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Donald J. Trump and Trump Organization LLC

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

DONALD J. TRUMP and TRUMP ORGANIZATION LLC,

Plaintiffs,

v.

LETITIA JAMES, in her official capacity as Attorney
General for the State of New York,

Defendant.

Civil Action No.:

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

The plaintiffs, Donald J. Trump and Trump Organization LLC (collectively, “Plaintiffs”), by and through their undersigned attorneys, Habba Madaio & Associates LLP, commence this action seeking declaratory relief and injunctive relief, in the form preliminary and permanent injunctions, against the above-named defendant and allege as follows:

PRELIMINARY STATEMENT

1. In the words of Letitia James, “no one is above the law” — not even the Attorney General of the State of New York. Law enforcement officials have a sacred duty to wield the state’s police power in a fair and impartial manner, without the slightest hint of favor, animus, or personal bias. This duty is founded in the United States Constitution and is a bedrock principle of our democracy. For this reason, it is particularly egregious when a prominent government official abandons this solemn oath in service of her own self-interests.

2. A prosecutor’s duty is not to “win a case, but that justice shall be done.”¹ Indeed, prosecutors possess enormous power and that is why they are, as the United States Supreme Court has emphasized, subject to strict professional and ethical constraints.² “The law...seeks to protect against...prosecutors with political motivations” by, among other things, prohibiting them from engaging in “arbitrary fishing expeditions” and “initiating investigations out of malice or an intent to harass.”³

3. As Attorney General, Letitia James is the highest-ranking law enforcement official in the State of New York. She is entrusted with a great deal of power which she is obligated to use in a resolute and unbiased manner. Rather than embrace this responsibility, James has instead chosen to exploit it. For years, she has flagrantly abused her investigatory powers to target her political adversaries and advance her career. Her relentless attacks on Donald J. Trump serve as a prime example. Since taking office, she has tirelessly bombarded him, his family and his business, Trump Organization LLC, with unwarranted subpoenas in a bitter crusade to “take on” the President.

¹ See *Berger v. United States*, 295 U.S. 78, 88 (1935).

² See, e.g., *Trump v. Vance*, 140 S.Ct. 2412, 2428 (2020).

³ *Id.*

4. As outlined below, James’s bias is immediately apparent. Among other things, she has referred to the Trump presidency as “illegitimate,” has promised to weaponize her resources against him and “anyone in [his] orbit,” and has boasted about suing him “76 times.” Most troubling, James began making these threats before she was even elected at a time when she possessed no actual information or insight into Trump’s business.

5. The investigations commenced by James are in no way connected to legitimate law enforcement goals, but rather, are merely a thinly-veiled effort to publicly malign Trump and his associates. Her mission is guided solely by political animus and a desire to harass, intimidate, and retaliate against a private citizen who she views as a political opponent.

6. James has deprived, and will continue to deprive, Plaintiffs of their rights under federal law, state law and common law by virtue of her callous acts. Even worse, rather than diligently prosecuting actual crimes in the State of New York—which are steadily on the rise—James has instead allocated precious taxpayer resources towards a frivolous witch hunt. Plaintiffs now come before this Court to hold James accountable for her official misconduct and to preserve the integrity of the office she holds.

THE PARTIES

7. Plaintiff, Donald J. Trump (“Trump”), is a private citizen of the United States and a resident of the State of Florida in the County of Palm Beach.

8. Plaintiff, Trump Organization LLC (the “Trump Organization”), is a corporation doing business in the State of New York with a principal place of business at Trump Tower, 725 Fifth Avenue, New York, New York.

9. Defendant, Letitia James (“Defendant”), is the Attorney General for the State of New York and is being sued in her official capacity.

JURISDICTION AND VENUE

10. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 since this case arises under the Constitution and laws of the United States, as well as 42 U.S.C. § 1983 since Plaintiffs bring this suit to vindicate the deprivation of “rights, privileges, or immunities secured by the Constitution.” This Court also has jurisdiction under 28 U.S.C. § 1343.

11. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) because the defendant resides in and performs her official duties in this District and a substantial part of the events or omissions giving rise to Plaintiffs’ claims occurred in this District. In the alternative, to the extent 28 U.S.C. § 1391(b)(2) is not applicable, venue is proper in accordance with 28 U.S.C. § 1391(b)(3).

12. The relief requested is authorized pursuant to 28 U.S.C. §§ 2201, 2202 (declaratory and related relief), 28 U.S.C. § 1651 (injunctive relief), 42 U.S.C. § 1983 (relief for deprivation of rights, privileges, and immunities secured by the constitution), 28 U.S.C. § 1343 (relief for the protection of civil rights), and 42 U.S.C. § 1988 (award for attorneys’ fees and costs).

STATEMENT OF FACTS

I. Defendant’s Longstanding Animosity Toward Plaintiffs

13. Defendant is an outspoken political activist and member of the Democratic Party.

14. Prior to serving as Attorney General of the State of New York, Defendant served as a Democratic member of the New York City Council and New York City Public Advocate for over a decade.

15. After Trump’s victory in the 2016 Presidential Election, Defendant began displaying severe animosity towards the president-elect.

16. Prior to Trump's inauguration, Defendant retweeted calls for sit-ins to protest Trump's nomination of Jeff Sessions to be United States Attorney General.⁴

17. Five days after Trump's inauguration, Defendant joined public protests and declared that his "administration ha[d] shown its true and ugly colors, but we will not be silent."

18. Over the next several months, Defendant continued to publicly voice her disdain for Trump and his administration.⁵

19. Six and a half months into Trump's term, Defendant was already leading "die-in" protests against Trump because, according to her, "we are all being killed by this administration."⁶ Defendant punctuated her tweet with the hashtag, "Resist."

20. The hashtag "#Resist" was widely recognized as shorthand for fighting Trump at every level in an effort to make Trump and his supporters "uncomfortable and not able to rest well" and thus unable to effectively implement his policies.⁷

21. Defendant's embrace of the "resistance" mentality from the earliest days of the Trump presidency foreshadowed her relentless abuse of power as Attorney General.

