

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X

SCHOLES RESIDENCE LLC,  
Plaintiff,

Index No. 513564/2024

-against-

**ORAL ARGUMENT  
REQUESTED**

KATRINA SILANDER CLARK and  
JOHN DOE 1-100,

-and-

THE NEW YORK STATE OFFICE OF THE  
ATTORNEY GENERAL and 13 SCHOLES  
STREET HOUSING DEVELOPMENT FUND  
CORPORATION,

Nominal Defendants.

-----X

**MEMORANDUM OF LAW IN SUPPORT OF NEW YORK STATE OFFICE OF THE  
ATTORNEY GENERAL’S MOTION TO DISMISS THE COMPLAINT**

LETITIA JAMES  
Attorney General of the State of New York  
28 Liberty Street  
New York, New York 10005  
Telephone: (212) 416-6047

*Of counsel:*

Rachel Hannaford, Senior Enforcement Counsel  
Brent Meltzer, Chief, Housing Protection Unit

**TABLE OF CONTENTS**

TABLE OF AUTHORITIES ..... ii

PRELIMINARY STATEMENT..... 1

STATEMENT OF FACTS .....2

    A.    Background And Plaintiff’s First Eviction Lawsuit .....2

    B.    OAG'S Investigation .....3

    C.    Judge Cohen Grants a Stay Pursuant to RPAPL §756-a.....5

    D.    Plaintiff's Second Eviction Lawsuit .....6

ARGUMENT .....7

THE COURT SHOULD DISMISS THE COMPLAINT .....7

    I.    The Complaint Fails To State A Cause Of Action For Declaratory Relief .....7

    II.   The Complaint Must Be Dismissed Because A Similar Action Is Pending In Kings  
          County Housing Court Seeking Substantially The Same Relief .....10

CONCLUSION.....12

CERTIFICATE OF COMPLIANCE .....13

## TABLE OF AUTHORITIES

	PAGE(S)
<b>CASES</b>	
<i>1770 E. 14th St. Assocs. v. Harris,</i> 209 A.D.2d 390 (2d Dep't 1994).....	11
<i>3054 Godwin Terrace Realty Co. v. Armstrong,</i> 190 A.D.2d 617 (1st Dep't 1993).....	11
<i>Certain Underwriters at Lloyd's, London v. Hartford Accident &amp; Indem. Co.,</i> 16 A.D.3d 167 (1st Dep't 2005).....	11
<i>Enlarged City School Dist. of Middletown v. City of Middletown,</i> 96 A.D.3d 840 (2d Dep't 2012).....	7
<i>Friedman Residence LLC v. Denson,</i> 2021 NYLJ LEXIS 1316 (Sup. Ct., N.Y. Cnty.).....	11
<i>Gaynor v. Rockefeller,</i> 15 N.Y.2d 120 (1965).....	10
<i>Godfrey v. Spano,</i> 13 N.Y.3d 358 (2009).....	8
<i>Jadron v. 10 Leonard St., LLC,</i> 124 A.D.3d 842 (2d Dep't 2015).....	10
<i>Lefkowitz v. E.F.G. Baby Prod. Co., Inc.,</i> 40 A.D.2d 364 (3d Dep't 1973).....	3
<i>Liebert v. TIAA-CREF,</i> 34 A.D.3d 756 (2d Dep't 2006).....	10, 11
<i>Matter of Willnus,</i> 101 A.D.3d 1036 (2d Dep't 2012).....	10
<i>People v. Empyre Inground Pools, Inc.,</i> 227 A.D.2d 731 (3d Dep't 1996).....	3
<i>Prado v. Muniz,</i> 2023 N.Y. Misc. LEXIS 15477 (Sup. Ct., Bronx Cnty.).....	11

