

**WIGDOR.**

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September 26, 2024

**VIA ECF**

The Honorable Jessica G. L. Clarke  
United States District Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl St., Courtroom 11B  
New York, New York 10007

Re: *Doe v. Combs*, Case No.: 23-cv-10628 (JGLC)

Dear Judge Clarke:

We represent Plaintiff Jane Doe in the above-captioned action. On May 24, 2024, Defendants Sean Combs, Daddy’s House Recordings, Inc., and Bad Boy Entertainment Holdings, Inc. (the “Combs Defendants”), joined by Defendant Harve Pierre (together with the Combs Defendants, “Defendants”) filed a motion to dismiss Plaintiff’s Amended Complaint in its entirety. Dkt. Nos. 55 & 58. In this motion, Defendants contend that the 2022 amendment to New York City’s Victims of Gender-Motivated Violence Protection Law (“VGMVPL”) (N.Y. Code § 10-1101 *et seq.*), which gives a two-year period during which victims of gender violence can commence civil claims that would otherwise fall outside of the statute of limitations, is unenforceable and unconstitutional.<sup>1</sup> Dkt. No. 57. Defendants incorrectly claim that the VGMVPL amendment is preempted by New York State’s Child Victims Act (“CVA”), N.Y. C.P.L.R. (“CPLR”) § 214-g. Because Plaintiff alleges in her Amended Complaint that she was a minor when she was sexually assaulted by Combs, Pierre, and a Third Assailant after being transported from Michigan to Combs’ recording studio in New York City, Defendants contend that her claim would only be timely if she had filed it between August 2019 and August 2021 under the Child Victims Act. Without authority, Defendants contend that the two-year lookback period under the VGMVPL, March 2023 through March 2025, is not available to Plaintiff because it is preempted by the Child Victim’s Act. In essence, Defendants want the Court to make illogical assumptions concerning the plain language of the law and declare the VGMVPL as simply unavailable to any victim sexually assaulted in New York City when he or she was a minor who files a civil claims pursuant to N.Y. Code § 10-1105(a).

Attached hereto is a sworn affidavit from New York State Senator Brad Hoylman-Sigal (“Senator Hoylman”) that was recently submitted in another case before Your Honor, *Doe v. Black*, 23:cv-06418. In that case, Defendant Leon Black made a nearly identical argument to that of Defendants

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<sup>1</sup> The VGMVPL amendment is N.Y. Code § 10-1105(a).



Hon. Jessica G. L. Clarke  
September 26, 2024  
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here concerning the CVA’s preemption of the VGMVPL. The affidavit of Senator Hoylman who, as a sponsor of both the CVA, as well as the Adult Survivors Act (“ASA”), CPLR § 214-j, offers unique insight into the legislative process that led to the passage of the CVA, as well as the legislative intent and understanding behind it. As is abundantly clear from Senator Hoylman’s affidavit, not only was the Child Victim’s Act never intended to preempt any other laws, including the VGMVPL, but in addition, there are recent proposed amendments to the Child Victim’s Act which would eliminate completely the statute of limitations on civil claims brought pursuant to the Child Victims Act. *See* Hoylman Aff. ¶¶ 11-13. Thus, rather than providing an exclusive window, the legislative intent is to provide the broadest possible protections to minors who were sexually assaulted throughout New York, including New York City. *Id.* ¶¶ 7-8 (“The plain language of the CVA makes clear that the legislative intent in August 2019 was, and remains, not to preempt other laws. This includes the VGMVPL, which was enacted and in place years prior to enactment of the CVA.”).

Although no binding precedent exists to support Defendants’ preemption argument, the clarity provided by Senator Hoylman as to the expansive intention of the Child Victim’s Act, as well as the current proposed amendments, leaves no doubt about the legislative intent. *Id.* ¶ 9 (“It was always the legislative intent to, among other things, ensure that the law allows survivors to come forward and seek justice whenever they are comfortable and safe to do so, regardless of how many years have elapsed.”). We therefore believe this supplemental submission will help guide the Court in deciding the pending motion from Defendants in this action.

We thank the Court for its time and attention to this matter.

Respectfully submitted,

A handwritten signature in cursive script that reads "Meredith Firetog".

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Meredith A. Firetog

cc: All counsel of record (*via* ECF)

# Exhibit A

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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JANE DOE,		:
		:
	Plaintiff,	: Civil Case No.: 1:23-cv-06418
		:
	v.	:
		:
LEON BLACK,		:
	Defendants.	:
		:
-----		X

**AFFIDAVIT OF SENATOR BRAD HOYLMAN-SIGAL**

Senator Brad Hoylman-Sigal being duly sworn, deposes and says:

1. I am the New York State Senator representing New York’s 47th District and the Chairman of the Committee on the Judiciary.
2. I am the sponsor of Senate Bill S66A which was passed into law as Civil Practice Law and Rules (CPLR) 214-g, known as the New York State Child Victims Act (“CVA”).
3. As co-author and sponsor of the CVA, I was deeply involved in the drafting and passage of the CVA, and therefore I am able to offer unique insight into the legislative process that led to the passage of the CVA, as well as the legislative intent and understanding behind it.
4. I submit this affidavit in connection with a motion that seeks dismissal of claims under the New York City Victims of Gender-Motivated Violence Protection Act (“VGMVPL”) based on a preemption argument under CPLR 214-g. As explained below, the Child Victim’s Act was never intended to preempt any other laws, including the VGMVPL. The recently proposed amendments to CPLR 214-g continue to show such legislative intent, which seeks to eliminate completely the statute of limitations on civil claims brought pursuant to the CVA.