22. Eight and a half months into Trump's term, Defendant accused him of "blatant disregard for human lives."⁸

⁴ Letitia James (@TishJames), Twitter (Jan. 25, 2017) archived at <https://bit.ly/3jEjeJ0> ("Please [retweet] if you support @NAACP sit-ins protesting Jeff Sessions for Attorney General.").

⁵ *See, e.g., id.*, (Feb. 11, 2017, 12:01 PM ET) <https://bit.ly/3liyZpK> ("@villagedemocrat out in full force today calling on our elected officials to fight for us against this administration."); *id.*, (Mar. 5, 2017, 5:01 PM ET) <https://bit.ly/2G16c56> ("Hey @realDonaldTrump, we're in Queens, your hometown, rising up against your xenophobic policies, & we're ready to act."); *id.*, (June 3, 2017, 10:18 AM ET) <https://bit.ly/33z0XYj> ("Always proud to be with strong New York women standing up & speaking out against an administration that doesn't represent our values.").

⁶ *id.* (Aug. 14, 2017, 5:55 PM ET) <https://bit.ly/3lu9fqz>.

⁷ "Resist" is a Battlecry, But What Does It Mean? The New York Times, Feb. 14, 2017, <https://nyti.ms/2GLIn77>.

⁸ Letitia James (@TishJames), Twitter (Sep. 5, 2017, 11:06 AM ET) <https://bit.ly/3lhVStj> "Trump admin once again showing blatant disregard for human lives.").

23. Roughly ten months into Trump’s term, Defendant announced: “I’ve been leading the resistance against Donald Trump in NYC and will only continue to do so in every way possible.”⁹

24. In her capacity as New York City Public Advocate, Defendant demonstrated a willingness to wield the government’s power against those whose political beliefs differed from her own.¹⁰ That willingness took center stage in Defendant’s political campaign for attorney general and her subsequent actions as New York’s chief law enforcement officer.

II. Defendant Campaigned for Attorney General on a Promise to Target Trump and the Trump Organization.

25. In May of 2018, after Attorney General Eric Schneiderman’s resignation, Defendant declared her candidacy for Attorney General of the State of New York.

26. As a candidate for Attorney General, Defendant made “taking on Donald Trump”¹¹ the focal point of her campaign, often comparing herself to Special Prosecutor Robert Mueller, who, at the time, was leading the now-debunked investigation into whether the Trump campaign colluded with Russians to interfere in the 2016 election.

27. Defendant’s campaign website not only repeated derogatory and inaccurate statements concerning Trump’s policies but also stated—with no evidentiary basis whatsoever—that Trump had engaged in “public corruption.”¹²

28. Though it appears to have since been removed, the website at one time provided a link to a detailed outline of Defendant’s strategy for rooting out corruption, with a section

⁹ *Id.*, (Oct. 16, 2017, 7:57 PM ET) <https://bit.ly/3d4wBQr> emphasis added).do so in every way possible.” *Id.*, (Oct. 16, 2017, 7:57 PM ET) <https://bit.ly/3d4wBQr> (emphasis added).

¹⁰ *See id.*, (July 19, 2017, 10:32 AM ET) <https://bit.ly/2F3wHLt> (“We will not allow companies that build Trump’s wall, a monument to racism and bigotry, to also do business with NYC.”)

¹¹ *See*, e.g., Letitia James (@TishJames), Twitter (June 27, 2018, 10:48 AM ET) <https://bit.ly/2GG4uuy> (“Congrats [now-Congresswoman Alexandria Ocasio Cortez] on your victory. Looking forward to working with you to help Democrats take on Donald Trump.”)

¹² <http://www.tishjames2018.com/corruption/>

specifically devoted to Trump, his family, and the Trump Organization entitled “*Investigate Trump’s New York Business*.”

29. As stated in the outline, the investigation would include:

“a review of Trump-related real estate transactions, especially those in which the Trump family suddenly started paying cash for properties after years of operating their businesses exclusively by borrowing money.”

30. Of course, Defendant had no personal knowledge about any “Trump-related real estate transactions” at the time that she made these statements, as she had not yet been elected Attorney General and possessed no information or insight into Trump’s business other than what she had presumably seen in the media.

31. Nonetheless, Defendant continued to shamelessly campaign on her unfounded allegations against Trump and his family in a misguided effort to garner media attention and promote her fundraising efforts.

32. On June 26, 2018, Defendant spoke at a protest opposing the Supreme Court’s decision in *Trump v. Hawaii*, 138 S. Ct. 2392 (2018), telling the crowd that “it’s critically important that we all understand that this was a result of the fact that [Republicans] stole the Supreme Court seat. An illegitimate president and an illegitimate member of the Supreme Court.”¹³

33. On July 1, 2018, Defendant tweeted “New Yorkers need a fighter who will take on Donald Trump ... I’ll be that fighter. Join my campaign.”¹⁴

¹³ *Letitia James Foley Sq Opposing Travel Ban Supreme Court Decision*, YouTube, 0:55 (June 26, 2018) <https://bit.ly/3d58PDS>.

¹⁴ Letitia James (@TishJames), Twitter (July 1, 2018, 2:56 PM ET) <https://bit.ly/3nh8rH4>

34. On July 11, 2018, Defendant posted on Democratic fundraising platform ActBlue with messages such as “I need your help in this fight against Donald Trump,” and “[i]n this fight against Donald Trump and his harmful administration, I need your help.”¹⁵

35. By promising to prosecute a political opponent as a way of enticing voters to provide donations to her campaign, Defendant likely violated numerous campaign finance laws.

36. On July 19, 2018, in the midst of a politically-charged speech before The Bronx Democratic Party, Defendant promised to use the law as a “sword” to relentlessly bombard Trump, proclaiming that that “no one is above the law, including this illegitimate president...and so *I look forward to going into the office of Attorney General every day, suing him, defending your rights, and then going home!*”¹⁶ Her pledge to utilize her position as a means of harassing a political opponent foreshadowed her future actions as Attorney General and demonstrated her irreverence for the duty to remain impartial in the role.

37. On August 6, 2018, Defendant stated that “[t]he president of the United States has to worry about three things: [Special Counsel Robert] Mueller, [Michael] Cohen, and Tish James. We’re all closing in on him.”¹⁷

38. Yet again, Defendant boldly alleged that Trump was actively engaged in criminal conduct, despite having no knowledge of any specific wrongdoing or any insight into Trump’s business activities.

