

COUNTY COURT OF THE STATE OF NEW YORK  
COUNTY OF TOMPKINS

In re Grand Jury

**ORAL ARGUMENT REQUESTED**

**AFFIRMATION OF TENY ROSE GERAGOS IN  
SUPPORT OF THE MOTION TO RECUSE THE  
ATTORNEY GENERAL, OR, IN THE ALTERNATIVE,  
FOR A HEARING AND DISCOVERY**



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STATE OF NEW YORK     )  
COUNTY OF NEW YORK   ) ss:

TENY ROSE GERAGOS, an attorney at law duly admitted to practice in the courts of New York State, affirms the following to be true under the penalty of perjury:

1. I am an attorney and partner at Agnifilo Intrater LLP, a law firm located in New York City, and I am an attorney for Winston Lee. I make this affirmation in support of a motion dated October 8, 2026, seeking Orders (1) removing the New York State Attorney General (“AG”) from this investigation because of her conflict of interest and the appearance of impropriety; (2) polling the impaneled grand jurors for their exposure to the AG’s outrageous statements; and (3) granting a hearing and discovery.

2. This affirmation is made upon information and belief. The basis for such information and the grounds for such belief are the statements from public officials and information provided to the public concerning the investigation into the allegations of sexual assault underlying this matter.

**INTRODUCTION**

3. The AG should be recused from investigating and prosecuting matters relating to an alleged sexual assault occurring in Tompkins County on October 19-20, 2024, for four reasons. First, the circumstances surrounding the AG’s appointment show that there is a conflict of interest. Second, the AG and the New York State Governor have together created a blatant appearance of impropriety that, combined with the AG’s ethical violations, should lead to the AG’s recusal. Third,

the AG has made prejudicial extrajudicial statements in violation of the New York Rules of Professional Conduct. Fourth, the AG's public statements have prejudiced grand jurors because the AG has already publicly prejudged the guilt of the subjects of this investigation. In the alternative, this Court should hold a hearing to grant counsel discovery, including written statements and testimony regarding the Governor's appointment of the AG in this matter.

4. Just 33 days before Election Day, in the midst of a fiercely contested gubernatorial race in which her political opponent had repeatedly attacked her as soft on crime, the Governor was handed a political windfall. A plaintiff's attorney filed an unverified civil complaint against Cornell University, a bar in Ithaca, a fraternity, a sorority, seven current or former students and others—including Mr. Lee. In response, the Governor seized the filing as an opportunity to remove the elected Tompkins County District Attorney who had examined the plaintiff's sworn statement two years earlier and determined no crime occurred. In the District Attorney's place, the Governor appointed the New York State AG—the same AG who just two days prior had prejudged the case and publicly condemned Cornell and the Tompkins County District Attorney and assured New Yorkers that she, the AG, stood with the purported victim. By making these public statements, the AG conveyed clearly that she believed, despite not having examined a shred of evidence, that the accused were guilty. Seeing the political advantage of giving the investigation to a prosecutor who is also facing re-election next month, and who had already made public statements prejudging the outcome, the Governor promptly removed the matter from the experienced and elected District Attorney and assigned it to the prosecutor who publicly stated she was standing with the “survivor.”<sup>1</sup>

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<sup>1</sup> Absent a gubernatorial appointment, the AG has no general authority to prosecute ordinary crimes including sexual assault. The AG's original jurisdiction is limited to matters in which the Legislature has specifically conferred enforcement authority, including securities and business

