SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

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PEOPLE OF THE STATE OF NEW YORK, BY LETITIA JAMES, ATTORNEY GENERAL OF THE STATE OF NEW YORK,

Plaintiff,

- v -

THE NATIONAL RIFLE ASSOCIATION OF AMERICA, INC., WAYNE LAPIERRE, WILSON PHILLIPS, JOHN FRAZER, JOSHUA POWELL,

Defendants.

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INDEX NO. 451625/2020

MOTION DATE 07/08/2021

MOTION SEQ. NO. 013

DECISION + ORDER ON MOTION

HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 013) 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 288

were read on this motion to DISMISS COUNTERCLAIMS.

On this motion, New York Attorney General Letitia James (the "Attorney General") seeks to dismiss counterclaims filed by Defendant National Rifle Association of America, Inc. ("NRA"), which challenge the constitutionality of her decisions to investigate the NRA and, ultimately, to seek judicial dissolution of the NRA in this case. For the reasons set forth below, the Attorney General's motion is **granted**.[1]

[1] The operative pleading here is the NRA's Amended Verified Answer and Counterclaims, filed on July 20, 2021 (the "counterclaims" or "CC" [NYSCEF 325]). On April 15, 2022, the NRA filed what it calls "supplemental counterclaims," in effect amending its pleading without prior Court approval as required under CPLR 3025 [b] (NYSCEF 629). The supplemental counterclaims are, therefore, a nullity. And even if the NRA could seek leave to amend its pleading after the fact, the Court declines to grant such leave here. For the reasons discussed *infra*, the claims are without merit (*Scott v Bell Atl. Corp.*, 282 AD2d 180, 185 [1st Dept 2001] [holding "proposed amendment that cannot survive a motion to dismiss should not be permitted"]).

As discussed below, the NRA's factual allegations do not support any viable legal claims that the Attorney General's investigation was unconstitutionally retaliatory or selective. The investigation followed reports of serious misconduct and it uncovered additional evidence that, at a bare minimum, undermines any suggestion that was a mere pretext to penalize the NRA for its constitutionally protected activities. Although certain of the Attorney General's claims were dismissed by the Court on legal grounds, they were serious claims based on detailed allegations of wrongdoing at the highest levels of a *not-for-profit* organization as to which the Attorney General has legitimate oversight responsibility. And many legally viable claims remain. The narrative that the Attorney General's investigation into these undeniably serious matters was nothing more than a politically motivated – and unconstitutional – witch hunt is simply not supported by the record.

DISCUSSION

On a motion to dismiss, the Court must "accept the complaint's factual allegations as true, according to plaintiff the benefit of every possible favorable inference, and determining only whether the facts as alleged fit within a cognizable legal theory" (*Weil, Gotshal & Manges, LLP v Fashion Boutique of Short Hills, Inc.*, 10 AD3d 367, 270-71 [1st Dept 2014] [internal quotation marks and citation omitted]; *see also Leon v Martinez*, 84 NY2d 83, 88 [1994]; *Tri Term. Corp. v CITC Indus., Inc.*, 100 Misc 2d 477, 479 [Sup Ct, New York County 1979] ["A counterclaim is in essence a complaint by a defendant against the plaintiff and alleges a viable cause of action upon which the defendant seeks judgment."]). However, bare legal conclusions and "factual claims which are either inherently incredible or flatly contradicted by documentary

evidence" are not "accorded their most favorable intendment" (*Summit Solomon & Feldman v. Lacher*, 212 AD2d 487, 487 [1st Dept 1995]).

As a threshold matter, the scope of the NRA's counterclaims was narrowed as a result of the Court's Decision and Order, dated March 2, 2022, dismissing the Attorney General's dissolution claims (the "Decision and Order") (*People by James v Natl. Rifle Assn. of Am., Inc.*, 74 Misc 3d 998 [Sup Ct, New York County 2022]; NYSCEF 609-611).[2] First, to the extent the counterclaims seek declaratory and injunctive relief stemming from the dissolution claims, those claims are moot. Second, the remaining counterclaims (for monetary damages) are alleged against the Attorney General solely in her individual capacity (NYSCEF 543 at 3).[3] And third, since both sides agree that the Attorney General is immune from civil liability for the "judicial phase" of the litigation itself, the remaining portions of the counterclaims focus primarily on her decision to investigate the NRA following her public comments denouncing the organization.[4]

[2] The Decision and Order detailed the background facts of this case, familiarity with which is presumed here.