¹⁵ *Id.* (July 11, 2018, 5:03 PM ET) <https://twitter.com/tishjames/status/1017152409720754177>

¹⁶ Letitia James, Facebook, 1:18 (July 19, 2018) (emphasis added), <https://m.facebook.com/LetitiaJamesforNY/videos/203059860348974>.

¹⁷ Hunter Walker, *New York Race Could Spark New Trump Investigation*, Yahoo News, Aug. 6, 2018, <https://yhoo.it/36yLzwT>.

39. On the same day, Defendant tweeted “I’ve got my eyes on Trump Tower,”¹⁸ and promised to “work with Mueller to make sure justice is served.”¹⁹ Defendant assured that her retaliation against Trump was “just getting started.”²⁰

40. On August 13, 2018, Defendant announced that she was “getting ready to ask [Trump] some questions — under oath.”²¹ Defendant emphasized again that “Trump should be worried about three people: 1. Robert Mueller 2. Michael Cohen 3. Tish James.”²²

41. In what can only be construed as an attempt to threaten and intimidate Trump, Defendant tweeted that Trump is “running out of time,” and warned him that she would immediately investigate him and his “cronies” when she took office.²³

42. Defendant issued a similar threat on August 22, 2018, when she said, among other things, that Trump “should be scared” about her upcoming term.²⁴

43. On September 1, 2018, Defendant renewed her commitment to “take on [Trump] & his business in New York.”²⁵ Her statement about Trump’s “business in New York” was undeniably a reference to the Trump Organization.

44. On September 10, 2018, Defendant vowed to “stand up” to Trump.²⁶

45. Later that evening, Defendant declared once more that she was “just getting started” in “tak[ing] on” Trump.²⁷

¹⁸ Letitia James (@TishJames), Twitter (Aug. 6, 2018, 3:47 PM ET) <https://bit.ly/3lmNPvs>

¹⁹ *id.*, (Aug. 6, 2018, 5:34 PM ET) <https://bit.ly/3iCnSpM>

²⁰ *Id.*

²¹ *Id.*, (Aug. 13, 2018, 11:37 AM ET) <https://bit.ly/2HTj1Un>.

²² *Id.*

²³ *Id.*, (Aug. 21, 2018, 1:01 PM ET) <https://bit.ly/33Dqi3j>. (“Just wait until I’m in the Attorney General’s office.”)

²⁴ *Id.*, (Aug. 22, 2018, 9:09 AM ET) <https://bit.ly/3nq7OuM>.

²⁵ *Id.*, (Sept. 1, 2018, 10:44 AM ET) <https://bit.ly/3ll6VBQ>.

²⁶ *Id.*, (Sept. 10, 2018, 7:36 AM ET) <https://bit.ly/34CaE7E>.

²⁷ *Id.*, (Sept. 10, 2018, 10:38 PM ET) <https://bit.ly/34yQkE3>.

46. In a troubling September 12, 2018 video, released during the Democratic primary, Defendant pledged that she would “never be afraid to challenge this illegitimate president.”²⁸

47. In the very same video, Defendant baselessly accused Trump of a slew of crimes, including obstruction of justice and laundering money from foreign governments, and demanded that he be indicted.²⁹ Defendant promised to “join with law enforcement and other attorney generals across this nation *in removing this President from office.*”³⁰ Mirroring her previous allegations, Defendant’s call for Trump to be investigated was devoid of both fact and merit. Nevertheless, Defendant concluded the video by promising that “the days of Donald Trump are coming to an end.”³¹

48. On the same day, Defendant reiterated her warrantless claim that Trump is an “illegitimate president” and promised once more to “fight back” against Trump if New Yorkers voted for her.³²

49. On September 13, 2018, Defendant secured her party’s nomination for Attorney General. In her victory speech, Defendant proudly admitted that her campaign was only ever premised on “that man in the White House who can’t go a day without threatening our fundamental rights.”³³

50. On the same day, Defendant tweeted a quote from Congresswoman Maxine Waters, in which Waters stated that “New York has a chance to elect an attorney general who will investigate Trump.”³⁴ Defendant followed up on that theme a few hours later, accusing Trump of

²⁸ NowThis News, YouTube, <https://bit.ly/34zB7Tj>.

²⁹ *Id.*

³⁰ *Id.* (emphasis added).

³¹ *Id.*

³² Letitia James (@TishJames), Twitter (Sept. 12, 2018, 1:51 PM ET) <https://bit.ly/3ln1Ysa>.

³³ Jeffrey C. Mays, *Letitia James Makes History by Winning Attorney General Primary in New York*, The New York Times, September 13, 2018, <https://nyti.ms/3IXFkU9>

³⁴ *Id.*, (Sept. 13, 2018, 11:04 AM ET) <https://bit.ly/2GzxRix>.

being “an illegitimate president” and saying that she was “running for Attorney General so [she could] standup to” Trump.³⁵

51. On October 3, 2018, Defendant tweeted that Trump’s “days of defrauding Americans are coming to an end” and called upon “any agency with jurisdiction—from the IRS to the NY AG—to follow the facts wherever they may lead.”³⁶

III. As Attorney General, Defendant Repeatedly Made and Continues to Make Public Pronouncements of Wrongdoing by Trump and the Trump Organization Notwithstanding Investigations of Such Wrongdoing Were/Are Not Complete or Even Commenced.

52. On November 6, 2018, Defendant was elected Attorney General of the State of New York. During her victory speech, she made a solemn promise to “shin[e] a bright light into every dark corner of [Trump’s] real estate holdings.”³⁷

53. Immediately following her election to the Office of Attorney General of the State of New York, Defendant—with no evidentiary or investigatory basis—laid bare her intent to employ the resources and authority of her elected office to impermissibly target the President of the United States, the political opponent on whom she had staked her campaign for election.

54. The day after her election, Defendant prejudged the outcome of her promised investigation – before taking office, before establishing a legal predicate for such an investigation, and before gathering any facts or requesting even a single document from Trump.

55. In an interview with political activist and former Democratic candidate for New York City Council Adina Sash, Defendant was asked if she planned to “sue [Trump and the Trump

³⁵ *Id.*, (Sept. 13, 2018, 4:41 PM ET) <https://bit.ly/36Ff14i>.