5. This public political stunt by the Governor and the AG to make repeated public statements, remove the case from the elected county prosecutor, and prejudge guilt in a criminal investigation for political advantage a month before election day is unethical and in violation of the law. The circumstances surrounding this appointment undermine the integrity of the grand jury process and the due process rights of the investigation's subjects. The AG is unquestionably biased, as her own public statements show. Indeed, her blatant public bias is the reason the Governor took this case from the elected county prosecutor and transferred prosecutorial power to her. The public cannot, and should not, have any confidence in the investigation or charging decisions of someone who has clearly prejudged the guilt of individuals who the law presumes are innocent and has further sought to prejudice the grand jurors who may be called upon to evaluate the evidence presented. It is the height of unfairness that an uncharged person like Mr. Lee, presumed to be innocent, should be investigated by anyone—much less the AG—who has already publicly endorsed the purported victim and concluded the accused are guilty. Finally, because the AG was selected by the Governor specifically because of her prejudicial public statements, she has a conflict of interest because the Governor expects a particular outcome that she has agreed to pursue. The AG should be removed.

#### **STATEMENT OF FACTS**

6. In November of 2024, the Cornell University Police Department (“CUPD”) informed the Tompkins County District Attorney’s Office of a complaint and asked the District Attorney to review a female’s (“Jane Doe”) sworn statement “to determine if her allegations

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fraud, consumer protection, Medicaid fraud, charitable organizations, civil rights, and certain public-integrity offenses. As the AG does not prosecute sexual assault offenses, that office does not have any expertise in sexual assault investigations and prosecutions justifying any substantive reason for their appointment. The Governor’s appointment of the AG to supersede a local district attorney and prosecute an ordinary sexual-assault case appears to be unprecedented, or at minimum extraordinarily rare, in New York.

constituted a crime under New York law.” (Ex. 1, TCDA Statement at 2.) After conducting an independent investigation, which included review of Ms. Doe’s six-page signed and sworn statement with twenty different hand-written revisions made by Ms. Doe, and assuming the facts as true, the District Attorney confirmed that “criminal charges were not appropriate.” (*Id.* at 3.) Based, in part, on Ms. Doe’s own sworn statement, the District Attorney concluded that Ms. Doe’s participation in drug use and sexual conduct was “voluntary, conscious, and consensual.” (Ex. 1 at 2.) Despite the District Attorney’s Office offering to speak to Ms. Doe, neither Ms. Doe nor her attorneys ever contacted the District Attorney to suggest that her signed sworn statement was in any way inaccurate. (*Id.* at 3–4.)

7. Instead, on September 16, 2026, two years after the District Attorney’s conclusion that a crime had not occurred, Ms. Doe retained civil counsel and filed a civil lawsuit seeking monetary damages—alleging conduct wholly different than the consensual conduct she swore to under oath in November 2024. (*See Jane Doe v. Cornell University, Inc. et al*, Index No. 161704/2026, Doc. No. 1 (“Complaint”).) Rather than describing the conduct as conscious and voluntary, Ms. Doe now claimed she was “drugged against her will” and that she was “gang raped.” (Ex. 1 at 2; *see also* Complaint ¶ 163.) In addition to suing seven individuals (two of whom she knows never touched her), she sued their fraternity, her sorority, the bar where she apparently drank alcohol, Cornell University and others.

8. Following the filing of the lawsuit, the “community” asked the District Attorney to “revisit the decision whether to pursue criminal charges against the seven fraternity members.” (*Id.* at 9.) Accordingly, despite the “discrepancy between the original statement and the lawsuit’s allegations,” the District Attorney assigned a senior prosecutor with significant experience investigating sex crimes to investigate the matter. (*Id.* at 9.) He noted that, of course, reopening

cases such as this “obviously works better when [] additional information comes directly from a witness, his or her representative, or the police rather than through allegations set forth in a civil lawsuit, but getting to the truth is the goal in this case.” (*Id.* at 8.)

9. That same day, the AG having apparently reviewed no evidence—decided to make posts on her X account and Facebook account. Her statement came a month before her reelection and served as the opening move in a coordinated effort with the Governor to seize the case for political fanfare. The AG’s posts expressed views about the allegations and linked to a *New York Times* article reporting the reopening of the investigation. The AG stated, “[w]hat this young woman has been forced to endure is horrific and unacceptable. I’m holding her in my heart and my prayers. To her, and to all survivors: you’re not alone. We stand with you.”