	<b>PAGE(S)</b>
<b>CASES</b>	
<i>Premier Restorations of N.Y. Corp. v. New York State Dep't of Motor Vehicles,</i> 127 A.D.3d 1049 (2d Dep't 2015).....	7
<i>Simonetti v. Larson,</i> 44 A.D.3d 1028 (2d Dep't 2007).....	10, 11
<i>State of New York v. Princess Prestige Co., Inc.,</i> 42 N.Y.2d 104 (1977).....	3
<i>State v. Wolowitz,</i> 96 A.D.2d 47 (2d Dep't 1983).....	9, 10
<i>Tremada 201 E. 17th LLC. v. Korn,</i> 2021 NYLJ LEXIS 690 (Sup. Ct., N.Y. Cnty.).....	11
<i>Waterways Dev. Corp. v. Lavallo,</i> 28 A.D.3d 539 (2d Dep't 2006).....	7, 8
<b>STATUTES</b>	
Real Property Actions and Proceedings Law § 756-a .....	1, 5, 12
New York Executive Law § 63(12) .....	3, 4, 9
<b>RULES</b>	
CPLR § 1001.....	9
CPLR § 3001.....	6, 7
CPLR § 3211(a)(4) .....	10, 12
CPLR § 3211(a)(7) .....	7, 12
CPLR § 7801.....	8

## PRELIMINARY STATEMENT

This action was brought by Plaintiff to undermine an ongoing investigation of the Office of the Attorney General (“OAG”) and to evade an order issued by Judge Hannah Cohen of the Civil Court, Housing Part, which stayed a summary proceeding brought in that court by the very same Plaintiff against the very same Defendants, Katrina Silander Clark and John Does. In January, Plaintiff elected to commence the pending summary proceeding, *Scholes Residence LLC v. Katrina Silander Clark et al.*, (Kings Cty. Index No. LT-300540-24/KI), seeking substantially similar relief as the relief sought in the instant Complaint. That case is pending. On April 10, 2024, Judge Cohen granted the OAG’s application for a stay of the Housing Court proceeding pursuant to Section 756-a of the Real Property Actions and Proceedings Law (“RPAPL”). The stay is currently in effect and will be lifted upon the OAG’s completion of its investigation into, *inter alia*, whether there was fraud or theft in the attempted transfer of title to 13 Scholes Street, Brooklyn, New York, the premises of which Plaintiff claims to be a tenant.

Rather than abide by the order entered by Judge Cohen and continue to litigate in the forum that Plaintiff initially chose, Plaintiff has now filed the instant Complaint in this Court, seeking the same relief sought in the pending Housing Court proceeding and additionally asking this Court to override the OAG’s investigative authority under the Executive Law by declaring that the very transactions the OAG is investigating are free from fraud.

The Complaint is deficient on its face and must be dismissed for at least two reasons: First, the Complaint fails to state a cause of action for a declaratory judgment because there is not a sufficiently matured dispute between Plaintiff and the OAG that is ripe for adjudication; and, second, the cause of action for ejectment is duplicative in that there is another action pending in the Housing Court between substantially the same parties seeking substantially the

same relief, and Judge Cohen has stayed that action pending the OAG's investigation. This frivolous Complaint must be dismissed.

### STATEMENT OF FACTS

#### A. Background And Plaintiff's First Eviction Lawsuit

The building at 13 Scholes Street, Brooklyn, NY is a low-income cooperative owned by 13 Scholes Street Housing Development Fund Corporation ("HDFC"), which is named as a "nominal defendant" in this action and has yet to answer or otherwise respond to the Complaint. The owner was formed pursuant to Article XI of the Private Housing Finance Law for the purpose providing low-income housing, and it is regulated by the New York City Department of Housing Preservation of Development. There has been no ownership transfer since 1996, when 13 Scholes Street HDFC acquired title to the building and began operating it as a cooperative. Nevertheless, in 2021, Yaniv Garbo took out construction permits from the New York City Department of Buildings, representing that he was the owner of the premises. *Hannaford Aff.* at ¶ 4. In late 2023, the OAG additionally learned that Mr. Garbo was seeking to gain entry into the premises, at which time he encountered Defendant Katrina Silander Clark and others occupying the premises. *Id.*