³⁶ Letitia James (@TishJames), Twitter (October 3, 2018) <https://bit.ly/3pf1ol2>

³⁷ Jeffrey C. Mays, *Breaking Barriers, Letitia James is Elected New York Attorney General*, The New York Times, November 6, 2018, <https://nyti.ms/3IXFkU9>

Organization].”³⁸ Defendant laughingly responded “[o]h, we’re definitely going to sue him. We’re going to be a real pain in the ass. He’s going to know my name personally.”³⁹

56. On December 12, 2018, during an NBC News interview given eighteen days before assuming office, Defendant vowed to “use every area of the law to investigate President Trump and his businesses transactions and that of his family as well.”⁴⁰ Defendant did not curtail her persecution of Trump and his family, however, promising to also investigate “anyone in [Trump’s] orbit.”⁴¹

57. Defendant’s intent to weaponize her office to target Plaintiffs was readily apparent to even the most casual observer of her campaign and during the transition period after her election.⁴²

58. Defendant’s open threats and promises to investigate Trump were so appalling that even members of her party condemned them as unlawful.

59. Daniel Goldman, the Democratic Party’s counsel for the impeachment process against Trump and a former Assistant United States Attorney in Manhattan, warned that Defendant’s statements “give the appearance of an individualized political vendetta . . . It’s essential that prosecutors maintain their neutrality and an objective view of the facts and the

³⁸ Adina Sash (@FlatBushGirl), Instagram (Nov. 7, 2018) <https://bit.ly/34zVOhE>

³⁹ *Id.*

⁴⁰ Chris Mills Rodrigo, *Incoming New York AG: ‘We Will Use Every Area of the Law to Investigate President Trump’*, The Hill, Dec. 12, 2018, 9:20 AM ET, <https://bit.ly/33CybpG>.

⁴¹ *Id.*

⁴² *See, e.g.*, Jeffery C. Mays, *N.Y.’s Attorney General Is Targeting Trump. Will Judges See a ‘Political Vendetta?’*, The New York Times, Dec. 31, 2018, <https://nyti.ms/2GsA2oa> (“Letitia James, the incoming New York attorney general, has made no secret of how she feels about President Trump. She calls him an ‘illegitimate president.’ She says her decision to run for attorney general was largely ‘about that man in the White House who can’t go a day without threatening our fundamental rights.’”).

evidence, no matter the politics involved.”⁴³ By abandoning even the pretext of such neutrality, Defendant “[went] too far in allowing politics to shape her agenda.”⁴⁴

60. The intraparty criticisms of Defendant’s conduct speak for themselves. However, the reactions of attorneys *within Defendant’s own office* are even more compelling. Numerous officials within the New York Attorney General’s office—who themselves had frequently litigated against Plaintiffs under Defendant’s predecessors—examined Defendant’s actions with “apprehension and uneasiness.”⁴⁵ Those officials left Defendant’s office after her election.⁴⁶

61. In sum, Defendant promised to investigate Trump dozens of times over seven months, all before she ever assumed office or was privy to a single fact known to law enforcement. Defendant did not state a legal or factual basis for such promises. She could not. After all, her knowledge of Trump’s business activities was no greater than that of any other citizen. Rather, her only justification for the forthcoming investigation was her political opposition to Trump.

62. It is clear that Defendant lacked any basis to investigate Trump, but she did so anyway, and in doing so, she abandoned all pretenses of acting with impartiality and in accordance with prosecutorial standards.

63. Defendant took the oath of office as Attorney General of New York on January 1, 2019. In so doing, Defendant swore to support the Constitution of the United States and faithfully discharge the duties of Attorney General.

64. Defendant immediately disregarded that oath, dismissing any doubt that her fixation on investigating Trump was idle campaign talk.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

65. On January 3, 2019, three days after she was sworn in as Attorney General, Defendant told CNN that she would “ensure that the man currently occupying the Oval Office is held accountable to [sic] any and everything he has done.”⁴⁷

66. Defendant further stated that she would “never be afraid to challenge this illegitimate president” and that investigating Trump “fuels [her] soul.”⁴⁸

67. On March 11, 2019, Defendant employed the authority and vast array of resources of the Office of the Attorney General to formally open an investigation of the Trump Organization and issued subpoenas to Deutsche Bank and Investors Bank “for records relating to the financing of four major Trump Organization projects.”⁴⁹

68. The subpoenas were “a culmination of months of threats from [Defendant] that she would aggressively investigate Mr. Trump” and, by extension, the Trump Organization.⁵⁰

69. Defendant has claimed that she relied upon testimony given by Michael Cohen (“Cohen”) before Congress as grounds for initiating the investigation of Plaintiffs.⁵¹

70. Defendant is well-aware that, based on his prior history, Cohen is an unreliable source whose sworn testimony lacks any semblance of credibility:

- a. Cohen was previously convicted of committing a federal offense in connection with the precise act that Defendant claims to have relied upon – testifying before Congress.

⁴⁷ Athena Jones, *New NY Attorney General Vows to Target Trump*, CNN.com, Jan. 3, 2019, <https://cnn.it/3d48gu1>.

⁴⁸ *Id.*

⁴⁹ William K. Rashbaum & Danny Hakim, *New York Attorney General Opens Investigation of Trump Projects*, The New York Times, Mar. 11, 2019, <https://nyti.ms/2GKALRa>.

⁵⁰ *Id.*

⁵¹ First Affirmation of Matthew Colangelo in Support of the Office of the Attorney General’s Order to Show Cause to Compel Compliance with Investigatory Subpoenas, p. 23, *People of the State of New York v. Trump Organization, LLC*, Index No. 451685/2020.