10. It is not a coincidence that the AG made these posts while “linking” to a story that the Tompkins County District Attorney would re-open the investigation nor that the AG made these posts a month before election day. The AG wanted the world, and particularly the Governor, to see that the AG was on Ms. Doe’s side—that she “st[ood] with [her]” and perhaps more importantly

that the AG, like the Governor, was willing to make prejudicial extrajudicial statements. Even in the absence of evidence, and even without it being the AG's case, the AG was determined to make public statements about an ongoing, recently opened criminal investigation to state to the world that the woman was a "survivor" and the uncharged subjects were guilty. As of October 5, 2026, her X post has been viewed over 600,000 times. Her words were a blatant calling card to the Governor that the case should be taken from the elected county District Attorney and given to the AG. After all, she had already decided that Ms. Doe was a "survivor," that she "has been forced to endure" things, and that the things the female "endure[d]" were "horrific and unacceptable." How could the AG know whether the new allegations in the civil filing were true without speaking to Ms. Doe, conducting any investigation, reviewing any evidence, or making any inquiries whatsoever?

11. Two days later, on October 1, the Governor—33 days before she would face the voters—decided to make a statement. She said that newly released information raised "serious questions" about both the CUPD investigation and the District Attorney's decision not to prosecute, and that it had "undercut my faith, and the public's faith, in the District Attorney's ability to effectively investigate and prosecute the case." (Ex. 2, Governor's 10/1/26 Press Release at 2.) Purportedly so that the public could have faith in a completely unbiased and fair decision-making process, the Governor appointed the AG to re-open the investigation. The Governor intoned, of course, that the matter would be handled "without conflict or bias." (*Id.*)

12. The AG, for her part, issued her own press release and stated, "every New Yorker deserves to know that when they report a crime, it will be investigated fully and fairly." (Ex. 3, AG's 10/1/26 Press Release at 1.)

13. To amplify her message, the next day, on October 2, 2026, with her re-election now 32 days away, the Governor held a press conference. Before the assembled cameras and microphones, the Governor made her own comments about the case and she invited the AG. The Governor made strong accusations against the CUPD that it failed to fairly and accurately report Ms. Doe's statement to the District Attorney, specifically stating that "shockingly those words [rape] never made it into the account that the Cornell Police sent to prosecutors."<sup>2</sup> The Governor also said Jane Doe had been "failed by people and institutions with an obligation to protect her." The Governor asked: "In what world would the police learn from a victim that she'd been literally gang raped while she was intoxicated by five men in a fraternity house and not elevate those allegations to the District Attorney?" (Ex. 4, Transcript of 10/2/26 Press Conference at 2.) She continued:

This young woman had already endured something that is utterly unspeakable and that at every turn she was failed by people and institutions with an obligation to protect her.<sup>[3]</sup> When the Tompkins County District Attorney announced that he is reopening the case, he pointed to Jane Doe's statement and said it did not establish that a crime had occurred. But new reporting raises serious questions about the information his office relied upon when it made that decision. That's why I believe this case demands a special prosecutor who will provide a fresh and thorough review of all the facts, including the information that has recently come to light. And that is why I'm invoking the power conferred to me as the governor of the state of New York to enlist Attorney James as an independent special prosecutor in this case. She'll follow the facts. She'll examine the evidence and go wherever it leads. And if the evidence supports criminal charges, she will pursue them.

(*Id.* at 2–3.)<sup>4</sup>

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<sup>2</sup> Notably, in the 6-page signed and sworn summary that contained 20 hand-written corrections made by Ms. Doe, Ms. Doe herself never included that she was raped.

<sup>3</sup> This assertion is wholly inaccurate as Cornell University conducted a fulsome hearing, and the District Attorney asked whether Jane Doe wanted to speak with his Office.

