological female teams. The County submits that it receives funding from the federal government which requires recipients to comply with Title IX. Defendants state their law is modeled on a Florida Fairness-in-Sports Law. The Defendants state it is impossible to comply with Title IX and the State Law and thus the Federal Law must be followed. The County Law requires a sporting organization characterize themselves as a male, female or co-ed league. Defendants argue there is no ban for transgender individuals from playing on County facilities. There is no support in Title IX to suggest that sex discrimination includes gender identity. In the case of *Department of Education, et al v. Louisiana et. al*, 603 U.S. \_\_\_ (2024) the Supreme Court recognized that Title IX as written does not include gender identity. Nassau County's stated purpose for the Local Law is to protect women and girls in sports.

Plaintiff argues in reply that Title IX does not apply since the individuals are adult women and not children. They further state that the Defendants rely on a constitutional Equal Protection Standard instead of the statutory discrimination analysis. They state that the sole question is whether the Local Law discriminates on transgender status. Plaintiff states that the Local Law violates the HRL and CRL "by discriminating on the basis of "the status of being transgender". Plaintiff states in reply that "The Roller Rebels do not challenge the separation of women's and men's sports, rather they challenge Nassau's rule singling out transgender women

and girls for exclusion from public facilities based on their transgender status.” They argue that they are not arguing based on the Equal Protection Clause but rather based upon the Human Rights Law and the Civil Rights Law which prohibit discrimination based on gender identity.

The Court has reviewed the Plaintiff’s arguments and does not find that Local Law 121-24 excludes transgender women and girls from the public facilities based on their gender identity and the Plaintiff’s have not show discrimination under the Human Rights Law and the Civil Rights Law.

Plaintiff’s Motion for an Order pursuant to CPLR §6301 preliminarily enjoining the Defendants from enforcing Local Law 121-24 during the pendency of this action is accordingly denied.

Dated:

JAN 21 2025



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Hon. R. Bruce Cozzens  
Supreme Court Justice