- b. In particular, on November 29, 2018, Cohen was convicted of making false statements to Congress in violation of 18 USC § 1001(a)(2) as well as seven additional federal felonies which “each involved deception.”⁵²
- c. In the words of presiding district court judge William H. Pauley III, Cohen was guilty of a “veritable smorgasbord of fraudulent conduct.”⁵³
- d. In connection with Cohen’s consolidated sentencing proceedings, the United States of America submitted two scathing sentencing memoranda, each dated December 7, 2018, one signed by the Special Counsel’s Office (SCO) and another by the United States Attorneys’ Office (USAO).
- e. In the SCO’s Sentencing Memorandum, which was signed by Special Counsel Robert S. Mueller and focused on Cohen’s false statements to Congress, Mueller detailed how Cohen’s lies were “deliberate and premeditated” and part of a “deliberate effort to use his lies as a way to set the tone and shape the course of the hearings in an effort to stymie the inquiries.”⁵⁴
- f. In the USAO’s Sentencing Memorandum, which was signed by Acting United States Attorney Robert Khuzami and focused more generally on Cohen’s character and credibility, Khuzami described Cohen as “a man who knowingly sought to undermine core institutions of our democracy”⁵⁵ and “repeatedly used his power and influence for deceptive ends” by engaging in “extensive, deliberate, and serious

⁵² Sentencing Tr. at 31:10-15, *United States v. Cohen*, No. 18 Cr. 602 (WHP) (S.D.N.Y. Dec. 12, 2018).

⁵³ *Id.*

⁵⁴ SCO Sentencing Memorandum at 2, *United States v. Cohen*, No. 18 Cr. 850 (WHP) (S.D.N.Y. Dec. 7, 2018).

⁵⁵ USAO Sentencing Memorandum at 27, *United States v. Cohen*, No. 18 Cr. 602 (WHP) (S.D.N.Y. Dec. 7, 2018).

criminal conduct” which was “motivated by personal greed and ambition” and consistent with a “pattern of deception that permeated his professional life.”⁵⁶

- g. Cohen, formerly an attorney at law, was eventually disbarred for his fraudulent and deceitful misconduct.⁵⁷
- h. Cohen has also publicly admitted that his cooperation with law enforcement officials has, at times, been coerced and given under duress. For example, on November 28, 2021, in discussing his cooperation with federal authorities, Cohen stated “[t]he threat against me was that they were going to file an 85-page indictment that was going to include my wife. They were going to say that she was a co-conspirator [...] which is absolutely non-sensical. [...] There was no chance in the world that I was going to put her at risk with these animals.”⁵⁸

71. Defendant further carried out her intent to prosecute “anyone in Trump’s orbit” by issuing subpoenas to the Eric Trump Foundation (now doing business as “Curetivity”) (the “Foundation”) for its charitable donations to St. Jude Children’s Research Hospital, a leading cancer center in Memphis, Tennessee.

72. Eric Trump has helped raise over \$16.3 million dollars for St. Jude over the span of a decade, yet Defendant felt it was necessary to scrutinize funds that were donated to provide medical care to children in need.

73. After the Foundation complied with Defendant’s request, Defendant’s investigation ultimately led nowhere, another indication of Defendant’s pernicious intent in probing a charitable donation tangentially tied to Plaintiffs.

⁵⁶ *Id.* at 1-2.

⁵⁷ See generally *Matter of Cohen*, 2019 NY Slip Op 01381 (Feb. 26, 2019)

⁵⁸ NBC News, Meet The Press, November 28, 2021, <https://www.youtube.com/watch?v=Y6gEK6hExxI>.

74. On April 23, 2019, Defendant repeated her prior, unfounded allegation that Trump and the Trump Organization were engaged in criminal activity: “We need to focus on Donald Trump and his abuses . . . we need to follow his money . . . we need to find out where he’s laundered money . . . all of those transactions have happened here in New York City.”⁵⁹

75. After nearly three years of formal investigation, five years of targeted public attacks, and millions of dollars and thousands of hours spent, it is clear that neither Trump nor any of his companies have ever laundered money. Not one dollar. Defendant fabricated the allegations out of thin air, and this is prima facie evidence of her unconstitutional actions in her official capacity.

76. By predetermining the outcome of her investigation into the Trump Organization and leveling conclusory allegations of wrongdoing against it, Defendant exposed—yet again—that her investigation was merely a pretext for achieving her overall goal of harassing the Trump Organization due to Trump’s ownership of it.

77. Openly flouting her duty to remain neutral in her public comments on an ongoing investigation, Defendant continued to disparage Trump and the Trump Organization throughout the summer of 2019.

78. On July 23, 2019, Defendant tweeted that Trump “has spent his career hiding behind lawsuits” and promised to “vigorously fight” him.⁶⁰

79. On September 30, 2019, Defendant accused Trump of waging a “cruel crusade against . . . invaluable members of our society.”⁶¹

⁵⁹ MSNBC, *New York Attorney General on Plan to Thwart Trump Pardons*, YouTube, April 23, 2019, <https://bit.ly/33z1WaG>.

⁶⁰ Letitia James (@NewYorkStateAG) Twitter, July 23, 2019, 3:36 PM ET, <https://bit.ly/2GEOykG>.

⁶¹ Letitia James (@NewYorkStateAG), Twitter, Sep. 30, 2019, 10:50 AM ET, <https://bit.ly/30HC0b7>.

80. On December 10, 2019, Defendant accused Trump of “abuse of power.”⁶²

81. Two and a half weeks later, she served a subpoena *duces tecum* on Trump, the Trump Organization’s corporate officers, and third parties for information and testimony about a wide range of properties owned by Trump across the country.

82. On January 16, 2020, Defendant retweeted the following statement: “Let’s be clear — Donald Trump has never known what it’s like to struggle, let alone for food, but he has no problem stripping protections for those who do. Luckily we have allies like [Defendant] who will lead the legal fights against these unfair and immoral attacks on the poor.”

83. On February 21, 2020, Defendant alleged that Trump “doesn’t believe in the rights and liberties of marginalized and vulnerable populations.”⁶³

84. On July 24, 2020, Defendant announced her intention to sue the Trump Administration for the purported unlawful practice of excluding undocumented immigrants in the 2020 census (a case which was ultimately thrown out by the Supreme Court).⁶⁴ In her tweet, Defendant boasted “We beat the president before in court, and we will beat him again.”⁶⁵

85. Under Defendant’s leadership, the Office of the Attorney General has been reduced to nothing more than the right arm of the Democratic party. This was made abundantly clear when Defendant chose to file a motion to compel Eric Trump’s deposition on August 24, 2020, which was conveniently filed on the first day of the Republican National Convention. The timing of this Motion further cements Defendant’s transparent effort to further her own political agenda.⁶⁶

⁶² Letitia James (@NewYorkStateAG), Twitter, Dec. 10, 2019, 1:21 PM ET, <https://bit.ly/2F5RcXV> .