[3] The NRA cannot recover money damages against the Attorney General in her official capacity. Such claims are barred, in the first instance, by the doctrine of sovereign immunity (*Giaquinto v Comm'r of N.Y. State Dep't of Health*, 11 NY3d 179, 187 [2008]). And while the State of New York has consented to suit in its own courts for certain claims, such claims are within the exclusive jurisdiction of the New York Court of Claims (*Automated Ticket Sys., Ltd. v Quinn*, 90 AD2d 738 [1st Dept 1982] [holding "[t]he claim for damages against state officers and departments in their official capacity is one of which the Supreme Court does not have jurisdiction; the claim can be prosecuted only in the Court of Claims"], *aff'd*, 58 NY2d 949 [1983]).

[4] "[T]he 'initiat[ion of] a prosecution'" is an act for which "the prosecutor is entitled to absolute immunity from liability under section 1983" (*Rodrigues v City of New York*, 193 AD2d 79, 85 [1st Dept 1993]; *Nieves*, 139 S Ct at 1723). The NRA concedes that Attorney General James, in her individual capacity, is entitled to absolute immunity for "activities associated with the 'judicial phase'" (NYSCEF 543 at 24-25 [NRA opp. to mot. to dismiss]). But "[a]n action could

A. The Retaliation Counterclaims Fail to State Causes of Action.

The NRA's First, Second, Third, and Fourth Counterclaims (collectively, the "Retaliation Counterclaims") allege that the Attorney General's actions amount to unconstitutional retaliation against the NRA and its members for engaging in political speech (CC ¶¶ 59-107).[5]

"'[A]s a general matter the First Amendment prohibits government officials from subjecting an individual to retaliatory actions' for engaging in protected speech" (*Nieves v Bartlett*, 139 S Ct 1715, 1722 [2019], quoting *Hartman v. Moore*, 547 US 250, 256 [2006]). "To state a First Amendment retaliation claim sufficient to withstand a motion to dismiss, a plaintiff must allege '(1) that the speech or conduct at issue was protected, (2) that the defendant took adverse action against the plaintiff, and (3) that there was a causal connection between the protected speech and the adverse action'" (*Dolan v Connolly*, 794 F3d 290, 294 [2d Cir. 2015]; *Massaro v Dep't of Educ.*, 121 AD3d 569, 569-70 [1st Dept 2014] [citing to Second Circuit authority for analysis of Federal and State Constitution retaliation claims]).

With respect to the third element, causation, "[i]t is not enough to show that an official acted with a retaliatory motive and that the plaintiff was injured—the motive must cause the injury" (*Nieves*, 139 S Ct at 1722). "Specifically, it must be a 'but-for' cause, meaning that the adverse action against the plaintiff would not have been taken absent the retaliatory motive" (*id.*; *see Hartman*, 547 US at 260 ["[A]ction colored by some degree of bad motive does not amount to a constitutional tort if that action would have been taken anyway."]). And here, "there is an added legal obstacle in the longstanding presumption of regularity accorded to prosecutorial

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still be brought against a prosecutor for conduct taken in an investigatory capacity, to which absolute immunity does not extend" (*Hartman*, 547 US at 262 n.8).

[5] The parties do not dispute that the analysis of the counterclaims under the First Amendment to the U.S. Constitution mirrors the analysis under the New York State Constitution.

decisionmaking" (*Hartman*, 547 US at 263). "[T]his presumption that a prosecutor has legitimate grounds for the action [she] takes is one we do not lightly discard, given our position that judicial intrusion into executive discretion of such high order should be minimal" (*id.* at 263, citing *Wayte v United States*, 470 US 598, 607–608 [1985]).

The causal element is missing here. The NRA fails to allege that the Attorney General's investigation into the NRA's activities "would not have been taken absent the retaliatory motive" (*Nieves*, 139 S Ct at 1722). Or stated differently, the NRA fails to allege that the investigation was without a lawful basis (*cf. Hartman*, 547 US at 263 [holding "the absence of probable cause" must be alleged in retaliatory prosecution cases to "link the allegedly retaliatory official to a prosecutor whose action has injured the plaintiff"]). Indeed, the record dispels that notion conclusively.

