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U.S. DISTRICT COURT E.D.N.Y.

★ JUN 07 2007 ★

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

LONG ISLAND OFFICE

JAMES M. MALONEY,
Plaintiff,
v.
ANDREW CUOMO,
ELIOT SPITZER and
KATHLEEN A. RICE

DATE: 6/07/07
U.S.D.C. DOCKET NO. 03 CV 0786
RELATED CASE NO.: NONE
JUDGE HON. ARTHUR D. SPATT
USCA CASE NO.: 07-0581-CV

INDEX TO THE RECORD ON APPEAL

INDEX PREPARED BY:

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ooo See copy of attached docket sheet for circled items which designate the index to the record on appeal.

* Item missing or not to be included in index

**U.S. District Court
Eastern District of New York (Central Islip)
CIVIL DOCKET FOR CASE #: 2:03-cv-00786-ADS-MLO**

Maloney v. Spitzer et al
Assigned to: Senior-Judge Arthur D. Spatt
Referred to: Magistrate-Judge Michael L. Orenstein
Cause: 28:2201 Constitutionality of State Statute(s)

Date Filed: 02/18/2003
Date Terminated: 01/17/2007
Jury Demand: None
Nature of Suit: 950 Constitutional - State Statute
Jurisdiction: Federal Question

Date Filed	#	Docket Text
02/18/2003	1	COMPLAINT against Denis Dillon, Eliot Spitzer (Filing fee receipt number 273288.) Summons Issued, filed by James M. Maloney. (Attachments: # 1 Civil Cover Sheet) (Duong, Susan) (Entered: 02/20/2003)
02/24/2003	2	SUMMONS Returned Executed by James M. Maloney. Denis Dillon served on 2/21/2003, Answer due 3/13/2003; Eliot Spitzer served on 2/21/2003, Answer due 3/13/2003. (Coleman, Laurie) (Entered: 03/03/2003)
03/18/2003	3	Letter from David A. Scheffel, Law Clerk to the Honorable Arthur D. Spatt, to Deputy Bureau Chief Nadine Rivellese, Nassau County Attorney, dated 3/18/03 re: To advise that the court hereby returns counsel's letter dated 3/37/03 and its enclosure, the stipulation and order of dismissal for Nassau County District Attorney Denis Dillon, for the reason set forth herein. (Fagan, Linda) (Entered: 03/24/2003)
04/02/2003	4	LETTER dated 4/2/03 from David A. Scheffel Law Clerk to USDJ Spatt to Nadine Rivellese Re: Your letter dated 3/27/03, and its enclosed stipulation withdrawing the action against the dft Denis Dillon is being returned to you undocketed because there is no indication that your co-dft Eliot Spitzer has been provided a copy of the letter and stipulation. (Coleman, Laurie) (Entered: 04/04/2003)
04/15/2003	5	STIPULATION AND ORDER - It is hereby Stipulated by and between the undersigned, that this action be, and hereby is, dismissed pursuant to FRCP 41(a)(1)(ii), but only as against the dft Denis Dillon, in his official capacity as District Attorney of the County of Nassau, without prejudice and without costs or attorneys' fees as to either side as against the other. It is further Stipulated that the caption of this case be, upon the Court's order, amended to reflect the caption herein. (Signed by Judge Arthur D. Spatt, on 4/15/03). C/M. (Coleman, Laurie) (Entered: 04/21/2003)
04/24/2003	6	Letter from Dorothy Oehler Nese to Judge Spatt, dated 4/22/03 re: To request that the Court extend the time within which the Deft may appear, answer or move, until 7/21/03, in contmplation of a motion to dismiss the complaint; To propose the agreed-upon briefing schedule set forth herein. (Fagan, Linda) (Entered: 04/30/2003)
04/24/2003		ORDER Endorsed on [6] Letter; Application Denied. Motion Schedule not approved. Deft must file Answer or respond to the Complaint by 5/21/03 . (Signed by Judge Arthur D. Spatt on 4/24/03.) c/m eod #6(Fagan, Linda) (Entered: 04/30/2003)
05/21/2003	7	ANSWER to Complaint by Eliot Spitzer.(Coleman, Laurie) (Entered: 06/10/2003)