⁶³ WBL5 1075 NYC, YouTube, *1st Black Person Elected Attorney General of NY, Letitia James, Talks Career & Has Message for Trump*, Feb. 21, 2020, <https://bit.ly/3jCo1KZ> .

⁶⁴ *U.S. Supreme Court throws out challenge to Trump census immigrant plan*, December 18, 2020 <https://reut.rs/3EbBrr1>

⁶⁵ Letitia James (@NewYorkStateAG), Twitter, July 24, 2020, 3:48 PM ET, <https://twitter.com/NewYorkStateAG/status/1286750166041735169>

⁶⁶ *New York attorney general files legal action against Trump Organization, revealing state investigation into the company’s financial dealings*, The Washington Post, August 24, 2020, <https://wapo.st/3p7uOlb>.

86. Upon information and belief, she intentionally leaked this information on the commencement of the Republican National Convention, with the sole intention of disrupting the convention and generating publicity for herself.

87. On May 18, 2021, Defendant compounded her efforts to prosecute Trump by relentlessly pushing New York County District Attorney, Cyrus Vance, into a criminal investigation of the Trump Organization.⁶⁷ By doing so, Defendant is inappropriately heading parallel civil and criminal probes into Plaintiffs' alleged unlawful business practices as a further attempt to erode their constitutional rights.

88. Despite Defendant's biased and inflammatory statements, and the unconstitutional nature and scope of the civil investigation, Plaintiffs produced over 8 million pages of documents in response to Defendant's subpoenas.

89. Defendant's campaign of harassing Plaintiffs has been publicly condemned by other attorney generals.

90. For example, Jeff Landry, Attorney General of the State of Louisiana, has described Defendant's investigations as "anti-Trump fishing expeditions," which are a "gross abuse of her office."⁶⁸ As AG Landry has explained: "[w]hile these actions may be popular with a liberal base that doesn't respect the rule of law, they politicize the office of attorney general and create an unrealistic and shameful public perception of how a state attorney general operates. James' conduct disgraces all of us who are privileged to bear the title of attorney general."⁶⁹

⁶⁷ Defendant cross-designated two attorneys from her office to assist in the New York County DA's criminal probe. *New York AG has 2 lawyers working with DA on Trump Probe*, <https://bit.ly/3pcCT8l>; see also *New York's Attorney General Joins Criminal Inquiry Into Trump Organization*, New York Times, May 18, 2021. <https://nyti.ms/3sjpEEP>

⁶⁸ See, e.g., *Jeff Landry, Tish James' Endless Anti-Trump Suits Betray the AG's Mission*, The New York Post, Sept. 22, 2020, 8:21 PM ET <https://bit.ly/2Sx1mnw>.

⁶⁹ *Id.*

91. On October 29, 2021, Defendant declared her candidacy for Governor of New York State.

92. In her announcement video, she boasted that she “sued the Trump Administration 76 times, but who is counting?”⁷⁰ In making this statement, Defendant signaled that she had planned to make ‘taking on Trump’ the centerpiece of yet another campaign.

93. Amid poor polling numbers, on December 9, 2021, Defendant announced that she is suspending her campaign for Governor of New York and will instead run for re-election as Attorney General.⁷¹

94. In a statement that accompanied her withdrawal, she stated “I have come to the conclusion that I must continue my work as attorney general. There are a number of important investigations and cases that are underway, and I intend to finish the job. I am running for re-election to complete the work New Yorkers elected me to do.”⁷²

95. Defendant left little to no doubt that her involvement in the Trump investigation was the primary reason she intended to stay on as Attorney General.

96. On December 15, 2021, Defendant appeared on *The View* to discuss the suspension of her gubernatorial campaign and the status of her ongoing investigations.⁷³

97. When asked what led to her decision to exit the race, Defendant explained that she has “unfinished businesses,” among them being her “investigations into the Trump Organization

⁷⁰ Letitia James (@TishJames), Twitter, October 29, 2021, 1:31 PM ET.

<https://www.nytimes.com/2021/10/29/nyregion/letitia-james-governor.html>

⁷¹ Carl Campanile, *Kathy Hochul Hold Solid Lead Over Letitia James In NY Governor Poll*, The New York Post, November 28, 2021, 6:23 PM ET, <https://nypost.com/2021/11/28/hochul-holds-solid-lead-over-james-in-ny-governor-poll>.

⁷² *N.Y. Attorney General Letitia James exits governor's race, will run for re-election*, NBC News, December 9, 2021, <https://www.nbcnews.com/politics/elections/n-y-attorney-general-letitia-james-exits-governor-s-race-n1285671>.

⁷³ *The View, Letitia James Speaks To 'The View' Exclusively On Suspending Run For Governor*, YouTube, December 14, 2021, <https://www.youtube.com/watch?v=BK56ZH8Pvt8>.

and into certain individuals.” Joy Behar, a fanatical Trump critic, then quipped “you believe in loyalty, I believe in putting Trump in jail.” Behar’s comment was met by Defendant’s exuberant laughter. Behar then followed up and stated “some people think that you dropped out of the Governor’s race because you are about to drop a bombshell on us in your civil investigations into Trump’s business practices. There are reports that you are trying to depose Trump under oath next month, tell me that’s true.” Defendant put her personal disdain for Trump on full display by responding to Behar’s comment with laughter.⁷⁴

98. When Defendant was asked what would happen if Trump chose not to comply with Defendant’s deposition notice. Defendant then stated “Joy, you know I love you right? I do, I do, I do, so you know I can’t admit or deny (laughter). I cannot admit and/or deny those allegations in the preface of your question. I can just say ... we have conducted a civil investigation into the Trump Organization. We also have a parallel investigation, a criminal investigation.”⁷⁵

99. In a telling admission of her own motivations, when further commenting on her decision to stay on as Attorney General, she stated “I’d rather be turning red to blue.”⁷⁶ Defendant made it clear that she prioritizes advancing her personal and political mission over the impartial enforcement of the law.