In January 2024, Plaintiff sued Katrina Silander Clark and John and Jane Does 1-5 in Housing Court by bringing an order to show cause supported by a verified petition. *See Scholes Residence LLC v. Katrina Silander Clark et al.*, (Kings Cty. Index No. LT-300540-24/KI), at NYSCEF Doc. 1. The petition was verified by Yaniv Garbo as managing member of Scholes Residence LLC. It alleged that Plaintiff was the tenant of 13 Scholes Street and that Defendants were unlawfully in possession of the premises and sought a judgment restoring Plaintiff to possession of the premises and directing Ms. Clark and the John and Jane Does to vacate. *Id.*

In response to these allegations, Ms. Clark interposed a motion to dismiss the proceeding for lack of standing and/or failure to state a cause of action and for sanctions. *See id.* at NYSCEF Docs. 7-35. The crux of Ms. Clark’s argument was that Plaintiff, as neither the owner nor bona fide tenant, did not have authority to maintain the proceeding or seek a possessory judgment. In opposition to that motion, Plaintiff produced a 2017 purported lease agreement which was signed by an individual named Albert Rivera, claiming to be President of 13 Scholes Street HDFC, purportedly giving Scholes Residence LLC a six-year tenancy and an option to purchase the building. *Id.* at NYSCEF Doc. 40. Later in the litigation, Plaintiff produced a purported contract of sale between Albert Rivera as President of 13 Scholes Street HDFC and an entity named GB properties NYC LLC.<sup>1</sup> *Id.* at NYSCEF Doc. 52. *The Housing Court has not yet ruled on the motion to dismiss, and all of the legal and factual issues raised therein are still pending before that court.*

## **B. OAG’s Investigation**

After learning of the above facts, the OAG opened an investigation into the attempted theft of title to 13 Scholes Street and into whether the 2017 lease agreement was the result of fraud. Hannaford Aff. at ¶ 8. Under Section § 63(12) of the New York Executive Law, the OAG has broad authority to investigate “repeated fraudulent or illegal acts” where “illegal acts” include violations of any state or federal law, including criminal law, or any local law, or regulation. Exec. Law § 63(12). *See State of New York v. Princess Prestige Co., Inc.*, 42 N.Y.2d 104, 107 (1977); *People v. Empyre Inground Pools, Inc.*, 227 A.D.2d 731, 733 (3d Dep’t 1996); *Lefkowitz v. E.F.G. Baby Prod. Co., Inc.*, 40 A.D.2d 364, 366 (3d Dep’t 1973). “Fraud” under

---

<sup>1</sup> Despite that GB Properties NYC LLC is the entity that entered into the contract of sale for purchase of the building, GB Properties NYC LLC is not named in the instant Complaint as a defendant, nominal or otherwise.

Executive Law § 63(12) includes “any device, scheme or artifice to defraud and any deception, misrepresentation, concealment, suppression, false pretense, false promise or unconscionable contractual provisions.” Exec. Law § 63(12).

The investigation is ongoing. In particular, the OAG is investigating, *inter alia*, whether Albert Rivera, who is now deceased, had the authority to bind the HDFC to the 2017 lease agreement; whether the 2017 transaction violated the HDFC’s certificate of incorporation; whether any individuals involved committed any illegal or fraudulent acts in order to obtain Mr. Rivera’s signature on the lease; whether the contract of sale allegedly executed by the HDFC was a product of fraud; and whether Yaniv and Avraham Garbo, or their agents, have made false statements to the New York City Department of Buildings, this Court, and others, in an effort to take over control of the building. Hannaford Aff. at ¶ 8. Plaintiff has known from at least March 2024 that the OAG was investigating these issues, as the OAG explicitly so stated in the affirmation accompanying a later motion for a stay. NYSCEF Index No. LT-300540-24/KI, at Doc. 43.