To begin with, "[t]here is no doubt that the Attorney-General has a right to conduct investigations" under her broad statutory authority to oversee not-for-profit entities, like the NRA, which are organized under New York law (*Schneiderman v Tierney*, 2015 NY Slip Op. 30851[U], *2 [Sup Ct, New York County 2015]; *see generally* N-PCL, EPTL). There are no factual allegations suggesting that the stated concerns driving the investigation – reports of fraud, waste, and looting within the NRA – were imaginary or not believed by the Attorney General. And "[a]bsent such factual allegations, the Court is in no position to infer that duly authorized state investigations are pretextual" (*Exxon Mobil Corp. v Schneiderman*, 316 F Supp 3d 679, 710 [SD NY 2018], *affd in part, appeal dismissed in part sub nom. Exxon Mobil Corp. v Healey*, 28 F4th 383 [2d Cir 2022]).

The results of the Attorney General's investigation, moreover, give credence to its stated non-retaliatory basis. "[W]hen nonretaliatory grounds are in fact insufficient to provoke the

adverse consequences, . . . that retaliation is subject to recovery as the but-for cause of official action offending the Constitution" (*Harman*, 547 US at 256). The converse is true here: the "nonretaliatory grounds" were more than sufficient to justify the Attorney General's investigation. It yielded a lengthy complaint alleging, in detail, a pattern of misconduct at the highest levels of the NRA (*see* NYSCEF 333). Many of those claims survived multiple motions to dismiss; none were frivolous.

In fact, the NRA itself recognized many of the same issues about corporate governance underlying the Attorney General's investigation. Within the NRA, whistleblowers "push[ed] for additional documentation and transparency," an effort which was "met with resistance from a handful of its executives and vendors" (CC ¶ 15). One executive "was fired by the NRA for many of the same issues alleged in the Complaint," while the group "became embroiled in litigation" against others who "abused its trust" (*id.* ¶ 7). And in this action, current NRA members have sought leave to intervene to address "concerns . . . about the NRA's management by the Individual Defendants and current Board" (NYSCEF 377 at 2).

Further, when the NRA sought to evade the Attorney General's actions in New York by filing for bankruptcy in Texas, the federal bankruptcy court there underscored concerns about the NRA's corporate governance. For example, the bankruptcy court noted "the surreptitious manner in which [Wayne] LaPierre obtained and exercised authority to file bankruptcy for the NRA," finding the decision to "[e]xclude[] so many people from the process of deciding to file for bankruptcy, including the vast majority of the board of directors, the chief financial officer, and the general counsel, . . . nothing less than shocking" (*In re Natl. Rifle Assn. of Am.*, 628 BR 262, 285 [Bankr ND Tex 2021]). The court also alluded to "cringeworthy facts" about the NRA's past misconduct. It found "[s]ome of the conduct that gives the Court concern is still

ongoing," including "very recent[ ] violat[ions]" of the NRA's internal procedures and "lingering issues of secrecy and a lack of transparency" (*id.* at 283-284).

Because the non-retaliatory grounds for the Attorney General's investigation were objectively well-founded (albeit not yet proven), the NRA cannot recover on its Retaliation Counterclaims even assuming, for argument's sake, that Attorney General James harbored personal animus toward the NRA.[6] Again, "[i]t is not enough to show that an official acted with a retaliatory motive and that the plaintiff was injured" (*Nieves*, 139 S Ct at 1722; *Hartman*, 547 US at 260 ["If there is a finding that retaliation was not the but-for cause of the discharge, the claim fails for lack of causal connection between unconstitutional motive and resulting harm, despite proof of some retaliatory animus in the official's mind."]). The causation element bridges the gap, ensuring that a retaliation claim is tethered to "objectively unreasonable" actions, not just "the subjective animus of an officer" (*Nieves*, 139 S Ct at 1723). In the end, an objectively reasonable investigation – here, one uncovering credible evidence of wrongdoing – is not rendered unconstitutional solely by the investigator's subjective state of mind (*see Trump Org.*, 2022 NY Slip Op. 30538[U], at *5 ["[T]hat a prosecutor dislikes someone does not prevent a prosecution."]).