07/11/2003	8	ORDER -- The above case has been referred by United States District Judge Arthur D. Spatt to the undersigned. An Initial Conference is set for 8/12/2003 at 2:00 P.M. before Magistrate-Judge Michael L. Orenstein. Signed by Judge Michael L. Orenstein on 7/11/03. (Dachille, Patty) (Entered: 08/12/2003)
08/11/2003	9	LETTER MOTION from James Maloney to Judge Orenstein Re: On the following two pages is a copy of a letter sent by the undersigned requesting an adjournment sine die of the conference that Your Honor had scheduled for 8/12/03 @ 2:00 p.m. Upon my telephoning chambers today jointly with Ms. Nese, it was recommended by chambers personnel that an additional copy of my letter be sent and that the request for an adjournment be noted again. Both parties still wish to adjourn the conference, as well as any discovery, pending the Attorney General's 12(c) motion. A proposed briefing schedule is included in the 7/15/03 letter. (Coleman, Laurie) (Entered: 08/20/2003)
08/11/2003		ENDORSED ORDER granting [9] letter application the 8/12/03 conference. Conference is adjourned to 10/3/03 @ 10:00 a.m. However, counsel's proposed motion schedule fails to adhere to Judge Spatt's practices. (Signed by Judge Michael L. Orenstein, on 8/11/03). EOD #9. C/M(Coleman, Laurie) (Entered: 08/20/2003)
09/23/2003	10	Letter from James M. Maloney to Hon Michael L. Orenstein, dated 9/22/03 re: To request an adjournment of a conference scheduled before the Court for 10/3/03, at 10:00 a.m. (Fagan, Linda) (Entered: 10/07/2003)
09/23/2003		Endorsed ORDER on [10] Letter. Conference adjourned on consent. Conference will be held on 10/16/03 at 9:30 a.m. No further adjournment will be allowed. Initial Conference reset for 10/16/03 at 9:30 a.m. before Magistrate-Judge Michael L. Orenstein. (Signed by Judge Michael L. Orenstein on 9/23/03.) c/m eod #10(Fagan, Linda) (Entered: 10/07/2003)
10/16/2003	11	MINUTE ENTRY before USMJ Orenstein on 10/16/03 @ 9:30 a.m., for Civil Cause for Initial Conference. Tape: #03-215 (630-2767). Next Conference 1/27/04 @ 10:00 a.m. before USMJ Orenstein. It appears motion practice is required. There appears to be no need for discovery. Motion and Cross-Motions shall be made and filed prior to next conference date. (Coleman, Laurie) (Entered: 11/03/2003)
01/26/2004	13	LETTER MOTION dated 1/26/04 from Ralph Pernick Assistant Attorney General, to Judge Spatt Re: I write on behalf of Dorothy Oehler Nese, Assistant Attorney General, to request that tomorrow's conference be adjourned. (Coleman, Laurie) (Entered: 03/22/2004)
01/26/2004		ENDORSED ORDER granting [13] letter application requesting an adjournment of the 1/27/04 conference - Conference adjourned to 2/2/04 @ 11:30 a.m.. (Signed by Judge Michael L. Orenstein on 1/26/04). EOD #13. C/M(Coleman, Laurie) (Entered: 03/22/2004)
02/02/2004	12	MINUTE ENTRY before Judge Orenstein on 2/2/04 from 11:30 p.m. to 12:00 p.m., for Civil Cause for Status Conference. Tape: #04-20 (1451-1802). Next Conference 5/7/04 @ 2:30 p.m.. Parties agreed upon a briefing schedule for a Rule 12(c) motion. (Coleman, Laurie) (Entered: 03/06/2004)
05/07/2004	14	Minute Entry for proceedings held before Michael L. Orenstein : Status Conference held on 5/7/2004 @ 2:30 pm. No appearance of the dft. No motion has been made. Accordingly, the conference is adjourned to the above date and time. Status Conference set for 6/18/2004 11:00 AM before Chief Magistrate Michael L. Orenstein. (Tape #04-82(308-3449).) (Barhome, Sydelle) (Entered: 06/09/2004)