The OAG has issued several investigatory subpoenas under its § 63(12) powers, and it has taken other investigatory steps to understand all relevant facts. Hannaford Aff. at ¶ 9. In addition, the OAG sent Petitioner a letter dated April 10, 2024 to put Plaintiff on notice that at this preliminary stage of its investigation, the OAG preliminarily had reason to believe that the HDFC did not have authority to enter into the lease and contract of sale and that those documents were the product of fraud. *Id.*



**C. Judge Cohen Grants a Stay Pursuant to RPAPL §756-a**

In March 2024, the OAG moved by order to show cause in the Housing Court seeking a stay of the proceeding pursuant to Section 756-a of the RPAPL. NYSCEF Index No. LT-300540-24/KI, at Doc. 43. That section provides:

(a) A federal, state or local government agency may move for a stay of any proceeding to recover possession of or quiet title to real property relating to a residential dwelling unit or property, based on a pending good faith investigation into the theft or fraud in the title to, or the financing of, the premises that is the subject of any proceeding. **Upon the agency's showing of the pendency of a good faith investigation, the court shall issue a stay of the proceeding, including staying execution of a warrant of eviction or enforcement of a judgment so long as the investigation is ongoing.**

R.P.A.P.L. § 756-a (emphasis added). The law also provides that such a stay shall last until the investigation is closed, with status conferences every six months to review the stay and to determine if the investigation is still continuing in good faith. *Id.* at § 756-a (1)(b).

Plaintiff opposed the OAG's motion on various grounds articulated in a 20-page memorandum of law, including disputing that RPAPL § 756-a applied to the pending summary proceeding, arguing that the OAG did not meet its burden to show a pending good faith investigation into the attempted theft of title, and claiming that there was no reason to suspect fraud in the transactions discussed. NYSCEF Index No. LT-300540-24/KI, at Doc. 59. On April 10, 2024, the Court rejected all of these arguments and granted the OAG's motion for a stay. *Id.* at Doc. 62. Judge Cohen ordered that a stay was warranted because of the straightforward fact that "OAG has indicated that ther[e] is an open, pending, good faith investigation into the theft or fraud in the title to the premises." *Id.* Plaintiff did not appeal that order, and the stay remains in effect, with a status conference scheduled for July 10, 2024. *Id.* Ms. Clark's motion to dismiss remains undecided.

**D. Plaintiff's Second Eviction Lawsuit**

Despite that there is a proceeding pending in Housing Court in which Plaintiff seeks the eviction of Ms. Clark and John Does, and despite that the Housing Court has stayed that proceeding in light of the OAG's ongoing investigation, Plaintiff commenced the instant action in May 2024 seeking, again, the eviction of Ms. Clark and John Does. The Complaint also seeks a declaratory judgment weighing in on the very issue that the OAG is investigating: whether there was theft or fraud in the title to 13 Scholes Street.

The Complaint names Katrina Silander Clark and John Doe 1-100 as Defendants and names as "nominal defendants" the New York State Office of the Attorney General and 13 Scholes Street HDFC. The Complaint acknowledges that there is a pending Housing Court proceeding where the issues discussed in the Complaint have been raised. Compl. at ¶ 52. The Complaint fails to mention that Judge Cohen has issued a stay of that proceeding and that there is a motion pending in that court that raises the issue of whether Plaintiff is a bona fide tenant of 13 Scholes Street. The Complaint nevertheless sets forth two causes of action: (1) pursuant to CPLR § 3001, a declaratory judgment stating that "there has been no alleged fraud regarding the deed or title to the Premises" and, in sum, that the 2017 lease and contract of sale are valid and enforceable; and (2) ejectment of Ms. Clark and the John Does. Specifically with respect to the ejectment cause of action, the Complaint asks the Court to issue a "judgment of ejectment against [Ms. Clark], together with all required ancillary relief, including, the issuance and execution of a writ of assistance to evict Clark . . . from the Premises." *Id.* at p. 10.