And, contrary to the NRA's position, courts may dismiss First Amendment retaliation claims at the motion to dismiss stage for failure to adequately allege but-for causation (*see, e.g.*,

[6] Of course, "Attorney General James . . . was not deprived of her First Amendment rights to free speech when she was a politician running for a public office with investigatory powers" (*The People of the State of New York v The Trump Org., Inc.*, 2022 NY Slip Op. 30538[U], *5 [Sup Ct, New York County 2022], *affd sub nom. People by James v Trump Org., Inc.*, 2022 NY Slip Op. 03456 [1st Dept May 26, 2022]). And as evidence of personal animus, her campaign-trail rhetoric is relevant only if the NRA alleges a sufficient causal link between the animus and the adverse action, which it has not.

Avery v DiFiore, No. 18-cv-9150, 2019 WL 3564570, at *3-5 [SD NY Aug. 6, 2019] [dismissing retaliation claims with prejudice where plaintiff failed to plead facts "support[ing] an inference of causation"]; *Richards v City of New York*, No. 20-cv-3348, 2021 WL 3668088, at *3 [SD NY Aug. 18, 2021] [granting dismissal where plaintiff failed to allege that improper motive was the but-for cause of alleged retaliation]). Dispatching fatally flawed retaliation claims against public officials at this early stage is not merely permissible, but serves a salutary gatekeeping function. Without enforcing the requirement to allege but-for causation, "[a] plaintiff can afflict a public officer with disruption and expense by alleging nothing more, in practical terms, than action with a retaliatory animus, a subjective condition too easy to claim and too hard to defend against" (*Hartman*, 547 US at 257).

Therefore, the branch of the Attorney General's motion seeking dismissal of the NRA's First, Second, Third, and Fourth Counterclaims is GRANTED.

B. The Selective Enforcement Counterclaims Fail to State Causes of Action.

The NRA's Fifth and Six Counterclaims (collectively, the "Selective Enforcement Counterclaims") allege that the Attorney General's decision to investigate and seek dissolution of the NRA represents selective prosecution, in violation of the NRA's constitutional right to equal protection (CC ¶¶ 108-130). As noted, the Attorney General's filing this lawsuit is an act for which she "is entitled to absolute immunity from liability," so the focus here is on the claims alleging "selective enforcement by virtue of the pretextual investigation prior to commencement of this dissolution proceeding" (NYSCEF 543 at 25 [NRA opp. to mot. to dismiss]; CC ¶ 112 [alleging James "has announced no investigations into other New York-based non-profits for similar alleged misconduct"]).

"A claim of selective prosecution requires a showing 'that the law has been administered 'with an evil eye and an unequal hand'" (*People by James v Trump Org., Inc.*, 2022 NY Slip Op 03456 [1st Dept May 26, 2022], quoting *People v Goodman*, 31 NY2d 262, 269 [1972]). The elements of such a claim are twofold. "A party must show that it was selectively treated, compared with others similarly situated, and that such treatment was based on impermissible considerations" (*id.*; *Wandering Dago, Inc. v Destito*, 879 F3d 20, 40 [2d Cir. 2018] [same]). "The 'similarly situated' element of the test asks 'whether a prudent person, looking objectively at the incidents, would think them roughly equivalent'" (*Bower Assoc. v Town of Pleasant Val.*, 2 NY3d 617, 631 [2004] [internal citation omitted]; *Sonne v Bd. of Trustees of Vil. of Suffern*, 67 AD3d 192, 203 [2d Dept 2009] [noting "[e]xact correlation is neither likely nor necessary"]). But "even different treatment of persons similarly situated, without more, does not establish a claim" (*Bower*, 2 NY3d at 631). "The person must be singled out for an impermissible motive not related to legitimate governmental objectives, which could include personal or political gain, or retaliation for the exercise of constitutional rights" (*Sonne*, 67 AD3d at 203-204).

A claim of selective prosecution also must overcome the presumption that, generally speaking, the State can select whom to prosecute. "[T]he Government retains 'broad discretion' as to whom to prosecute" because "the decision to prosecute is particularly ill-suited to judicial review" (*Wayte v United States*, 470 US 598 [1985]). The U.S. Supreme Court's concerns in *Wayte* about "[j]udicial supervision in this area" are particularly relevant here:

> [F]actors as the strength of the case, the prosecution's general deterrence value, the Government's enforcement priorities, and the case's relationship to the Government's overall enforcement plan are not readily susceptible to the kind of analysis the courts are competent to undertake. Judicial supervision in this area, moreover, entails systemic costs of particular concern. Examining the basis of a prosecution delays the criminal proceeding, threatens to chill law enforcement by subjecting the prosecutor's motives and decisionmaking to outside inquiry, and

> may undermine prosecutorial effectiveness by revealing the Government's enforcement policy. ***All these are substantial concerns that make the courts properly hesitant to examine the decision whether to prosecute.***

(*id.* at 607-608 [emphasis added]). *Wayte*'s concerns are heightened where, as here, the selective enforcement claims seek to pry open a non-public law enforcement investigation undertaken prior to the commencement of a lawsuit.