06/14/2004	<u>15</u>	LETTER dated 6/10/04 from James Maloney to Judge Spatt Re: Although I am a pro se litigant and Your Honor's rules accordingly do not require a pre-motion conference, I am, as a courtesy to the Court and to the Office of the Attorney General, writing to the Court in advance of making a motion for summary judgment. The required Rule 56.1 statement and counter-statement are enclosed. (Coleman, Laurie) (Entered: 06/17/2004)
06/18/2004	<u>16</u>	MINUTE ENTRY before Judge Michael L. Orenstein on 6/18/04 from 11:00 a.m. to 11:30 a.m., for Civil Cause for Status Conference. Tape: #04-102 (3826-4300). Next conference 12/3/04 @ 10:30 a.m. Pltff shall serve his motion by 9/10/04, dft to respond by the earlier of 60 days from date of service or 11/10/04, and plttf shall serve reply by writing 15 days thereafter. If all papers have been filed by next conference date, court will adjourn conference upon written request. (Coleman, Laurie) (Entered: 07/06/2004)
06/18/2004		Set Deadlines/Hearings: Status Conference set for 12/3/2004 @ 10:30 a.m. before Chief Magistrate Michael L. Orenstein. (Coleman, Laurie) (Entered: 07/06/2004)
08/10/2004	<u>17</u>	STIPULATION <i>Plaintiff shall serve all papers in support of his motion for summary judgment on or before 9/10/04; Defendant shall serve all papers in opposition within 60 days of the date of service of Plaintiff's motion papers; Plaintiff shall serve all papers in reply within 15 days of the date of service of Defendant's opposition papers. For purposes of this stipulation, "date of service" where used to start a time period defined herein shall mean five days after the date of mailing of papers sent by regular mail, or the date of receipt of such papers if such papers were served by hand or by overnight courier.</i> by James M. Maloney. (Maloney, James) (Entered: 08/10/2004)
08/12/2004	<u>18</u>	LETTER dated 8/9/04 from James Maloney to Dorothy Oehler Nese, Esq. Re: Enclosed, in support of my motion for summary judgment are: my Declaration with attached Exhibits 1 through 12; a memorandum of law; and a courtesy copy of Professor William Van Alstyne's essay, "The Second Amendment and the Personal Right to Arms", 43 Duke L.J. 1236 (1994). Per the terms of the Stipulation of 6/18/04, your response should be served by 10/8/04. (Coleman, Laurie) (Entered: 08/26/2004)
08/30/2004	<u>19</u>	RULE 56.1 STATEMENT of Undisputed Material Facts dated May 11, 2004, by James M. Maloney. (Maloney, James) Modified on 12/30/2004 (Coleman, Laurie). (Entered: 08/30/2004)
10/08/2004	<u>20</u>	STIPULATION re <u>17</u> Stipulation., <i>WHEREAS Defendant has requested an extension of time to respond beyond that specified in the previous stipulation of June 18, 2004, NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-captioned action that Defendant shall serve all papers in opposition electronically as pdf documents attached by e-mail addressed to jmm257@nyu.edu by midnight, Oct. 13 into Oct. 14, with Plaintiff's reply to be served by November 1, 2004,</i> by James M. Maloney. (Maloney, James) (Entered: 10/08/2004)
10/28/2004	<u>21</u>	COUNTER-STATEMENT pursuant to FRCP Rule 56.1, dated June 8, 2004, signed by Assistant Attorney General Dorothy Oehler Nese, Esq., by James M. Maloney. (Maloney, James) Modified on 12/30/2004 (Coleman, Laurie). (Entered: 10/28/2004)
10/31/2004	<u>22</u>	Notice of MOTION for Summary Judgment <i>served August 9, 2004</i> , by James M. Maloney. (Maloney, James) (Entered: 10/31/2004)
10/31/2004	<u>23</u>	MEMORANDUM OF LAW in Support, served August 9, 2004, by James M. Maloney. (Maloney, James) Modified on 12/30/2004 (Coleman, Laurie). (Entered: 10/31/2004)
10/31/2004	<u>24</u>	DECLARATION in Support with attached Exhibits 1 through 12, served August 9, 2004, by James M. Maloney. (Maloney, James) Modified on 12/30/2004 (Coleman,

		Laurie). (Entered: 10/31/2004)
10/31/2004	<u>25</u>	RESPONSE to Motion re <u>23</u> MOTION for Summary Judgment , <i>Memorandum of Law in Support, served August 9, 2004,</i> <u>24</u> MOTION for Summary Judgment , <i>Declaration in Support with attached Exhibits 1 through 12, served August 9, 2004, response consisting of a Brief in Opposition served by Dorothy Oehler Nese, Esq., served on October 13, 2004,</i> filed by James M. Maloney. (Maloney, James) (Entered: 10/31/2004)
10/31/2004	<u>26</u>	REPLY to Response to Motion re <u>23</u> MOTION for Summary Judgment , <i>Memorandum of Law in Support, served August 9, 2004, served via ECF on October 31, 2004,</i> filed by James M. Maloney. (Maloney, James) (Entered: 10/31/2004)
11/01/2004	<u>28</u>	ORDER re <u>27</u> Letter: Application to adjourn 12/3/04 conference is denied without prejudice to renew if motion remains pending as of 11/30/04. Signed by Judge Michael L. Orenstein on 11/1/04. (Imrie, Robert) (Entered: 11/02/2004)
11/02/2004	<u>27</u>	Letter from James M. Maloney to Judge Spatt Regarding compliance with Your Honor's Individual Rule IV(A)(ii): enclosed are courtesy copies of all papers in support of and in opposition to my fully briefed Rule 56 motion. By copy of this letter to Magistrate Judge Orenstein, it is respectfully requested that the scheduled status conference of December 3, 2004, be adjourned as provided in the minute entry for June 18, 2004. (Maloney, James) (Entered: 11/02/2004)
11/30/2004	<u>29</u>	Letter from James M. Maloney to Hon. Michael L. Orenstein Regarding adjournment of 12/3 status conference. (Maloney, James) (Entered: 11/30/2004)
12/01/2004	<u>30</u>	ORDER re <u>29</u> Letter: Conference adjourned to 1/20/05 at 3:00 p.m. Signed by Judge Michael L. Orenstein on 12/1/04. (Imrie, Robert) (Entered: 12/03/2004)
01/10/2005	<u>31</u>	ORDER: the conference scheduled for 1/20/05 is adjourned. All parties are directed to appear at a conference to be held in this case set for 2/2/2005 03:00 PM before Chief Magistrate Michael L. Orenstein. Signed by Judge Michael L. Orenstein on 1/10/05. (Imrie, Robert) (Entered: 01/10/2005)
02/01/2005	<u>32</u>	Letter from Assistant Attorney General Dorothy Oehler Nese to Chief Magistrate Michael L. Orenstein Regarding request to adjourn conference scheduled for Wednesday, Feb. 2, 2005; awaiting decision on motion for summary judgment pending before Judge Spatt.. (Nese, Dorothy) (Entered: 02/01/2005)
02/01/2005	<u>33</u>	ORDER re <u>32</u> Letter: Conference adjourned to 4/11/05 at 9:30 a.m. Signed by Judge Michael L. Orenstein on 2/1/05. (Imrie, Robert) (Entered: 02/02/2005)
04/06/2005	<u>34</u>	Letter from Assistant Attorney General Dorothy Oehler Nese to Chief Magistrate Judge Michael L. Orenstein Regarding the parties' request that the Court adjourn the April 11, 2005 conference pending decision by Judge Spatt on the summary judgment motion. (Nese, Dorothy) (Entered: 04/06/2005)
04/07/2005	<u>35</u>	ORDER re <u>34</u> Letter: Conference adjourned to 6/10/05 at 4:00 p.m. Signed by Judge Michael L. Orenstein on 4/7/05. (Imrie, Robert) (Entered: 04/08/2005)
05/10/2005	<u>36</u>	Letter from James M. Maloney to Judge Spatt Regarding Second Circuit decision in Bach v. Pataki. (Maloney, James) (Entered: 05/10/2005)
05/19/2005	<u>37</u>	ORDER Re: <u>36</u> Letter regarding Second Circuit decision in Bach v. Pataki. - Application to file an additional and/or supplemental brief is DENIED. (Signed by Judge Arthur D. Spatt on 5/19/05). C/M, C/ECF.(Coleman, Laurie) (Entered: 05/26/2005)