## ARGUMENT

### THE COURT SHOULD DISMISS THE COMPLAINT

The instant Complaint is an abusive attempt to stymie the OAG’s investigation into whether there was repeated fraud or illegality in the transactions that led to Plaintiff claiming to have rights to the premises at 13 Scholes Street. Plaintiff asks the Court to undermine the Attorney General’s exercise of discretion in the enforcement of State statutes by issuing a judgment on the very issue that she is investigating. The Complaint is also a glaring example of impermissible forum shopping. There is already an eviction proceeding pending against the Defendant before Judge Hannah Cohen in the Civil Court, Housing Part—the forum in which Plaintiff initially chose to bring its litigation. Now that Judge Cohen has issued an order that Plaintiff finds objectionable, Plaintiff files this duplicative action in hopes for a different outcome and in spite of Judge Cohen’s ruling that the matter should be stayed. The Court should not condone this tactic and in the interest of comity should allow Judge Cohen’s ruling to stand. For these reasons, the Complaint is deficient and should be dismissed.

#### **I. The Complaint Fails To State A Cause Of Action For Declaratory Relief**

The Court should dismiss the Complaint under CPLR § 3211(a)(7) for failure to state a cause of action for a declaratory judgment. In order to be amenable to declaratory relief, “[t]he dispute must be real, definite, substantial, and sufficiently matured so as to be ripe for judicial determination.” *Matter of Enlarged City School Dist. of Middletown v. City of Middletown*, 96 A.D.3d 840, 841 (2d Dep’t 2012) (citing *Waterways Dev. Corp. v. Lavallo*, 28 A.D.3d 539, 540 (2d Dep’t 2006); see also *Premier Restorations of N.Y. Corp. v. New York State Dep’t of Motor Vehicles*, 127 A.D.3d 1049 (2d Dep’t 2015) (“There must be a genuine, concrete dispute between adverse parties” in order to state a cause of action under CPLR § 3001.). A plaintiff seeking

declaratory relief must establish that it has suffered a prejudice that is “present, rather than hypothetical, contingent or remote.” *Waterways Dev. Corp.*, 28 A.D.3d at 540.

There is no controversy between the Plaintiff and the OAG that is ripe for adjudication—indeed, the Complaint never actually states what the alleged case or controversy is between Plaintiff and the OAG.<sup>2</sup> Rather, the Complaint references the OAG’s investigation and then vaguely alleges that there is a “case of actual controversy” between the “parties” regarding whether the lease and contract of sale were valid, whether 13 Scholes Street HDFC had the authority to transfer the premises to Plaintiff, and whether there was fraud.<sup>3</sup> Compl. at ¶¶ 68-72. There is not a single sentence in the Complaint specifying what dispute the Plaintiff has with the OAG that is ripe for adjudication.

Moreover, the Complaint simply does not point to any prejudice or injury that Plaintiff has suffered but rather prematurely seeks adjudication of a dispute that, at this stage, is hypothetical. Plaintiff claims without any support the OAG commenced its investigation based on Defendant’s claim of fraud. Even that claim were true, the Complaint does not plead any resulting injury that could be addressed by this litigation. At this time, the OAG is not adverse to Plaintiff because the OAG has not yet made any final determination about whether Plaintiff committed fraud.<sup>4</sup> It is possible that at the end of its investigation the OAG will find fraud in the

---

<sup>2</sup> To the extent there is a controversy between Plaintiff and Ms. Clark given her allegations in the motion to dismiss interposed in Housing Court, such controversy is *actually being litigated in that proceeding* and therefore, as discussed below, it is impermissible for Plaintiff to abusively engage in forum shopping in order to avoid the court-ordered stay.

