

United States District Court
Northern District of New York

New Hope Family Services, Inc.,

Plaintiff,

Case No. 5:21-cv-01031-MAD-TWD

V

Answer to Complaint

Letitia James et al.,

Defendants.

William Fitzpatrick (defendant), as and for an answer to the complaint of New Hope Family Services, Inc. (plaintiff), alleges:

1. On information and belief, defendant admits the allegations of paragraph numbered 4 of the complaint that plaintiff is a not-for-profit corporation created by or under the laws of the state of New York. Defendant lacks knowledge or information sufficient to form a belief about the truth of all other allegations of paragraph numbered 4 of the complaint.

2. On information and belief, defendant admits the allegations of paragraph numbered 5 of the complaint that Letitia James is the attorney general for the state of New York. Defendant lacks knowledge or information sufficient to form a belief about the truth of all other allegations of paragraph numbered 5 of the complaint.

3. On information and belief, defendant admits the allegations of paragraph numbered 6 of the complaint that Licha Nyiendo is the commissioner of the division of human rights for the state of New York (DHR). Defendant lacks knowledge or information sufficient to form a belief about the truth of all other allegations of paragraph numbered 6 of the complaint.

4. On information and belief, defendant admits the allegations of paragraph numbered 7 of the complaint that Melissa Franco is the deputy commissioner for enforcement of DHR. Defendant lacks knowledge or information sufficient to form a belief about the truth of all other allegations of paragraph numbered 7 of the complaint.

5. On information and belief, defendant admits the allegations of paragraph numbered 8 of the complaint that Gina Martinez is the deputy commissioner for regional affairs of DHR. Defendant lacks knowledge or information sufficient to form a belief about all other allegations of paragraph numbered 8 of the complaint.

6. On information and belief, defendant admits the allegations of paragraph numbered 9 of the complaint that Julia Day is the director of DHR's regional office in Syracuse, New York. Defendant lacks knowledge or information sufficient to form a belief about the truth of all other allegations of paragraph numbered 9 of the complaint.

7. Defendant admits the allegations of paragraph numbered 10 of the complaint that defendant is the district attorney for Onondaga County and has authority to conduct criminal prosecutions for crimes and offenses cognizable by the courts of Onondaga County. Defendant lacks knowledge or information sufficient to form a belief about the truth of all other allegations of paragraph numbered 10 of the complaint.

8. Defendant denies the allegations of paragraphs numbered 11 of the complaint that each and all the acts alleged in the complaint are attributable to defendant who acted under color of a statute, regulation, custom, or usage of the state of New York. Defendant lacks knowledge or information sufficient to form a belief about the truth of all other allegations of paragraph numbered 11 of the complaint.

9. Defendant denies the allegations of paragraph numbered 93 of the complaint that plaintiff faces a credible threat of an enforcement action by defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth of all other allegations of paragraph numbered 93 of the complaint.

10. Defendant lacks knowledge or information sufficient to form a belief about the truth of all other allegations of the complaint.

First Defense

11. Defendant has been the district attorney for Onondaga County since 1 January 1992.

12. Defendant has jurisdiction to conduct all prosecutions for crimes and offenses cognizable by the courts of Onondaga County as a discretionary power to determine whom, whether, and how to prosecute for such crimes and offenses.

13. Defendant has never threatened to conduct a prosecution of plaintiff or any other person or entity for a crime or offense created by the state's Human Rights Law or the state's Civil Rights Law or any other human rights law or civil rights law.

14. Defendant has never conducted a prosecution of plaintiff or any other person or entity for a crime or offense created by the state's Human Rights Law or the state's Civil Rights Law or any other human rights law or civil rights law.

15. Defendant is not a party to the receipt of, the investigation of, or the passing upon any complaint alleging that plaintiff or any other person or entity has committed a crime or offense created by the state's Human Rights Law or the state's Civil Rights Law or any other human rights law or civil rights law.

16. Defendant is not a party to any action to enforce against plaintiff or any other person or entity the state's Human Rights Law or the state's Civil Rights Law or any other human rights law or civil rights law.

17. Plaintiff's claim that defendant is a threat to conduct a prosecution of plaintiff for any crime or offense created by the state's Human Rights Law or the state's Civil Rights Law or any other human rights law or civil rights law is frivolous, unreasonable, and groundless.

18. Plaintiff's continued prosecution of plaintiff's claim that defendant is a threat to conduct a prosecution of plaintiff for any crime or offense created by the state's Human Rights Law or the state's Civil Rights Law or any other human rights law or civil rights law for relief against defendant is frivolous, unreasonable, and groundless.

Second Defense

19. Any act or omission of defendant was a reasonable, in good faith, and discretionary act or omission in the performance of a governmental function.

20. Defendant has qualified immunity from any claim of plaintiff arising out of defendant's reasonable, in good faith, and discretionary act or omission in the performance of a governmental function.

21. Any claim of plaintiff arising out of defendant's reasonable, in good faith, and discretionary act or omission in the performance of a governmental function may not be prosecuted or maintained but is barred because of governmental immunity.

Third Defense

22. Any act or omission of defendant was in furtherance of a criminal prosecution.

23. Defendant has absolute immunity from any claim of plaintiff arising out of defendant's act or omission in furtherance of a criminal prosecution.

24. Any claim of plaintiff arising out of defendant's act or omission in furtherance of a criminal prosecution may not be prosecuted or maintained but is barred because of prosecutorial immunity.

Fourth Defense

25. Any act or omission of defendant was in defendant's judicial or quasi-judicial capacity and not in violation of a declaratory decree or where declaratory relief was unavailable.

26. Defendant has absolute immunity from any claim of plaintiff for injunctive relief arising out of defendant's act or omission in defendant's judicial or quasi-judicial capacity and not in violation of a declaratory decree or where declaratory relief was unavailable.

27. Any claim of plaintiff for injunctive relief arising out of defendant's act or omission in defendant's judicial or quasi-judicial capacity and not in violation of a declaratory decree or where declaratory relief was unavailable may not be prosecuted or maintained but is barred because of judicial immunity.

Fifth Defense

28. Any act or omission of defendant was in defendant's judicial or quasi-judicial capacity and not clearly in excess of defendant's jurisdiction.

29. Defendant has absolute immunity from any claim for any costs, including an attorney's fee, in any action arising out of defendant's act or omission in defendant's judicial or quasi-judicial capacity and not clearly in excess of defendant's jurisdiction.

30. Any claim of plaintiff for costs, including an attorney's fee, in any action arising out of defendant's act or omission in defendant's judicial or quasi-judicial capacity and not clearly in excess of defendant's jurisdiction may not be prosecuted or maintained but is barred because of judicial immunity.

Sixth Defense

31. The complaint fails to state a claim upon which relief against defendant can be granted.

Demand for Relief

32. Defendant demands a judgment dismissing the complaint against defendant.

33. Defendant demands a judgment awarding defendant costs that include a reasonable attorney's fee.

Dated: 13 October 2021

s/ John E. Heisler Jr.
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