<sup>4</sup> For a full video of the press conference, visit [https://www.youtube.com/watch?v=jfstUrpG\\_tQ](https://www.youtube.com/watch?v=jfstUrpG_tQ).

14. The AG then told the room of reporters that “[t]his is now an active criminal investigation.”

15. The very first question from a reporter asked the Governor and the AG about the AG’s social media postings:

Attorney General, on your Facebook page three days ago, you wrote, “[w]hat this young woman has been forced to endure is horrific and unacceptable. I’m holding her in my heart and my prayers. To her, and to all survivors: you’re not alone. We stand with you.” Why did you affirm her allegations as fact without doing your own factfinding investigation and to the governor, why did you appoint an official who made a statement affirming those allegations as fact as someone who is supposed to be doing an investigation?

16. The AG declined to “comment” on her own posts. Neither of our elected officials mentioned a word about the constitutional bedrock on which this country was founded: the presumption of innocence afforded to every individual accused of a crime.

17. Of course, at the time the AG made these statements, she had not “follow[ed] the facts” nor “examine[d] the evidence” as the Governor had said she would. She had merely assumed and prejudged guilt; the exact opposite of the duty of a prosecutor.

### **ARGUMENT**

18. A long time ago, Manhattan District Attorney Frank Hogan said, “you can’t play politics with people’s lives.” The Governor and AG are doing exactly that. The filing of the unverified civil complaint shortly before the contested New York gubernatorial and attorney general elections has caused them to abandon their ethical principles as attorneys and elected officials and become indifferent to the rights of the accused in criminal investigations. Deciding there is more political mileage in making condemning statements prejudicing the investigation’s subjects (as well as the prosecutors and police officers) than in following due process, the two have made a public spectacle of what should be a solemn, serious, non-public process of commencing a grand jury investigation that should have never been reopened in the first place.

19. The AG has already decided that Ms. Doe is a victim of sexual assault, and that the events that took place on October 24, 2024, were not consensual, but rather “horrific” and “unacceptable.” Without ever speaking to Ms. Doe and without reviewing any law enforcement materials,<sup>5</sup> she already concluded that Ms. Doe was a “survivor”—meaning that one or more of the purported assailants was guilty of sexual assault. This is bias in its truest form and the opposite of a prosecutor’s role to evaluate the facts honestly and fairly.

20. The Governor removed a prosecutor who, in painstaking detail, reviewed Ms. Doe’s statement, applied it to the law, and concluded that no crime existed. However, in response to “community” activists insisting that he reopen his investigation, he agreed to. This did not suit the Governor. In response, she hand-selected a special prosecutor with no expertise in sexual assault investigations, who had already decided guilt, had already decided the events of October 24 were “unacceptable,” and was biased in favor of a complainant. The AG’s conduct is a violation of the New York Rules of Professional Conduct, the American Bar Association’s Ethics, and her public statements have so prejudiced any future grand jury proceedings that no quorum can fairly weigh the evidence. This Court must remove her for bias and the appearance of impropriety.

**A. The AG Must Be Disqualified Because She Has a Conflict of Interest**

21. As noted, the AG made prejudicial public statements about this matter on the very day that the Tompkins County DA stated the investigation was being reopened because she wanted to take the case. Her prejudicial statements reached the desired audience, the Governor. They also

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<sup>5</sup> It is unclear whether the AG reviewed Ms. Doe’s initial sworn statement to police or her differing account in her lawsuit, or whether she had read anything at all related to this case. As noted, she declined to answer questions about her own Facebook posts.

reached hundreds of thousands of New Yorkers.<sup>6</sup> The AG then had a press conference alongside the Governor where the Governor accused the CUPD of withholding critical evidence of guilt from the District Attorney and accused the District Attorney of dereliction of duty for not sufficiently investigating the case.<sup>7</sup> After leveling these serious accusations against these public servants, the Governor stated, “this woman, this young woman had already endured something that was unspeakable,” stating clearly that as a matter of fact this woman had been gang raped. The Governor could hardly have been clearer: this woman was gang raped, the young men who did it are guilty, and they escaped guilt because the CUPD withheld evidence and the Tompkins County District Attorney refused to investigate. The message to the world and to the AG was equally clear: investigate them, indict them, and convict them.