06/06/2005	<u>38</u>	Letter from James M. Maloney to Chief Magistrate Judge Orenstein Regarding request to adjourn 6/10/05 conference. (Maloney, James) (Entered: 06/06/2005)
06/08/2005	<u>39</u>	ORDER re <u>38</u> Letter:conference adjourned to 8/11/05 at 11:00 a.m. Ordered by Judge Michael L. Orenstein on 6/8/05. (Imrie, Robert) (Entered: 06/09/2005)
08/10/2005	<u>40</u>	ORDER: Re conference scheduled for 8/11/05 (see application to adjourn doc #57 in cv 03-4178): Conference in below captioned cases (03-786 / 03-4178) are adjourned to 10/3/05 at 10:30 a.m. Ordered by Judge Michael L. Orenstein on 8/10/05. (Imrie, Robert) (Entered: 08/10/2005)
08/31/2005	<u>41</u>	MEMORANDUM OF DECISION AND ORDER - ORDERED, that the <u>22</u> motion by Plaintiff for summary judgment against the defendant Eliot Spitzer pursuant to Fed. R. Civ. P. 56 is DENIED; and it is further ORDERED, that the Plaintiff is granted leave to serve and file a supplemental summons and amended complaint adding the entity allegedly responsible for the potential prosecution of the Plaintiff under the statutes in questions within 30 days from the date of this order; and it is further ORDERED, that failure to serve and file a supplemental summons and amended complaint within the specified time period will result in dismissal of this action. (Ordered by Judge Arthur D. Spatt on 8/31/05). C/ECF. (Coleman, Laurie) (Entered: 08/31/2005)
09/03/2005	<u>42</u>	AMENDED COMPLAINT filed pursuant to the Memorandum of Decision and Order of the Honorable Arthur D. Spatt dated August 31, 2005, against all defendants, filed by James M. Maloney.(Maloney, James) (Entered: 09/03/2005)
09/07/2005	<u>43</u>	SUMMONS Returned Executed by James M. Maloney. Denis Dillon(in his official capacity as District Attorney of the County of Nassau) served on 9/7/2005, answer due 9/27/2005. (Maloney, James) (Entered: 09/07/2005)
09/07/2005	<u>44</u>	SUMMONS Returned Executed by James M. Maloney. George Pataki served on 9/7/2005, answer due 9/27/2005. (Maloney, James) (Entered: 09/07/2005)
09/29/2005	<u>45</u>	NOTICE of Appearance by Tatum J. Fox on behalf of Denis Dillon(in his official capacity as District Attorney of the County of Nassau) (Fox, Tatum) (Entered: 09/29/2005)
09/29/2005	<u>46</u>	ANSWER to Amended Complaint by Denis Dillon(in his official capacity as District Attorney of the County of Nassau). (Attachments: # <u>1</u>)(Fox, Tatum) (Entered: 09/29/2005)
10/03/2005	<u>47</u>	Minute Entry for proceedings held before Michael L. Orenstein on 10/3/05 at 10:30 am. Case called. Counsel for all parties present. Status Conference held. Next Status Conference set for 12/1/2005 at 11:00 AM. The following rulings were made: Governor's time to appear is extended to 12/1/05. Also, certiorari is being sought in a somewhat applicable case. By next conf we may know if Supreme Court has granted certiorari. (Montero, Edher) (Entered: 10/05/2005)
10/03/2005	<u>48</u>	Letter from Tatum Fox on behalf of the County dtd. 10/3/05 to Judge Orenstein requesting to appear at the conf by phone. (Montero, Edher) (Entered: 10/05/2005)
11/29/2005	<u>49</u>	Letter from James M. Maloney to Hon. Michael L. Orenstein Regarding request for (1) adjournment of conference now scheduled for December 1, 2005, and (2) (on behalf of State defendants) extension of time to answer or move with respect to Amended Verified Complaint.. (Maloney, James) (Entered: 11/29/2005)
11/30/2005	<u>50</u>	ORDER re <u>49</u> Letter: Conference adjourned to 2/10/06 at 2:00 p.m. Ordered by Judge Michael L. Orenstein on 11/30/05. (Imrie, Robert) (Entered: 11/30/2005)