Recognizing those concerns, "[t]he conscious exercise of some selectivity in enforcement of the law is not in itself a constitutional violation" (*People v Goodman*, 31 NY2d 262, 268 [1972], citing *Oyler v Boles*, 368 US 448 [1962]). And "[u]nder New York law, in a selective prosecution allegation, the defendant has a 'heavy burden' of overcoming the presumption that the prosecution has not violated the law" (*People v O'Hara*, 9 Misc 3d 1113(A), at *4 [Sup Ct, Kings County 2005], citing *People v Blount*, 90 NY2d 998, 999 [1997] ["Defendants did not meet their heavy burden of establishing that they were victims of unconstitutional selective enforcement of the penal laws"]; *see People v Dominique*, 90 NY2d 880, 881 [1997] ["Under this 'presumption of regularity' the law further presumes that no official or person acting under an oath of office will do anything contrary to his official duty, or omit anything which his official duty requires to be done. Substantial evidence is necessary to overcome that presumption."]).

Here, the NRA's allegations in the Selective Enforcement Counterclaims do not overcome the presumption that the Attorney General acted lawfully in pursuing the dissolution claims through its investigation. Indeed, the counterclaims tacitly acknowledge the problems that prompted the investigation in the first place. The NRA insists that the Attorney General's investigation was "wrongful" and "pretextual" because it "had undertaken a course correction to improve its compliance controls and internal governance" (CC ¶ 113). In doing so, the NRA concedes that a "course correction" was needed, undercutting its assertion that the Attorney

General's concerns were wholly fabricated. The NRA also ignores that the "course correction" came, in part, as a response to the threat of the Attorney General's investigation. As the NRA itself alleges, it "undertook a top-to-bottom review of its operations and governance" to fend off a "politically driven 'compliance audit'" (*id.* ¶ 15). And that process exposed "those [the NRA] determined had abused its trust" (*id.*). So, while the NRA's own internal investigation uncovered evidence of impropriety, it argues that outside investigation by the Attorney General (exercising her clear statutory authority with respect to not-for-profit corporations) somehow violated its constitutional rights. Endorsing that kind of theory would severely frustrate law enforcement objectives (*Wayte*, 470 US at 607), and is not the basis for a valid constitutional claim.

One product of the Attorney General's investigation was her attempt to dissolve the NRA in this action. The Court's recent dismissal of the Attorney General's dissolution claims does not undermine the presumed legality of her investigation. As this Court noted, the Attorney General is entitled, by statute, "to seek judicial dissolution of a charitable entity that has violated the law" (*People by James v Natl. Rifle Assn. of Am., Inc.*, 74 Misc 3d 998, 1023 [Sup Ct, New York County 2022]). Where, as here, a claim for dissolution is found to be legally insufficient, the proper remedy is dismissing that claim, not imposing liability on the Attorney General for exercising her statutory right to bring it. To hold otherwise would license exactly the kind of "[j]udicial supervision in this area" that the law discourages, "entail[ing] systemic costs" such as "chill[ing] law enforcement by subjecting the prosecutor's motives and decisionmaking to outside inquiry" (*Wayte*, 470 US at 607-608; *see also Exxon Mobil*, 316 F Supp 3d at 711-712 [warning about "seriously compromis[ing" effect "[i]f every time a questionable legal theory

were pursued in an investigation . . . the target could run into federal court and enjoin the state investigation on pretext grounds"]).

