

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JAMES M. MALONEY,

Plaintiff,

- against -

ELIOT SPITZER, in his official capacity as Attorney
General of the State of New York, and
DENIS DILLON, in his official capacity as District
Attorney of the County of Nassau, and their successors,

Defendants.

**STIPULATION
AND ORDER OF
DISMISSAL
only as against
DENIS DILLON,
in his official capacity as
District Attorney of the
County of Nassau**

Case No. CV 03 786
(ADS) (MLO)

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PLEASE TAKE NOTICE that, it appearing that DENIS DILLON, in his official capacity as District Attorney of the County of Nassau, is not a necessary party to this action for the relief sought, Plaintiff, pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure, hereby dismisses this action, but only as against the defendant DENIS DILLON, in his official capacity as District Attorney of the County of Nassau.

IT IS HEREBY STIPULATED by and between the undersigned, that this action be, and hereby is, dismissed pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure, but only as against the defendant 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 against the other.

IT IS FURTHER STIPULATED by and between the undersigned, that the caption of this case be, upon the Court's order, amended to the following caption reflecting the parties remaining in the case:

JAMES M. MALONEY,

Plaintiff,

- against -

ELIOT SPITZER, in his official capacity as
Attorney General of the State of New York,
and his successors,

Defendants.

IT IS FURTHER STIPULATED by and between the undersigned, that, should the Plaintiff's cause be burdened by the absence as a party of the defendant DENIS DILLON, in

his official capacity as District Attorney of the County of Nassau, either because of burdens relating to discovery, or because of the application of any jurisdictional doctrine, including but not limited to standing or sovereign immunity, the application of which turns on the presence or absence as a party of defendant DENIS DILLON, in his official capacity as District Attorney of the County of Nassau, the provisions of Rule 41(d) of the Federal Rules of Civil Procedure shall not be applicable.

Dated: March , 2003



JAMES M. MALONEY (JM-3352)
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So ordered this _____ day of _____, 2003,

U.S.D.J.