22. No doubt, the Governor, an experienced politician, stated that the AG would be independent. However, these are hollow, pretextual words after the same Governor had just impugned an entire police department and a sitting, elected District Attorney. There is no evidence that CUPD withheld evidence or that the D.A. refused to investigate this case. In fact, the evidence and logic support the opposite. What has happened here is that these responsible law enforcement professionals came to a different conclusion than what is politically expedient to the Governor a month before an election.

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<sup>6</sup> Since September 17, the Cornell 7 matter has generated 41,583 media and online mentions, with a potential audience of 79.5 billion impressions and an estimated publicity value of more than \$927 million.

<sup>7</sup> The Tompkins County District Attorney’s Office regularly prosecutes rape and other sex offenses and employs experienced sex-crimes prosecutors. Indeed, before the Governor removed the office from this case, District Attorney Van Houten had assigned it to a senior prosecutor whom he described as having “significant experience in prosecuting sex crimes,” including jury trials involving sexual assaults of college students by other college students. The same cannot be said about the New York Attorney General.

23. Moreover, the AG is not independent, as her public statements show, nor do she or her office possess any expertise in prosecuting sexual assault cases warranting the extraordinary reassignment and appointment to this case. She solicited the Governor to be the Special Prosecutor through her prejudicial public statement about the case, and she understands that the Governor appointed her with a particular result in mind. This is the very definition of a conflict of interest and is the basis for removal. *See People v. Adams*, 20 N.Y.3d 608, 612 (2013) (noting that courts should remove a public prosecutor “to protect a defendant from actual prejudice arising from a demonstrated conflict of interest” (quoting *Matter of Schumer v. Holtzman*, 60 N.Y.2d 46, 55 (1983)); *People v. Zimmer*, 51 N.Y.2d 390, 394 (1980) (“It would be simplistic therefore to think of the impact of a prosecutor’s conflict of interest merely in terms of explicit instances of abuse. Even our thumbnail description of prosecutorial power is enough to indicate that resulting prejudice can at least as easily flow from an act of omission as from one of commission, from discretion withheld as from discretion exercised. In this context, whether abuse is express or implied may be difficult to determine. Suffice it to say that any presumption of impartiality tends to be undermined when there is a clear conflict of interest.”).

**B. The AG Must Be Disqualified for the Appearance of Impropriety**

24. As the Court of Appeals has noted, a public prosecutor plays a vital role in the criminal justice system because a prosecutor’s “mission is not so much to convict as it is to achieve a just result”:

Central to the issue so sharply drawn is the pivotal point at which a public prosecutor stands in the criminal justice system. Unlike other participants in the traditional common-law adversarial process, whose more singular function is to protect and advance the rights of one side, a District Attorney carries an additional and more sensitive burden. It is not enough for him to be intent on the prosecution of his case. Granted that his paramount obligation is to the public, he must never lose sight of the fact that a defendant, as an integral member of the body politic, is

entitled to a full measure of fairness. Put another way, his mission is not so much to convict as it is to achieve a just result.

*People v. Zimmer*, 51 N.Y.2d 390, 393 (1980).

25. Instead of adhering to a public prosecutor's sacrosanct duty to pursue justice, the AG has made it abundantly clear that her mission is to bring criminal charges no matter what the evidence shows. This unabashed bias has already prejudiced Mr. Lee in the media and, more importantly, before potential grand jurors in Tompkins County.