100. Defendant’s endless public promises to investigate Plaintiffs, her open disparagement of Plaintiffs, her accusations that Plaintiffs broke the law despite admitting she possessed no evidence to substantiate those allegations, and her aggressive and wide-sweeping investigation into Plaintiffs’ business activities all lead to only one reasonable conclusion: Defendant prioritized her “desire to pound an opponent into oblivion” over her “obligations” as

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ The View, *New York AG Letitia James Plans to Follow Gov. Newsom’s Anti-Gun Law Model*, YouTube, December 14, 2021, <https://www.youtube.com/watch?v=FNYb95YDdB0>.

New York's highest law enforcement officer to enforce the law equally without regard to citizens' political opinions.⁷⁷

101. Absent judicial relief, James will continue to violate Plaintiffs' rights in an unconstitutional manner and Plaintiffs will suffer imminent and irreparable harms.

COUNT I
VIOLATION OF THE FOURTEENTH AMENDMENT
42 U.S.C. § 1983

102. Plaintiffs re-assert and re-allege the allegations contained within the preceding paragraphs as if set forth at length herein.

103. The Fourteenth Amendment of the United States Constitution, also known as the Due Process Clause, guarantees that no state shall "deprive any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV.

104. An action for violation of constitutional rights, such as those afforded under the Fourteenth Amendment, may be brought pursuant to 42 U.S.C. § 1983, which states that "[e]very person who, under color of any statute, ordinance, regulation, custom, or usage, of any State [...], subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the [United States] Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

105. Defendant maliciously weaponized the state police power of the Attorney General by commencing and continuing baseless investigations and fishing expeditions against Plaintiffs.

106. Defendant commenced the investigations against Plaintiffs in bad faith and without a legally sufficient basis.

⁷⁷ Freeport-McMoRan Oil & Gas Co., 962 F.2d at 48.

107. Defendant knew that her investigations were unsupported, unjustified, and unfounded in fact or in law.

108. Defendant's actions were motivated by an improper purpose, namely her malice, political animus, and a desire to harass, intimidate, threaten, oppress, coerce, injure and/or retaliate against Trump, and his business, the Trump Organization, for his political views and his official acts as president.

109. Defendant's improper public comments concerning her open investigations into Plaintiffs—often prejudging Plaintiffs' guilt without respect for the presumption of innocence—are a further example of Defendant's bias, prejudice, and callous indifference for due process of the law.

110. Defendant's flagrant misuse of state investigatory powers contravened Plaintiffs' constitutional rights and deprived them of life, liberty, and/or property without due process of law.

111. At all relevant times, Defendant was acting in an official capacity and under the pretense and color of the law.

112. Defendant's actions, including but not limited to her abuse of criminal and civil process, the commencement of arbitrary fishing expeditions, and collective misconduct in targeting Plaintiffs in bad faith and solely for political purposes, deprived Plaintiffs of due process of law and impermissibly infringed upon their constitutional rights.

113. As a direct and proximate result of Defendant's conduct, Plaintiffs have suffered, and will continue to suffer, significant, imminent and irreparable harm in the form of deprivation of their constitutionally protected rights, privileges, and immunities afforded under the Fourteenth Amendment, as secured by 42 U.S.C. § 1983.

114. Absent injunctive relief, Plaintiffs will continue to suffer irrevocable loss and irreparable harm as a result of Defendant's deprivation of their constitutional rights.

115. In addition to the declaratory and injunctive relief sought herein, Plaintiffs are also entitled to an award of attorneys' fees, costs, and disbursements pursuant to 42 U.S.C. § 1988.

COUNT II
VIOLATION OF THE FIRST AMENDMENT
42 U.S.C. § 1983

116. Plaintiffs re-assert and re-allege the allegations contained within the preceding paragraphs as if set forth at length herein.

117. The First Amendment to the United States Constitution, enforceable pursuant to 42 U.S.C. § 1983, guarantees the right to freedom of speech. U.S. Const. amend. I.

118. The United States Supreme Court has recognized that political speech is the most protected form of speech under the First Amendment.

119. Trump, the Forty-Fifth President of the United States, is a prominent political figure and member of the Republican Party.

120. Trump's political views, beliefs, and affiliations, and those acts he has taken in furtherance of his political career, are a form of political speech subject to constitutional protection under the First Amendment.

121. Defendant is a fervent supporter of the Democratic Party, having served as a member of the party in public office since at least 2005 and even announcing in October 2021 that she intended to run for the office of Governor of New York in the 2022 Democratic Primary.

122. As described in the preceding paragraphs, Defendant has made many public statements expressing her radical contempt for Trump and his political views.

123. As a member of the Democratic Party, Defendant has served as an outspoken critic of Trump throughout the entirety of his presidency.

124. Defendant's conduct in commencing and continuing baseless investigations and fishing expeditions against Plaintiffs was intended to stifle Plaintiffs' free speech because Defendant disfavors the political ideologies, perspectives, opinions and/or views held by Trump.

125. Defendant's actions were further motivated by an improper purpose, namely a desire to harass, intimidate, threaten, oppress, coerce, and injure Plaintiffs in retaliation for Trump's political views and his official acts as President.

126. Defendant's attempts to silence Plaintiffs' free speech were both discriminatory and retaliatory in nature.

127. At all relevant times, Defendant was acting under the pretense and color of the law.

128. Plaintiffs' First Amendment rights have been, and continue to be, wrongfully infringed upon by way of Defendant's deployment of state power to discriminate against, retaliate against and otherwise suppress the rights of free speech of Trump and his business, the Trump Organization, based on Trump's political ideologies, perspectives, opinions and/or views and his official acts as President.

129. Defendant caused the issuance of multiple subpoenas and commenced a pretextual investigations against Plaintiffs based entirely upon her own personal disagreement, and the disagreement of the Democratic party, with Trump's political speech and the political position of the Trump Organization, for the sole purpose of intimidating and harassing Plaintiffs and to suppress Plaintiff's political views and associated speech and political action.

130. Defendant's conduct constitutes impermissible viewpoint discrimination against Plaintiffs and/or a retaliatory violation of Plaintiffs' First Amendment rights.