The counterclaims also fail to allege that the NRA was treated differently from similarly situated charitable organizations due to impermissible considerations (*Trump Org.*, 2022 NY Slip Op 03456 [1st Dept May 26, 2022] ["Appellants have not identified any similarly implicated corporation that was not investigated or any executives of such a corporation who were not deposed. Therefore, appellants have failed to demonstrate that they were treated differently from any similarly situated persons."]; *Jarrach v Sanger*, 2010 WL 2400110, at *8 [ED NY June 9, 2010] ["Conclusory allegations of selective treatment are insufficient to state an equal protection claim."] [granting motion to dismiss equal protection claim]). While the NRA cites to enforcement matters where the Attorney General did not seek dissolution (*see* CC ¶ 38), these purported comparators fail as a matter of law. Among other things, they involved *settlements* in which the charities agreed to overhaul their leadership (NYSCEF 560 at 7). But in this case, two of the individual defendants are the current NRA chief executive officer and general counsel and secretary to the Board. Their continued direction of the NRA undermines the NRA's argument that this action relates to isolated bad conduct by a handful of former executives. The Attorney General has, moreover, pursued enforcement actions against other charities, including by seeking dissolution of those entities (CC ¶ 39; *see* NYSCEF 660 [submitting several other dissolution examples]).

The NRA's arguments in opposition are unavailing. *First*, the Selective Enforcement Counterclaims do not, as the NRA maintains, trigger a strict scrutiny analysis of whether the government action was the least restrictive means available in exercising its authority. The NRA has not cited a single instance where this standard was applied to a claim based on the alleged

discriminatory application of a facially neutral law. *Second*, the NRA places undue emphasis on the Court's colloquy with the Attorney General's counsel at the December 10, 2021, oral argument on the Defendants' motions to dismiss the Complaint (NYSCEF 510 at 28 [oral arg. tr.]). The Court's questions to counsel probed the nature of the harm – public versus private – alleged by the Attorney General in support of her office's dissolution claims (*id.* at 27-29). But as indicated, the legal insufficiency of those claims – for failing to allege "the type of *public* harm that is the legal linchpin for" judicial dissolution (*NRA*, 74 Misc 3d at 1004) – does not automatically impose liability on the Attorney General (*see id.* at 1023 [noting "[t]hat [it] is true" the Attorney General "is entitled to seek judicial dissolution of a charitable entity that has violated the law"]).

Therefore, the branch of the Attorney General's motion seeking dismissal of the NRA's Fifth and Sixth Counterclaims is GRANTED.

Further, the branch of the Attorney General's motion seeking dismissal of the Seventh Counterclaim, which seeks a declaratory judgment that N-PCL §§ 1101 and 1102 are unconstitutional as applied to the NRA in this action (CC ¶¶ 131-137), is also GRANTED as that counterclaim has been rendered moot by the Court's dismissal of the dissolution claims.

C. The Court Need Not Decide Issues of Qualified Immunity.

The Court need not – and does not – rule today on the scope of the Attorney General's qualified immunity under federal and state law. For the reasons stated in Parts A and B, *supra*, the NRA's counterclaims fail to adequately allege the deprivation of a constitutional right. And because the Attorney General is not liable, "the court need not further pursue the qualified immunity inquiry" (*Kelsey v County of Schoharie*, 567 F3d 54, 62 [2d Cir 2009]; *Pearson v Callahan*, 555 US 223, 236 [2009] [recognizing that "discussion of why the relevant facts do not

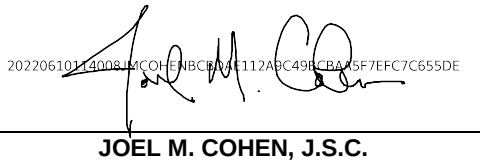
violate clearly established law may make it apparent that in fact the relevant facts do not make out a constitutional violation at all"]; *Finch v City of New York*, 591 F Supp 2d 349, 360 [SD NY 2008] ["If there is no constitutional violation, the defendant is not liable and the court need not proceed further"]).

* * * *

Accordingly, it is

ORDERED that the Attorney General's motion is **GRANTED** and the Amended Counterclaims (NYSCEF 325) are dismissed with prejudice.

This constitutes the Decision and Order of the Court.



6/10/2022
DATE

JOEL M. COHEN, J.S.C.

CHECK ONE:		**CASE DISPOSED**			X	**NON-FINAL DISPOSITION**		
	X	**GRANTED**		**DENIED**		**GRANTED IN PART**		**OTHER**
APPLICATION:		**SETTLE ORDER**				**SUBMIT ORDER**		
CHECK IF APPROPRIATE:		**INCLUDES TRANSFER/REASSIGN**				**FIDUCIARY APPOINTMENT**		**REFERENCE**