26. In addition to her prejudicial conduct, the AG's actions have also created the appearance of impropriety. The Court of Appeals has recognized that the appearance of impropriety "itself is a ground for disqualification" "when the appearance is such as to 'discourage [ ] public confidence in our government and the system of law to which it is dedicated.'" *People v. Adams*, 20 N.Y.3d 608, 612 (2013) (quoting *Zimmer*, 51 N.Y.2d at 396). The Court of Appeals further noted that, "[i]n a case of that nature, '[d]efendant[s], and indeed the public at large, are entitled to protection against the appearance of impropriety.'" *Adams*, 20 N.Y.3d at 612–13 (quoting *People v. Shinkle*, 51 N.Y.2d 417, 421 (1980)); see also *Zimmer*, 51 N.Y.2d at 396 ("It was important that these responsibilities, carried out in the name of the State and under the color of the law, be conducted in a manner that fostered rather than discouraged public confidence in our government and the system of law to which it is dedicated. This concern, that those occupying prosecutorial office be jealous of the evidences as well as the substance of integrity, was not to be discounted.").

27. Here, the AG made gratuitous social media posts demonstrating that—whether the evidence supported it or not—she was going to turn this investigation into a criminal case. The statements are classic examples of a rush to judgment—indeed, they do little other than demonstrate that the AG has already decided what happened, without the inconvenience of an

actual investigation. These statements had the intended effect of signaling to the Governor that she should appoint the AG as the special prosecutor during contested gubernatorial and attorney general elections because the AG had already prejudged the case and was looking to indict. These statements have also reverberated through the public, creating the (accurate) impression that the Governor appointed the AG specifically to turn this civil complaint into a criminal case and reverse the decision of an elected prosecutor with sexual assault experience. As the *Wall Street Journal* opined, the signal the Governor “is sending couldn’t be clearer and goes well beyond the usual efforts of a politician to please her constituents: *There is only one acceptable outcome here, and I expect Attorney General James to find it.*”<sup>8</sup> And again, reporters highlighted the appearance of bias immediately during the Governor’s press conference, questioning why the AG made public statements prejudging the case and why the Governor endorsed the prejudicial statements by appointing the AG. There are certainly cases where the only one claiming an appearance of impropriety is a single lawyer. In this case, however, it is being shouted from the rooftops by

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<sup>8</sup> Dillon, Justin, “Cornell, Letitia James and the New York Ethics Code.” *Wall Street Journal* (Oct. 4, 2026), <https://www.wsj.com/opinion/cornell-letitia-james-and-the-new-york-ethics-code-c4f21354>. This sentiment has been echoed by newspapers across the country. See Vennochi, Joan, “The Cornell rape case deserves a prosecutor with an open mind.” *Boston Globe* (Oct. 5, 2026), <https://www.bostonglobe.com/2026/10/05/opinion/jane-doe-cornell-case-letitia-james/> (“Jane Doe’s allegations of being drugged and raped at a Cornell University fraternity house deserve what New York Governor Kathy Hochul said she was calling for: ‘a special prosecutor who will provide a fresh and thorough review of all the facts, including the information that has recently come to light.’ Attorney General Letitia James is not the right person for that job.”); Doherty, Jennifer, “Newly Appointed To Oversee the Cornell Rape Case, Letitia James Appears To Have Already Decided Who’s Guilty.” *The Sun* (Oct. 2, 2026) <https://www.nysun.com/article/newly-appointed-to-oversee-the-cornell-rape-case-letitia-james-appears-to-have-already-decided-whos-guilty>; Post Editorial Board, “Kathy Hochul, Tish James rush to exploit ‘Cornell 7’ — justice be damned.” *New York Post* (Oct. 3, 2026), <https://nypost.com/2026/10/03/opinion/kathy-hochul-tish-james-exploit-cornell-7-justice-be-damned/>; Calder, Rich, “NY AG Letitia James too ‘biased’ to fairly investigate ‘Cornell 7’ frat boys: critics.” *New York Post* (Oct. 3, 2026), <https://nypost.com/2026/10/03/us-news/ny-ag-letitia-james-too-biased-to-fairly-probe-cornell-7-frat-boys-critics/>.

virtually every experienced crime reporter following the developing story—as well as everyday Americans observing what is transpiring.