5. The Child Victims Act extended New York State's statute of limitations on childhood sexual assault cases to age 28 for a person bringing a criminal case and age 55 for a person bringing a civil case. This law also opened a look back period for victims who were previously time-barred to bring a civil case, no matter how long ago the abuse occurred. Under CPLR 214-g, the "lookback" period under the CVA was August 2019 to August 2021.

6. The language of the law includes as follows, "Notwithstanding any provision of law which imposes a period of limitation to the contrary . . . every civil claim or cause of action brought against any party alleging intentional or negligent acts or omissions by a person for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty (130) of the penal law committed against a child less than eighteen years of age, . . . which is barred as of the effective date of this section because the applicable period of limitation has expired, . . . is hereby revived, and action thereon may be commenced not earlier than six months after, and not later than two years and six months after the effective date of this section."

7. The plain language of the CVA makes clear that the legislative intent in August 2019 was, and remains, not to preempt other laws.

8. This includes the VGMVPL, which was enacted and in place years prior to enactment of the CVA.

9. During the CVA's lookback period, nearly 11,000 cases were filed. However, countless survivors of childhood sexual assault around the state are still bound by an arbitrarily short statute of limitations which misunderstands the nature of their trauma and exposes the public to an unreasonable risk of harm. It was always the legislative intent to, among other things, ensure

that the law allows survivors to come forward and seek justice whenever they are comfortable and safe to do so, regardless of how many years have elapsed.

10. This is why I am currently sponsoring legislation to eliminate the civil statute of limitations on child sexual assault cases. Three other senators from the Manhattan and Brooklyn Districts are co-sponsoring the legislation with me.

11. Attached hereto as Exhibit 1 is a copy of the bill text submitted to the Senate on March 29, 2023.


12. The plain language of the CVA and its proposed amendments makes clear the CVA is not intended to preempt other laws, including the amendment to the VGMVPL, which was enacted on January 9, 2022 by the New York City Council.

13. CPLR 214-g intended to expand legislation to allow more victims to come forward and assert civil claims. The proposed new legislation intends to increase the reach of CPLR 214-g to eliminate completely a period of limitations on civil claims for victims under the age of 18 at the time of their sexual abuse. *See Ex. 1.*

14. Ending the statute of limitations completely is one way to hold abusers accountable. The proposed amendments to the CVA make this legislative intent clear.

15. I affirm under penalty of perjury, under the laws of the State of New York, that the foregoing is true and accurate.

Dated: September 26, 2024  
New York, New York

  
Brad Hoylman-Sigel

# Exhibit 1

# STATE OF NEW YORK

6099--A

2023-2024 Regular Sessions

## IN SENATE

March 29, 2023

Introduced by Sen. HOYLMAN-SIGAL -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil practice law and rules, in relation to removing the statute of limitations in civil actions involving certain child sexual assault offenses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision (b) of section 208 of the civil practice law  
2 and rules, as added by chapter 11 of the laws of 2019, is amended to  
3 read as follows:

4 (b) Notwithstanding any provision of law which imposes a period of  
5 limitation to the contrary and the provisions of any other law pertain-  
6 ing to the filing of a notice of claim or a notice of intention to file  
7 a claim as a condition precedent to commencement of an action or special  
8 proceeding, with respect to all civil claims or causes of action brought  
9 by any person for physical, psychological or other injury or condition  
10 suffered by such person as a result of conduct which would constitute a  
11 sexual offense as defined in article one hundred thirty of the penal law  
12 committed against such person who was less than eighteen years of age,  
13 incest as defined in section 255.27, 255.26 or 255.25 of the penal law  
14 committed against such person who was less than eighteen years of age,  
15 or the use of such person in a sexual performance as defined in section  
16 263.05 of the penal law, or a predecessor statute that prohibited such  
17 conduct at the time of the act, which conduct was committed against such  
18 person who was less than eighteen years of age, such action may be  
19 commenced, against any party whose intentional or negligent acts or  
20 omissions are alleged to have resulted in the commission of said  
21 conduct, [~~on or before~~] **by** the plaintiff or infant plaintiff [~~reaches~~

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD06673-03-4



1 ~~the age of fifty five years~~ at any time. In any such claim or action,  
2 in addition to any other defense and affirmative defense that may be  
3 available in accordance with law, rule or the common law, to the extent  
4 that the acts alleged in such action are of the type described in subdivi-  
5 sion one of section 130.30 of the penal law or subdivision one of  
6 section 130.45 of the penal law, the affirmative defenses set forth,  
7 respectively, in the closing paragraph of such sections of the penal law  
8 shall apply.

