

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

Samuel Kellner v. The City of New York and Patricia L. Hynes,
Administrator of the Estate of Charles J. Hynes

Kellner · No. 17-cv-1268 (NRM) (MMH · Decided December 8, 2025

SUMMARY

The United States District Court for the Eastern District of New York denied defendants’ motion for summary judgment in Samuel Kellner’s action alleging malicious prosecution and conspiracy under 42 U.S.C. § 1983, along with a Monell claim against the City of New York. The court held that genuine disputes of material fact existed and that, depending on a jury’s findings, former Kings County District Attorney Charles J. Hynes might not be entitled to absolute or qualified immunity. The claims arose from an investigation and prosecution of Kellner following allegations that he attempted to extort the family of Baruch Lebovits.

CASE DETAILS

COURT	United States District Court for the Eastern District of New York
WRITING FOR THE COURT	Nina R. Morrison
JURISDICTION	United States District Court for the Eastern District of New York
DECIDED	December 8, 2025
DOCKET	17-cv-1268 (NRM) (MMH
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved for summary judgment on plaintiff’s claims under 42 U.S.C. § 1983 for malicious prosecution and conspiracy, as well as his Monell municipal-liability claim. Defendants asserted that the claims failed as a matter of law and that Hynes was protected by absolute prosecutorial immunity or qualified immunity.
STANDARD OF REVIEW	Summary judgment is appropriate when the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court viewed the record in the light most favorable to the nonmovant, resolved ambiguities and drew reasonable factual inferences in Kellner’s favor, and considered whether a reasonable jury could return a verdict for him.

PRECEDENTIAL VALUE	unknown
PARTIES	Samuel Kellner v. The City of New York, Patricia L. Hynes, Administrator of the Estate of Charles J. Hynes

TOPICS

section 1983 municipal liability summary judgment civil rights civil procedure

PRACTICE AREAS

civil rights constitutional law municipal liability civil procedure torts

QUESTIONS PRESENTED

1. Whether genuine disputes of material fact precluded summary judgment on Kellner's § 1983 conspiracy claim.
2. Whether genuine disputes of material fact precluded summary judgment on Kellner's § 1983 malicious-prosecution claim.
3. Whether the alleged investigative and media conduct by District Attorney Hynes was outside the advocacy function protected by absolute prosecutorial immunity.
4. Whether Hynes was entitled to qualified immunity on the facts viewed in Kellner's favor.
5. Whether the City of New York was entitled to summary judgment on Kellner's Monell municipal-liability claim.

HOLDINGS

1. Summary judgment was denied because the record contained sufficient circumstantial and potential direct evidence from which a reasonable jury could find that Hynes conspired with KCDA officials, the Lebovits family, and the Lebovits legal team to manufacture evidence and maliciously prosecute Kellner.
2. On the facts viewed in Kellner's favor, Hynes was not entitled to absolute prosecutorial immunity for alleged investigative conduct undertaken before indictment or for statements to the media.
3. On the facts viewed in Kellner's favor, Hynes was not entitled to qualified immunity at the summary-judgment stage.
4. The City was not entitled to summary judgment merely because defendants argued that the claims against Hynes failed; the court allowed the municipal-liability claim to proceed in light of the unresolved factual and legal issues concerning Hynes's conduct and policymaking role.

KEY QUOTATIONS

“Accordingly, *Defendants’ motion is DENIED.*”

“Viewed in the light most favorable to Kellner, the record before this Court contains sufficient evidence for a reasonable jury to conclude that (1) DA Hynes conspired with others to maliciously prosecute Kellner using evidence that Hynes knew was false; (2) the object of this conspiracy was to inflict an unconstitutional injury upon Plaintiff; and (3) at least one overt act was undertaken in furtherance of the conspiracy.”

FACTUAL BACKGROUND

Kellner reported that Baruch Lebovits sexually abused Kellner's son and assisted the Kings County District Attorney's Office in investigating and prosecuting Lebovits. After Lebovits was convicted, members of his family and defense team accused Kellner of fabricating abuse allegations and extorting the family; the KCDA then investigated and indicted Kellner for conspiracy, attempted extortion, perjury, and criminal solicitation. Kellner alleged that District Attorney Charles Hynes and KCDA officials conspired with the Lebovits family and its lawyers to manufacture evidence, pressure witnesses to recant, undermine Lebovits's conviction, and prosecute Kellner for political purposes. Lebovits's conviction was later vacated, he pleaded guilty to eight counts of criminal sexual act, and the charges against Kellner were dismissed in March 2014.

PROCEDURAL HISTORY

Kellner filed the action on March 6, 2017, and amended his complaint on October 2, 2017. The court previously denied defendants' motion to dismiss, concluding that the pleaded conduct could fall outside absolute prosecutorial immunity and that the malicious-prosecution, conspiracy, Monell, and qualified-immunity issues could not be resolved at the pleading stage. After substitution of Patricia L. Hynes for deceased defendant Charles J. Hynes, discovery was completed, defendants moved for summary judgment, and the motion was fully submitted after supplemental briefing and oral argument. The court denied the motion because genuine disputes of material fact remained and, on the facts viewed favorably to Kellner, Hynes would not be entitled to absolute or qualified immunity.

DISPOSITION

other

CASES CITED

- Kellner v. City of New York, No. 17-CV-1268 (MKB), 2021 WL 4251343 (E.D.N.Y. Sep. 17, 2021)
- Anilao v. Spota, 27 F.4th 855, 863–67 (2d Cir. 2022)
- Hill v. City of New York, 45 F.3d 653, 661 (2d Cir. 1995)
- Shmueli v. City of New York, 424 F.3d 231, 237 (2d Cir. 2005)
- Malik v. City of New York, 841 F. App'x 281, 284 (2d Cir. 2021)
- Buckley v. Fitzsimmons, 509 U.S. 259, 261, 269, 273, 277–78 (1993)
- Van de Kamp v. Goldstein, 555 U.S. 335, 341 (2009)
- Simon v. City of New York, 727 F.3d 167, 171–72 (2d Cir. 2013)
- Flagler v. Trainor, 663 F.3d 543, 547 (2d Cir. 2011)
- Giraldo v. Kessler, 694 F.3d 161, 165–66 (2d Cir. 2012)

- *Warney v. Monroe County*, 587 F.3d 113, 121 (2d Cir. 2009)
- *Smith v. Garretto*, 147 F.3d 91, 94 (2d Cir. 1998)
- *Pangburn v. Culbertson*, 200 F.3d 65, 72 (2d Cir. 1999)
- *Knopf v. Esposito*, 803 F. App'x 448, 453 (2d Cir. 2020)
- *Cooper v. City of New York*, 2022 WL 4468168, at *6–7 (E.D.N.Y. Sep. 26, 2022), *aff'd*, 2024 WL 1107923 (2d Cir. Mar. 14, 2024)
- *People v. Lebovits*, 942 N.Y.S.2d 638, 639–42 (N.Y. App. Div. 2012)
- *Fischl v. Armitage*, 128 F.3d 50, 59 (2d Cir. 1997)
- *Tankleff v. County of Suffolk*, 2016 WL 3162059, at *2 (E.D.N.Y. June 2, 2016)

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