28. As a result of the coordinated and combined efforts of both the Governor and the AG, the duly elected District Attorney of Tompkins County was removed. To be clear, only a single reason motivated the District Attorney’s removal: he decided not to bring charges based on his independent and unbiased review of the actual evidence. That was it—there have been no allegations of impropriety, or incompetence, or corruption. Rather, the Governor simply did not like the outcome and replaced the District Attorney with someone who is determined to bring charges even before reviewing any evidence. Under these circumstances, the public cannot have any “confidence in our government and the system of law to which it is dedicated.” *Adams*, 20 N.Y.3d at 612.

**C. The AG Has Violated a Host of Ethical Rules That Govern Attorney Conduct**

29. The AG’s conduct also violated Rule 3.6 of the New York Rules of Professional Conduct. Rule 3.6(a) of the New York Rules of Professional Conduct prohibits a lawyer from making an “extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.” Rule 3.6(b) lists examples of such statements, including “any opinion as to the guilt or innocence of a defendant or suspect in a criminal matter that could result in incarceration.”

30. As the state’s top law enforcement officer, the AG is well aware of this rule yet sought to tell the world, and the grand jurors who will hear this case, through every possible electronic means, that she had concluded guilt. It is hard to imagine any other statement fitting more squarely within Rule 3.6. First, the AG made her statements outside of court (since there is

no case) and not for the purposes of litigation. Second, the AG's statements were disseminated—and still exist—on both her X and Facebook pages. She has done nothing to mitigate the unethical conduct or the prejudice already achieved. Third, the AG's statements are likely to further materially prejudice the grand jury proceeding in this matter. She is the highest-ranking law enforcement officer in the state and she has said the targets of her investigation are guilty, and their accuser is a “survivor.” This is quintessential prejudgment. Indeed, prejudice is what the AG intended. The AG never so much as suggested that any of the subjects were presumed innocent and that they were not indicted for any crime. Her motive and her decision was to indicate that a re-opened investigation should lead to an indictment. Her statements would be inappropriate and prejudicial in any context. But here, the AG was specifically aware—and indeed, even linked to a news article about an investigation—that a grand jury would convene. Her statements meant one thing: indict. The Court must intervene.

31. The AG's statements likewise violate the New York Rules of Professional Conduct 3.4, which command of “Fairness to Opposing Party and Counsel.” This prohibits a lawyer in a trial from asserting “a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused.” By publicly affirming that Ms. Doe was a “survivor” and had been forced to endure “horrific and unacceptable” treatment, the AG asserted precisely the kind of personal opinion as to guilt and credibility that Rule 3.4 forbids. Again, the AG's statements are not on the borderline. They are heartland examples of personal opinions on witness credibility and the guilt of the accused.

32. Finally, the AG's statements constitute “conduct that is prejudicial to the administration of justice” under American Bar Association Rule 8.4(d). A lawyer entrusted with the “special responsibilities of a prosecutor” undermines public confidence in the evenhanded

administration of justice when she publicly commits herself to a factual conclusion before conducting the investigation that is supposed to test that conclusion. The Court of Appeals has recognized that a prosecutor may be disqualified where, even absent proof of actual prejudice, the record creates an “unacceptably great appearance of impropriety.” *People v. Adams*, 20 N.Y.3d 608, 613 (2013). The same appearance of impropriety is presented where, as here, the special prosecutor publicly prejudged guilt before her appointment and before conducting any investigation of her own. *See also Matter of Schumer v Holtzman*, 60 N.Y.2d 46, 55 (1983) (holding that disqualification warranted upon a showing of actual prejudice or so substantial a risk thereof that it cannot be ignored).