131. As a direct and proximate result of Defendant's conduct, Plaintiffs have suffered, and will continue to suffer, significant, imminent and irreparable harm in the form of deprivation of their constitutionally protected rights, privileges, and immunities afforded under the First Amendment, as secured by 42 U.S.C. § 1983.

132. Absent injunctive relief, Plaintiffs will continue to suffer irrevocable loss and irreparable harm as a result of Defendant's deprivation of their constitutional rights.

133. In addition to the declaratory and injunctive relief sought herein, Plaintiffs are also entitled to an award of attorneys' fees, costs, and disbursements pursuant to 42 U.S.C. § 1988.

COUNT III
VIOLATION OF THE FOURTH AMENDMENT
42 U.S.C. § 1983

134. Plaintiffs re-assert and re-allege the allegations contained within the preceding paragraphs as if set forth at length herein.

135. The Fourth Amendment to the United States Constitution, enforceable pursuant to 42 U.S.C. § 1983, guarantees "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV.

136. Defendant issued numerous overbroad, overreaching and irrelevant subpoenas to Plaintiffs without any legally sufficient or justifiable reason for doing so.

137. The subpoenas were not in any way limited in scope, relevant in purpose, or specific in directive.

138. Defendant was aware that there was no justifiable legal or factual basis for the issuance of the subpoenas; she was purposefully engaging in an arbitrary fishing expedition against Plaintiffs.

139. Defendant's actions were motivated by an improper purpose, namely her desire to harass, intimidate, threaten, oppress, coerce, and injure Plaintiffs.

140. At all relevant times, Defendant was acting under the pretense and color of the law.

141. The subpoenas issued by Defendant imposed an undue burden on Plaintiffs and violated their Fourth Amendment right to be free from unreasonable searches and seizures.

142. As a direct and proximate result of Defendant's conduct, Plaintiffs have suffered, and will continue to suffer, significant, imminent and irreparable harm in the form of deprivation of their constitutionally protected rights, privileges, and immunities afforded under the Fourth Amendment, as secured by 42 U.S.C. § 1983.

143. Absent injunctive relief, Plaintiffs will continue to suffer irrevocable loss and irreparable harm as a result of Defendant's deprivation of their constitutional rights.

144. In addition to the declaratory and injunctive relief sought herein, Plaintiffs are also entitled to an award of attorneys' fees, costs, and disbursements pursuant to 42 U.S.C. § 1988.

COUNT IV
ABUSE OF PROCESS

145. Plaintiffs re-assert and re-allege the allegations contained within the preceding paragraphs as if set forth at length herein.

146. Defendant initiated regularly issued criminal and civil processes, in the form of subpoenas, against Plaintiffs.

147. By issuing the above-mentioned subpoenas, Defendant intended to compel Trump to discontinue his political career, to hinder his bid for re-election in the 2020 Presidential Election, and/or to compel Plaintiffs to cease business operations in the State of New York.

148. Through her wrongful, malicious, and egregious actions, Defendant sought to harm Plaintiffs without excuse or justification.

149. Defendant is, and at relevant all times was, aware that her office's investigations were unsupported, unjustified, and unfounded in fact or in law.

150. Defendant was aware that her office's investigations were unsupported, unjustified, and unfounded in fact or in law.

151. Defendant's actions were motivated by malice, political animus, and a desire to harass, intimidate, threaten, oppress, coerce, injure and/or retaliate against Trump and his business, the Trump Organization.

152. Defendant weaponized the legal process against Plaintiffs in a perverted manner for the purpose of obtaining inappropriate collateral objectives outside the legitimate ends of the process:

- a. Defendant intended to obtain a collateral advantage for herself inasmuch as Defendant sought to promote her public image, to advance her political career, and to increase her likelihood of being re-elected as New York Attorney General and/or elected as Governor of the State of New York.
- b. Defendant also intended to obtain a collateral detriment to Plaintiffs inasmuch as Defendant sought to tarnish Trump's reputation personally, professionally and politically, in order to, among other things, diminish Trump's likelihood of winning the 2020 Presidential Election, bring about the end of Trump's political career, and injure Plaintiffs' business relations in the State of New York.

153. At all relevant times, Defendant was acting in her official capacity and under the pretense and color of the law.

154. Absent injunctive relief, Plaintiffs will continue to suffer irrevocable loss and irreparable harm as a result of Defendant's malicious abuse of process.

155. As a direct and proximate result of Defendant's actions, Plaintiffs have suffered and will continue to suffer, significant, imminent and irreparable harm, deprivation of their rights under state law, and special damages in the form of costs of defense and attorneys fees incurred in defending against Defendant's baseless investigations.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment be awarded in their favor as follows:

- a. For a declaratory judgment pursuant to 28 U.S.C. §§ 2201, 2202 declaring that Defendant has violated Plaintiffs' rights, privileges and immunities under the First, Fourth and Fourteenth Amendments to the United States Constitution;
- b. For a declaratory judgment pursuant to 28 U.S.C. §§ 2201, 2202 declaring that Defendant's investigations constitute impermissible state action and an abuse of process that harness state police power to retaliate against, injure and harass a political opponent in violation of the United States Constitution, federal law, state law, and/or common law;
- c. For a preliminary and permanent injunction pursuant to 28 U.S.C. § 1651(a), 42 U.S.C. § 1983, Rule 65 of the Federal Rules of Civil Procedure, and Local Rule 65.1 requiring Defendant to immediately cease or, at a minimum, appropriately limit all ongoing investigations of Plaintiffs pending resolution of this action;
- d. For a preliminary and permanent injunction pursuant to 28 U.S.C. § 1651(a), 42 U.S.C. § 1983, Rule 65 of the Federal Rules of Civil Procedure, and Local Rule 65.1 granting Plaintiffs relief from Defendant's ongoing, unbounded investigations and enjoining her from being involved in any manner in any civil or criminal actions against Plaintiffs;

- e. For such other declaratory and/or injunctive relief that Plaintiffs are entitled;
- f. For an award for Plaintiffs' attorneys' fees, costs, and disbursements; and
- g. For such other relief as the Court deems equitable, just, and proper.

JURY DEMAND

Plaintiffs hereby requests a trial by jury of any issue so triable as of right pursuant to Rule 38(b) of the Federal Rules of Civil Procedure.

Dated: December 20, 2021
New York, New York



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