<sup>3</sup> These conclusory allegations lack the factual specificity to survive a motion to dismiss. *See Godfrey v. Spano*, 13 N.Y.3d 358, 373 (2009) (“claims consisting of bare legal conclusions with no factual specificity . . . are insufficient to survive a motion to dismiss”).

<sup>4</sup> The OAG’s April 10, 2024 letter to Plaintiff notifying Plaintiff that the OAG preliminarily had reason to believe that the documents were a product of fraud was not a final

underlying transactions, or it is possible the OAG will conclude that there is no fraud.

Furthermore, it is possible that the OAG will find that other individuals or entities committed fraud or illegality. In sum, the Complaint asks for a premature adjudication of a hypothetical event.

Indeed, by naming the OAG a “nominal defendant,” Plaintiff acknowledges that there is no actual controversy between the OAG and Plaintiff. A “nominal party” is a “party to an action who has no control over it and no financial interest in its outcome,” but who “nonetheless is joined in the lawsuit to avoid procedural defects.” *Nominal Party*, BLACK’S LAW DICTIONARY (11th ed. 2019). Presumably, Plaintiff named OAG as a “nominal defendant” pursuant to CPLR § 1001 because the OAG would be inequitably affected by a declaratory judgment in Plaintiff’s favor. Plaintiff’s procedural decision to add the OAG as a “nominal defendant” underscores the frivolousness of Plaintiff’s action here: the declaratory judgment sought would directly interfere with the OAG’s authority conferred by the Executive Law to conduct independent law enforcement investigations.

Such a vexatious tactic has been rejected by the Appellate Division in *State v. Wolowitz*, 96 A.D.2d 47 (2d Dep’t 1983). There, the OAG was conducting an Executive Law § 63(12) investigation into potential illegalities committed by a landlord, including investigating whether a particular lease used by the landlord complied with the law. In the midst of the investigation, the landlord commenced a declaratory judgment action against the OAG in Supreme Court and also sought to enjoin the OAG’s investigation. The Appellate Division dismissed the action, finding that it sought the impermissible “coercive relief” of influencing the Attorney General’s

---

determination that could be challengeable in a proceeding pursuant to CPLR § 7801. Nor does the Complaint reference the letter or plead that it amounted to a final determination.

inquiry into the underlying facts. *Id.* at 56. The Court noted that the landlord was required to bring an Article 78 proceeding to the extent it was challenging any particular decision of the Attorney General with respect to its own case. *Id.* Citing *Gaynor v. Rockefeller*, 15 N.Y.2d 120, 131 (1965), the Court held, “It is the settled policy of the courts not to review . . . the exercise of discretion by public officials in the enforcement of State statutes, in the absence of a clear violation of some constitutional mandate.” *Id.*

Such review is precisely what Plaintiff seeks here. The Court should find, as in *Wolowitz*, that the party who may potentially be affected by the OAG’s investigation is prohibited from using this Court to influence the outcome of that investigation.

As the Complaint fails to plead a cause of action for declaratory relief, and the instant action is a transparently frivolous attempt to undermine the authority of the OAG to conduct an investigation into the very issue for which Plaintiff seeks a declaratory judgment, the Court should dismiss the Complaint.

## **II. The Complaint Must Be Dismissed Because A Similar Action Is Pending In Kings County Housing Court Seeking Substantially The Same Relief**

Under CPLR § 3211(a)(4), a cause of action is subject to dismissal if “there is another action pending between the same parties for the same cause of action in a court of any state or the United States.” Under this provision, “the two actions must be ‘sufficiently similar,’ and the relief sought must be ‘the same or substantially the same.’” *Simonetti v. Larson*, 44 A.D.3d 1028, 1029 (2d Dep’t 2007) (quoting *Liebert v. TIAA-CREF*, 34 A.D.3d 756, 757 (2d Dep’t 2006)). Critical in this analysis is “whether both suits arise out of the same subject matter or series of alleged wrongs,” *Jadron v. 10 Leonard St., LLC*, 124 A.D.3d 842, 843 (2d Dep’t 2015), though they need not share the same “precise legal theories,” *id.* (quoting *Matter of Willnus*, 101

A.D.3d 1036, 1037 (2d Dep't 2012)). A court has broad discretion when disposing of an action under this provision of the CPLR. *Simonetti*, 44 A.D.3d at 1028-29.