**D. The AG’s Public Statements Have Prejudiced Any Future Grand Jury Proceedings**

33. The AG is our state’s highest law enforcement official, and her public statements have already prejudiced any grand jury—for this reason, she must be removed.

34. New York Criminal Procedure Law § 190.25 mandates that the court must instruct the grand jury concerning the law with respect to its duties or any matter before it.” N.Y. Crim. Proc. Law § 190.25.

35. We respectfully request that all prospective grand jurors be polled to determine if they have been exposed to or infected by the AG’s statements concluding that Ms. Doe is a “survivor.” Such a preventative measure is necessary here because the Governor’s hand-picked new prosecutor has concluded guilt without looking at a shred of evidence. The subjects of this investigation deserve to have the facts weighed fairly by an impartial panel of grand jurors and this Court is vested with the power to ensure that they are impartial.

**E. This Court Should Hold a Hearing to Determine the Extent of the AG's Prejudice**

36. We respectfully request a hearing to determine several things. First, the written and oral communications between the Governor's Office and the AG's Office regarding the appointment. Second, the basis for the Governor's statement that the Cornell Police withheld fundamental, material evidence from the District Attorney. Third, the basis for the Governor's statement that the elected District Attorney refused to properly investigate the rape allegation.

37. This information is relevant because the Governor premised her Executive Order on her factual statement that the CUPD withheld material information from the prosecutor's office. (Ex. 5, Executive Order at 1.) Specifically, the Governor said at the press conference, "think about that, in what world would the police learn from a victim that she had been literally gang raped while intoxicated by five men in a fraternity house and not elevate those allegations to the District Attorney?" (Ex. 4, Transcript of 10/2/26 Press Conference at 2.) The Governor similarly impugned the elected District Attorney, as indicated above. A hearing would show that the Governor's bold accusation against the CUPD and the District Attorney are false, and that the Executive Order was a pretext to have a press conference in front of the entire nation where the Governor and the Attorney General could appear hard on crime a month before each of them faced re-election.

**F. This Court Has the Power to Grant the Requested Relief**

38. Before being replaced under dubious pretenses, the Tompkins County District Attorney announced his intentions to reopen the investigation and present the case before the Tompkins County grand jury. Since being appointed as a special prosecutor, the Attorney General has stated publicly that this matter "is now an active criminal investigation." Because the allegations in this case involve the felony offense of rape, the Attorney General would need to present the case to the grand jury to proceed with a criminal case. Inasmuch as the grand jury is

an “arm of the court,” this Court has “a particular responsibility to prevent unfairness in Grand Jury proceedings.” *People v. Ianniello*, 21 N.Y.2d 418, 424 (1968) (“Courts have a particular responsibility to prevent unfairness in Grand Jury proceedings, for the Grand Jury is an ‘arm of the court.’”); *People v. Cain*, 209 A.D.3d 124, 127 (3rd Dep’t 2022) (quoting *Ianniello*).

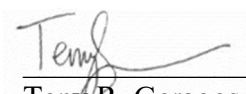
39. In addition, because the alleged rape was committed in Ithaca, within Tompkins County, and in no other location, the only appropriate grand jury is the Tompkins County Grand Jury. *See* CPL § 20.40 (establishing geographical jurisdiction in the county where an element of the offense was committed). As a result, this Court has the jurisdiction and authority to oversee the integrity of the grand jury in this matter, including whether the Tompkins County grand jury is being conducted properly, by an appropriate prosecutor.

40. Given the AG’s conduct in this case—which has created both a conflict of interest and an appearance of impropriety—this Court should prevent unfairness in the grand jury by removing Attorney General as a special prosecutor to prevent her and her office from presenting the case to the grand jury.

### CONCLUSION

41. For the foregoing reasons, we respectfully request that this Court (1) remove the AG from this investigation because of her conflict of interest and the appearance of impropriety; (2) poll the impaneled grand jurors for their exposure to AG's outrageous statements; and (3) grant a hearing and discovery.

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