01/24/2006	<u>51</u>	NOTICE of Appearance by Liora M. Ben-Sorek on behalf of Denis Dillon(in his official capacity as District Attorney of the County of Nassau) (Ben-Sorek, Liora) (Entered: 01/24/2006)
02/06/2006	<u>52</u>	Letter MOTION to Adjourn Conference <i>upon consent of all parties</i> by Denis Dillon(in his official capacity as District Attorney of the County of Nassau). (Ben-Sorek, Liora) (Entered: 02/06/2006)
02/07/2006	<u>53</u>	ORDER granting <u>52</u> Motion to Adjourn Conference: Conference adjourned to 4/11/06 at 2:30 p.m. Ordered by JudgeMichael L. Orenstein on 2/7/06. (Imrie, Robert) (Entered: 02/08/2006)
02/07/2006		Set/Reset Hearings: Status Conference set for 4/11/2006 02:30 PM before Chief Magistrate Michael L. Orenstein. (Imrie, Robert) (Entered: 02/08/2006)
03/06/2006	<u>54</u>	Letter MOTION for Extension of Time to File Answer re <u>42</u> Amended Complaint ; <i>letter jointly written with Dorothy Oehler Nese, Esq., Assistant Attorney General, on behalf of the State Defendants; no objection by Plaintiff to request for extension of time provided that, if a Rule 12 motion is served, Plaintiff will have at least 45 days from service thereof to respond; filed by James M. Maloney.</i> (Maloney, James) (Entered: 03/06/2006)
03/07/2006	<u>55</u>	ORDER granting <u>54</u> Motion for Extension of Time to Answer: Conference remains scheduled for 4/11/06 at 2:30 p.m. States' time to answer or otherwise move with respect to the amended complaint is extended to 4/11/06. Ordered by JudgeMichael L. Orenstein on 3/7/06. (Imrie, Robert) (Entered: 03/09/2006)
04/03/2006	<u>56</u>	Letter to Magistrate Judge Michael L. Orenstein, requesting jointly on behalf of all parties that the status conference scheduled for April 11, 2006, be held telephonically (Assistant Attorney General Dorothy Oehler Nese to initiate), and enclosing stipulation setting general briefing timetable for Rule 12 and/or Rule 56 motions and permitting amendment of caption to reflect current District Attorney of County of Nassau (original stipulation to be mailed or otherwise delivered to chambers), by James M. Maloney. (Attachments: # <u>1</u>)(Maloney, James) (Entered: 04/03/2006)
04/10/2006	<u>57</u>	MOTION to Dismiss for Lack of Jurisdiction pursuant to FRCP Rules 12(b)(1) & (6) by George Pataki, Eliot Spitzer. Responses due by 5/11/2006 (Attachments: # <u>1</u> # <u>2</u> # <u>3</u>) (Nese, Dorothy) (Entered: 04/10/2006)
04/10/2006	<u>58</u>	ORDER re <u>56</u> Letter, filed by James M. Maloney: Conference remains as an in person conference. Ordered by Judge Michael L. Orenstein on 4/10/06. (Imrie, Robert) (Entered: 04/11/2006)
04/11/2006	<u>61</u>	Minute Entry for proceedings held before Michael L. Orenstein : Status Conference held on 4/11/2006. Status Conference set for 5/3/2006 10:30 AM before Chief Magistrate Michael L. Orenstein. Parties shall submit a briefing schedule re: 12(b) motion by 4/19/06 to District Judge Spatt. If schedule has been submitted to Judge Spatt then the next conference date will be adjourned upon ECF request. (Imrie, Robert) (Entered: 04/18/2006)
04/12/2006	<u>59</u>	First MOTION to Dismiss for Lack of Jurisdiction pursuant to FRCP Rules 12(b)(1) & (6) by George Pataki, Eliot Spitzer. Responses due by 5/15/2006 (Attachments: # <u>1</u> Brief Cover Page# <u>2</u> Table of Contents for Brief# <u>3</u> Brief in Support of Motion to Dismiss Amended Complaint)(Nese, Dorothy) (Entered: 04/12/2006)
04/12/2006	<u>60</u>	Letter to Judge Spatt re: Motion to Dismiss Amended Complaint, pursuant to FRCP