The rationale behind this provision is clear: New York courts have consistently recognized a strong public policy against forum shopping. *See, e.g., Liebert*, 34 A.D.3d at 757 (“The plaintiff may not avoid litigating the issues raised in [one action] by commencing a separate action seeking primarily declaratory relief in [another court].”); *see also Certain Underwriters at Lloyd’s, London v. Hartford Accident & Indem. Co.*, 16 A.D.3d 167, 168 (1st Dep’t 2005) (“Inasmuch as it was plain that this action was motivated simply by plaintiffs’ wish to gain a tactical advantage through forum shopping,” dismissal was appropriate.).

Further, courts of general jurisdiction regularly remove cases to Housing Court when they seek ejectment or other landlord-tenant related matters. *See, e.g., 1770 E. 14th St. Assocs. v. Harris*, 209 A.D.2d 390 (2d Dep’t 1994) (affirming that an ejectment action is best resolved in Housing Court); *3054 Godwin Terrace Realty Co. v. Armstrong*, 190 A.D.2d 617 (1st Dep’t 1993). Courts recognize that Housing Court is the strongly preferred forum for resolving landlord-tenant disputes. *See Friedman Residence LLC v. Denson*, 2021 NYLJ LEXIS 1316 (Sup. Ct., N.Y. Cnty.); *Prado v. Muniz*, 2023 N.Y. Misc. LEXIS 15477 (Sup. Ct., Bronx Cnty.); *Tremada 201 E. 17th LLC v. Korn*, 2021 NYLJ LEXIS 690 (Sup. Ct., N.Y. Cnty.).

Here, Plaintiff has engaged in forum shopping in an attempt to evade the order entered by Judge Cohen and have this Court decide very same issues pending before the Housing Court. This renders the Complaint deficient as a matter of law. As both of these lawsuits arise out of

the same subject matter and involve the same parties, and as both of them seek the same relief, to wit, eviction of Ms. Clark and the John Does, the Complaint should be dismissed.<sup>5</sup>

**CONCLUSION**

For all the foregoing reasons, the OAG respectfully requests that the Court dismiss the Complaint pursuant to CPLR § 3211(a)(7) and CPLR § 3211(a)(4).

Dated: New York, New York  
June 26, 2024

Respectfully submitted,

LETITIA JAMES  
Attorney General of the State of New York

By:   
\_\_\_\_\_  
RACHEL HANNAFORD  
Senior Enforcement Counsel  
Housing Protection Unit  
28 Liberty Street  
New York, NY 10005  
(212) 416-6047

Of Counsel:

BRENT MELTZER  
Bureau Chief  
Housing Protection Unit

---

<sup>5</sup> If the Court does not dismiss the Complaint, the OAG will seek a stay of the instant proceeding pursuant to RPAPL § 756-a until the conclusion of the OAG's investigation. Just as in the pending Housing Court proceeding, the statutory elements of RPAPL § 756-a are met here.



**CERTIFICATE OF COMPLIANCE WITH RULE 202.8-b OF THE NEW YORK  
UNIFORM CIVIL RULES FOR THE SUPREME COURT AND THE COUNTY COURT**

I hereby certify that the foregoing memorandum of law was prepared on a computer using Microsoft Word and complies with the applicable word count limit for memoranda in support of motions. The total word count for this memorandum is 3,639, exclusive of the cover page, table of contents, table of authorities, and signature block.

Dated: June 26, 2024



---

RACHEL HANNAFORD  
Senior Enforcement Counsel