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VIA ECF

October 3, 2022

Honorable Eric Komitee
United States District Court
Eastern District of New York
225 Cadman Plaza East, Courtroom 6G North
Brooklyn, New York 11201
New York, NY 10007

Re: Women of Color for Equal Justice et al. v. New York, et. al
Civil Action No: 22-cv-02234 - LM No. 2022-021670
No Need For Sur-Reply – Request for Expedited Virtual Hearing on the Motions

Dear Judge Komitee:

The City of New York has once again mischaracterized the facts of this case now that they have had an "great awaken" to the reality that their position has been "preposterous" since they issued those nine Vaccine Orders. For the last year the City has acted like a tyrant with absolute authority to ignore Federal and State law and now the "veggie chickens have come home to roost veggie meat." The City's shameless requests for a second bite at the apple will only result in them making more "preposterous" claims. Nothing that the City can put in a sur-reply will change the undisputed facts that Plaintiffs have in fact plead and successfully argued (not for the first time) their Section 1983 claims raised in their Motion for TRO and Preliminary Injunctive Relief at document ECF 17-1, P.13-15, ¶34-47 and in Plaintiffs' Complaint, Second Amended Complaint and Third Amended Complaint. The Motion is only 30 pages as required by this Court's local rules and the City exaggeration that they could not see the arguments because of the 615-pages of exhibits that support the Section 1983 claim is a bold face lie.

Plaintiffs have carefully plead with intricate detail their Section 1983 claims expressly stating their causes of action under Counts II and III as Section 1983 claims.

1. Complaint – ECF # P. 18 -22 ¶87-110
2. Second Amended Complaint - P. 21 -28 ¶107-162
3. Third Amended Complaint P. 21-26, ¶ 107-140,

   a) COUNT II – VIOLATION OF THE SUPREMACY CLAUSE (Article VI, Section 2, of the United States Constitution; 42 U.S.C. §1983)

   b) COUNT III – VIOLATION OF THE FIRST AMENDMENT (United States Constitution and 42 U.S.C. §1983)

Once again, the City "selective amnesia" further proves they are shaming this Court because the City argued in their Responsive Motion that Plaintiffs cannot prevail on their merits of their Free Exercise Claim, which claim was plead in their Complaint as a Section 1983 claim. Because Plaintiffs needed to spend a bulk of the Motion - which can only be 25 pages long, on the invalidity of the Vaccine Orders under the OSHA preemption doctrine in order to carefully reacquaint this Court with the details of the doctrine and to remind

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the City of what they already know, does not mean that the Section 1983 claim was not raised. The motion squarely states at the beginning, in the summary, that the case has always been about how the City deprived Plaintiffs of their First Amendment rights by violating the Federal OSH Act and State law in the issuing of the illegal Vaccine Orders, which is clearly a Section 1983 claim.

Just because the Motion did not have "bread crumb" labels that identified the "Section 1983 claim" in neon lights, the facts and law plead everywhere in the motion and the Complaint with amendments, expressly stated that the City's vaccine orders violated Federal law that "caused" the deprivation of constitutional and statutory rights.

The only prejudice that exists at this point is to the Plaintiffs for the continuing violation of their First Amendment Rights by the City that will not stop until an injunction is issued. Furthermore, the New York City Human Rights Law (NYCHRL) claim was also well plead in the Complaint with Amendments and the Motion as the same set of facts that support the constitutional violations also support the state law violations. The NYCHRL expressly protects individuals First Amendment Rights and the City's claim that the Plaintiffs have to designate which protected religious group they belong to is again preposterous.

Finally, the last paragraph of the City's Letter Motion claiming that the Plaintiffs have failed to identify all the acts of the City that have violated their substantive First Amendments Right is incredulous and is another bold face lie that does not need to be accommodated by approving of a Sur-Reply Motion. The City's Response was written by a different lawyer in the City's Legal Department, and now the lawyer of record wants to make it appear as if she has no idea what is going on in the case.

Plaintiffs have suffered enough from the insane tyranny of the City that must come to an end. Plaintiff's respectfully requests that the City's request for a "sur-reply" is denied, or at best that the City is only allowed to make their arguments during an expedited virtual hearing on the Motions.

Respectfully Submitted,

/s/ **Jo Saint-George, Esq.**
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Chief Legal Officer

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