		<i>Rules 12(b)(1) & (6)</i> , by George Pataki, Eliot Spitzer. (Nese, Dorothy) (Entered: 04/12/2006)
04/13/2006	<u>63</u>	ORDER Re: <u>60</u> Letter withdrawing the State Defendants Motion to Dismiss the Amended Complaint (bearing docket #57), and substituting in its place a new Motion to Dismiss (bearing docket #59), - The Clerk of the Court is directed to terminate the motion appearing as #57 on the docket. (Signed by Judge Arthur D. Spatt on 4/13/06). (Coleman, Laurie) (Entered: 04/22/2006)
04/13/2006		MOTION TERMINATED: Terminating the <u>57</u> MOTION to Dismiss - SEE <u>63</u> Order of Judge Arthur D. Spatt, dated 4/13/06.(Coleman, Laurie) (Entered: 04/22/2006)
04/21/2006	<u>62</u>	Letter setting forth briefing schedule in satisfaction of status conference order of 4/11/06 (Document 61), sent following conference among all attorneys, by James M. Maloney. (Maloney, James) (Entered: 04/21/2006)
05/01/2006	<u>64</u>	Letter to Magistrate Judge Michael Orenstein requesting adjournment of May 3 status conference by James M. Maloney. (Attachments: # <u>1</u> Briefing Schedule)(Maloney, James) (Entered: 05/01/2006)
05/02/2006	<u>65</u>	ORDER re <u>64</u> Letter filed by James M. Maloney: conference adjourned to 8/10/06 at 2:30 p.m. If the motion has been filed this Court will adjourn the conference upon written (ECF) request. Ordered by Judge Michael L. Orenstein on 5/2/06. (Imrie, Robert) (Entered: 05/03/2006)
05/31/2006	<u>66</u>	Letter setting forth revised briefing schedule (see event # 62), with no change in final submission date, submitted on consent of all parties following request for revision by Liora Ben-Sorek, Esq. by James M. Maloney. (Maloney, James) (Entered: 05/31/2006)
06/14/2006	<u>67</u>	RESPONSE in Opposition re <u>59</u> First MOTION to Dismiss for Lack of Jurisdiction pursuant to FRCP Rules 12(b)(1) & (6) : memo of law in opposition to motion by Defendants SPITZER and PATAKI, filed by James M. Maloney. (Maloney, James) (Entered: 06/14/2006)
06/14/2006	<u>68</u>	MOTION for Judgment on the Pleadings by Denis Dillon(in his official capacity as District Attorney of the County of Nassau). (Attachments: # <u>1</u> Notice of Motion# <u>2</u> Exhibit A (copy of plaintiff's Amended Complaint)# <u>3</u> Certificate of Electronic Service) (Ben-Sorek, Liora) (Entered: 06/14/2006)
07/11/2006	<u>69</u>	Letter setting forth revised briefing schedule (see events ## 62, 66), with no change in final submission date, submitted on consent of all parties following request for revision by Dorothy O. Nese, Esq. by James M. Maloney. (Maloney, James) (Entered: 07/11/2006)
07/12/2006	<u>73</u>	ORDER Re: <u>69</u> Letter in response to a request by Defendants Pataki and Spitzer to revise certain dates in briefing schedule on the motions by the defendants. Plaintiff's response to 12(c) Motion, 7/14/06. Reply on 12(b) Motion by Defendants Pataki and Spitzer, 7/28/06. Reply on Rule 12(c) Motion by Defendant Dillon/Rice, 8/7/06. (Signed by Judge Arthur D. Spatt on 7/12/06). (Coleman, Laurie) (Entered: 08/07/2006)
07/14/2006	<u>70</u>	RESPONSE in Opposition re <u>68</u> MOTION for Judgment on the Pleadings filed by James M. Maloney. (Maloney, James) (Entered: 07/14/2006)
07/28/2006	<u>71</u>	MOTION to Dismiss Plaintiff's Letter requesting Court's approval of revised briefing schedule for Defendants' motions (2) to dismiss; due to power outage at Plaintiff's office, the letter is being filed at Plaintiff's request, by George Pataki, Eliot Spitzer. (Nese, Dorothy) (Entered: 07/28/2006)