9 § 2. Section 213-c of the civil practice law and rules, as amended by  
10 chapter 315 of the laws of 2019, is amended to read as follows:

11 § 213-c. Action by victim of conduct constituting certain sexual  
12 offenses. (a) Notwithstanding any other limitation set forth in this  
13 article, except as provided in subdivision (b) of section two hundred  
14 eight of this article, all civil claims or causes of action brought by  
15 any person for physical, psychological or other injury or condition  
16 suffered by such person as a result of conduct which would constitute  
17 rape in the first degree as defined in section 130.35 of the penal law,  
18 or rape in the second degree as defined in subdivision two of section  
19 130.30 of the penal law, or rape in the third degree as defined in  
20 subdivision one or three of section 130.25 of the penal law, or criminal  
21 sexual act in the first degree as defined in section 130.50 of the penal  
22 law, or criminal sexual act in the second degree as defined in subdivi-  
23 sion two of section 130.45 of the penal law, or criminal sexual act in  
24 the third degree as defined in subdivision one or three of section  
25 130.40 of the penal law, or incest in the first degree as defined in  
26 section 255.27 of the penal law, or incest in the second degree as  
27 defined in section 255.26 of the penal law (where the crime committed is  
28 rape in the second degree as defined in subdivision two of section  
29 130.30 of the penal law or criminal sexual act in the second degree as  
30 defined in subdivision two of section 130.45), or aggravated sexual  
31 abuse in the first degree as defined in section 130.70 of the penal law,  
32 or course of sexual conduct against a child in the first degree as  
33 defined in section 130.75 of the penal law may be brought against any  
34 party whose intentional or negligent acts or omissions are alleged to  
35 have resulted in the commission of the said conduct, within twenty  
36 years.

37 (b) Notwithstanding the provisions of subdivision (a) of this section,  
38 or any other provision of law to the contrary, all civil claims or caus-  
39 es of action brought by any person for physical, psychological or other  
40 injury or condition suffered as a result of conduct which would consti-  
41 tute a sexual offense as defined in article one hundred thirty of the  
42 penal law committed against a child less than eighteen years of age,  
43 incest as defined in section 255.25, 255.26 or 255.27 of the penal law  
44 committed against a child less than eighteen years of age, or the use of  
45 a child in a sexual performance as defined in section 263.05 of the  
46 penal law, or a predecessor statute that prohibited such conduct at the  
47 time of the act, which conduct was committed against a child less than  
48 eighteen years of age, such action may be commenced at any time.

49 (c) Nothing in this section shall be construed to require that a crim-  
50 inal charge be brought or a criminal conviction be obtained as a condi-  
51 tion of bringing a civil cause of action or receiving a civil judgment  
52 pursuant to this section or be construed to require that any of the  
53 rules governing a criminal proceeding be applicable to any such civil  
54 action.

55 § 3. Section 214-g of the civil practice law and rules, as amended by  
56 chapter 130 of the laws of 2020, is amended to read as follows:

1 § 214-g. Certain child sexual abuse cases. Notwithstanding any  
2 provision of law which imposes a period of limitation to the contrary  
3 and the provisions of any other law pertaining to the filing of a notice  
4 of claim or a notice of intention to file a claim as a condition prece-  
5 dent to commencement of an action or special proceeding, every civil  
6 claim or cause of action brought against any party alleging intentional  
7 or negligent acts or omissions by a person for physical, psychological,  
8 or other injury or condition suffered as a result of conduct which would  
9 constitute a sexual offense as defined in article one hundred thirty of  
10 the penal law committed against a child less than eighteen years of age,  
11 incest as defined in section 255.27, 255.26 or 255.25 of the penal law  
12 committed against a child less than eighteen years of age, or the use of  
13 a child in a sexual performance as defined in section 263.05 of the  
14 penal law, or a predecessor statute that prohibited such conduct at the  
15 time of the act, which conduct was committed against a child less than  
16 eighteen years of age, which is barred as of the effective date of this  
17 section because the applicable period of limitation has expired, and/or  
18 the plaintiff previously failed to file a notice of claim or a notice of  
19 intention to file a claim, is hereby revived, and action thereon may be  
20 commenced not earlier than six months after[~~, and not later than two~~  
21 ~~years and six months after~~] the effective date of this section. In any  
22 such claim or action: (a) in addition to any other defense and affirma-  
23 tive defense that may be available in accordance with law, rule or the  
24 common law, to the extent that the acts alleged in such action are of  
25 the type described in subdivision one of section 130.30 of the penal law  
26 or subdivision one of section 130.45 of the penal law, the affirmative  
27 defenses set forth, respectively, in the closing paragraph of such  
28 sections of the penal law shall apply; and (b) dismissal of a previous  
29 action, ordered before the effective date of this section, on grounds  
30 that such previous action was time barred, and/or for failure of a party  
31 to file a notice of claim or a notice of intention to file a claim,  
32 shall not be grounds for dismissal of a revival action pursuant to this  
33 section.

34 § 4. This act shall take effect immediately.