07/28/2006	<u>71</u>	ORDER Re: <u>71</u> Letter request to revise the briefing schedule. Reply on 12(b) motion by Defendants Pataki and Spitzer, 8/7/06; Reply on Rule 12(c) Motion be Defendant Dillon/Rice. So Ordered (Signed by Judge Arthur D. Spatt on 7/28/06). (Coleman, Laurie) (Entered: 08/12/2006)
08/04/2006	<u>72</u>	REPLY to Response to Motion re <u>68</u> MOTION for Judgment on the Pleadings filed by Denis Dillon(in his official capacity as District Attorney of the County of Nassau). (Attachments: # <u>1</u> Certificate of Electronic Service)(Ben-Sorek, Liora) (Entered: 08/04/2006)
08/07/2006	<u>74</u>	REPLY to Response to Motion re <u>59</u> First MOTION to Dismiss for Lack of Jurisdiction pursuant to FRCP Rules 12(b)(1) & (6) Brief in Reply and Cover to Brief in Reply, filed by George Pataki, Eliot Spitzer. (Attachments: # <u>1</u>)(Nese, Dorothy) (Entered: 08/07/2006)
08/08/2006	<u>75</u>	Letter requesting adjournment of conference before Chief Magistrate Judge Michael Orenstein currently scheduled for August 10, 2006, by James M. Maloney. (Maloney, James) (Entered: 08/08/2006)
08/09/2006	<u>76</u>	ORDER re <u>75</u> Letter filed by James M. Maloney: Conference adjourned to 10/20/06 at 2:00 p.m. Ordered by Judge Michael L. Orenstein on 8/9/06. (Imrie, Robert) (Entered: 08/11/2006)
10/18/2006	<u>78</u>	Letter MOTION to Adjourn Conference scheduled for Friday, October 20, 2006 by Denis Dillon(in his official capacity as District Attorney of the County of Nassau). (Ben-Sorek, Liora) (Entered: 10/18/2006)
10/19/2006	<u>79</u>	ORDER granting <u>78</u> Motion to Adjourn Conference: Conference adjourned to 11/30/06 at 2:00 p.m. Ordered by JudgeMichael L. Orenstein on 10/19/06. (Imrie, Robert) (Entered: 10/19/2006)
11/28/2006	<u>80</u>	Letter MOTION to Adjourn Conference before Chief Magistrate Judge Michael Orenstein, by all parties. (Nese, Dorothy) (Entered: 11/28/2006)
11/29/2006	<u>81</u>	ORDER granting <u>80</u> Motion to Adjourn Conference: Conference adjourned to 12/21/06 at 9:30 a.m. Ordered by JudgeMichael L. Orenstein on 11/29/06. (Imrie, Robert) (Entered: 11/30/2006)
11/29/2006	<u>82</u>	ORDER re <u>81</u> Order on Motion to Adjourn Conference: Order of 11/29/06 vacated. Conference adjourned or changed to 12/18/06 at 10:30 a.m. Ordered by Judge Michael L. Orenstein on 11/29/06. (Imrie, Robert) (Entered: 12/01/2006)
12/13/2006	<u>83</u>	Letter MOTION to Adjourn Conference sceduled for December 18, 2006, by James M. Maloney. (Maloney, James) (Entered: 12/13/2006)
12/14/2006	<u>84</u>	ORDER granting <u>83</u> Motion to Adjourn Conference: Conference adjourned to 3/19/07 at 11:30 a.m. Ordered by JudgeMichael L. Orenstein on 12/14/06. (Imrie, Robert) (Entered: 12/15/2006)
01/17/2007	<u>85</u>	MEMORANDUM OF DECISION AND ORDER - It is hereby ORDERED, that the State Defendants' <u>59</u> motion to dismiss the amended complaint is granted; and it is further ORDERED, that the District Attorney's <u>68</u> motion for judgment on the pleadings is granted; and it is further ORDERED, that the amended complaint is dismissed; and it is further ORDERED, that the Clerk of the Court is directed to close this case. (Signed by Judge Arthur D. Spatt on 1/17/07). (Coleman, Laurie) (Entered: 01/18/2007)
01/17/2007	<u>88</u>	JUDGMENT - ORDERED AND ADJUDGED that plaintiff take nothing of defendants;

		and that the amended complaint is hereby dismissed. (Signed by Judge Arthur D. Spatt on 1/17/07). (Coleman, Laurie) (Entered: 01/25/2007)
01/18/2007	<u>86</u>	MOTION for Reconsideration re <u>85</u> Order on Motion to Dismiss/Lack of Jurisdiction,, Order on Motion for Judgment on the Pleadings, by James M. Maloney. (Maloney, James) (Entered: 01/18/2007)
01/22/2007	<u>87</u>	RESPONSE in Opposition re <u>86</u> MOTION for Reconsideration re <u>85</u> Order on Motion to Dismiss/Lack of Jurisdiction,, Order on Motion for Judgment on the Pleadings, <i>letter in response to Plaintiff's motion for reconsideration; filed by the State Defendants (Governor Spitzer substituted for former Governor Pataki; Attorney General Cuomo substituted for former A.G. Spitzer)</i> ; filed by George Pataki, Eliot Spitzer. (Nese, Dorothy) (Entered: 01/22/2007)
01/25/2007	<u>89</u>	RESPONSE in Opposition re <u>86</u> MOTION for Reconsideration re <u>85</u> Order on Motion to Dismiss/Lack of Jurisdiction,, Order on Motion for Judgment on the Pleadings, filed by Denis Dillon(in his official capacity as District Attorney of the County of Nassau). (Attachments: # <u>1</u> Exhibit A Plea and Sentence Minutes) (Ben-Sorek, Liora) (Entered: 01/25/2007)
01/25/2007	<u>90</u>	REPLY to Response to Motion re <u>86</u> MOTION for Reconsideration re <u>85</u> Order on Motion to Dismiss/Lack of Jurisdiction,, Order on Motion for Judgment on the Pleadings, filed by James M. Maloney. (Maloney, James) (Entered: 01/25/2007)
02/16/2007	<u>91</u>	NOTICE OF APPEAL by James M. Maloney. Filing fee \$ 455, receipt number 2239474. (Maloney, James) (Entered: 02/16/2007)
02/16/2007		Electronic Index to Record on Appeal sent to US Court of Appeals. For docket entries without a hyperlink, contact the court and we'll arrange for the document(s) to be made available to you. <u>43</u> Summons Returned Executed, <u>48</u> Letter, <u>64</u> Letter, <u>85</u> Order on Motion to Dismiss/Lack of Jurisdiction,, Order on Motion for Judgment on the Pleadings, <u>80</u> Motion to Adjourn Conference, <u>74</u> Reply to Response to Motion, <u>79</u> Order on Motion to Adjourn Conference, <u>68</u> Motion for Judgment on the Pleadings, <u>65</u> Order, <u>63</u> Order, <u>51</u> Notice of Appearance, <u>84</u> Order on Motion to Adjourn Conference, <u>17</u> Stipulation,, <u>62</u> Letter, <u>61</u> Status Conference,, Set Hearings, <u>53</u> Order on Motion to Adjourn Conference, <u>90</u> Reply to Response to Motion, <u>58</u> Order, <u>72</u> Reply to Response to Motion, <u>91</u> Notice of Appeal, <u>86</u> Motion for Reconsideration, <u>83</u> Motion to Adjourn Conference, <u>57</u> Motion to Dismiss/Lack of Jurisdiction, <u>24</u> Motion for Summary Judgment, <u>56</u> Letter,, <u>54</u> Motion for Extension of Time to File Answer, <u>69</u> Letter, <u>33</u> Order, Set Hearings, <u>59</u> Motion to Dismiss/Lack of Jurisdiction, <u>50</u> Order, Set Hearings, <u>27</u> Letter, <u>20</u> Stipulation,, <u>67</u> Response in Opposition to Motion, <u>22</u> Motion for Summary Judgment, <u>81</u> Order on Motion to Adjourn Conference, <u>40</u> Order,, Set Hearings, <u>71</u> Motion to Dismiss, <u>88</u> Judgment, <u>21</u> Motion for Summary Judgment, <u>60</u> Letter, <u>38</u> Letter, <u>28</u> Order, <u>73</u> Order, <u>26</u> Reply to Response to Motion, <u>34</u> Letter, <u>70</u> Response in Opposition to Motion, <u>36</u> Letter, <u>87</u> Response in Opposition to Motion, <u>39</u> Order, Set Hearings, <u>47</u> Status Conference,, Set Hearings, <u>41</u> Order on Motion for Summary Judgment,, <u>66</u> Letter, <u>46</u> Answer to Amended Complaint, <u>75</u> Letter, <u>18</u> Letter, <u>35</u> Order, Set Hearings, <u>31</u> Order,, Set Hearings, <u>52</u> Motion to Adjourn Conference, <u>25</u> Response to Motion, <u>49</u> Letter, <u>82</u> Order, Set Hearings, <u>30</u> Order, Set Hearings, <u>55</u> Order on Motion for Extension of Time to Answer, <u>37</u> Order, <u>32</u> Letter, <u>77</u> Order on Motion to Dismiss, <u>78</u> Motion to Adjourn Conference, <u>89</u> Response in Opposition to Motion, <u>44</u> Summons Returned Executed, <u>23</u> Motion for Summary Judgment, <u>42</u> Amended Complaint, <u>1</u> Complaint, <u>19</u> Motion for Summary Judgment, <u>45</u> Notice of Appearance, <u>29</u> Letter, <u>76</u> Order, Set Hearings (Romano, Daniel) (Entered: 02/20/2007)

05/14/2007	92 ORDER - ORDERED, that the plaintiff's <u>86</u> motion for reconsideration of the Court's 1/17/07 Memorandum of Decision and Order is denied. (Signed by Judge Arthur D. Spatt on 5/14/07). (Coleman, Laurie) (Entered: 05/18/2007)
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