

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

LATANYA ALEXANDER, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 08 C 6688
	)	
OFFICER ZINCHUCK, et al.,	)	
	)	
Defendants.	)	

MEMORANDUM ORDER

Months ago this Court ruled that plaintiffs' counsel Blake Horwitz ("Horwitz") was entitled to recompense for the added time and expense that he and his associates had incurred because of defendants' much-delayed production of a key piece of evidence: the identity of the Chicago Police Department ("CPD") officers to whom pepper spray canisters had been issued on the November 2008 election night of President Barack Obama's first term, with the spray then being used to quell a celebration that occupied several square blocks in Chicago's Austin neighborhood. That information, which plays an important role in this multi-plaintiff multi-defendant 42 U.S.C. §1983 litigation, had appeared to be an elusive will-o'-the-wisp until it turned out to have been detailed in a contemporaneous memorandum made by a CPD higher-up, a Lieutenant Kilroy, that for some reason he had failed to make a part of official CPD records.<sup>1</sup>

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<sup>1</sup> In fairness to defense counsel, it should be said that they were unaware of the Kilroy memo when they were responding to the discovery requests by plaintiffs' counsel. As soon as

Quantification of the Fed. R. Civ. P. ("Rule") 37 award of fees and expenses, however, has proved to be just about as elusive as the belatedly-supplied memorandum had been: Successive submissions by the litigants have shown them to be miles apart in their views, and this Court most recently directed attorney Horwitz to provide some added input to help in the process. But earlier this week Horwitz filed a submission that advised that he had been unable to do so to date and that he would be out of the country for some two months beginning today, December 6.

This Court has declined Horwitz' invitation in that filing to attempt to resolve the matter before his departure despite the absence of the requested added input on his part. Instead this Court will await Horwitz' return and the response that he will then provide. This memorandum order therefore memorializes this Court's oral denial of Horwitz' request for a current resolution of the fee award.



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Milton I. Shadur  
Senior United States District Judge

Date: December 6, 2012

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defense counsel learned about the memo, they promptly delivered a copy to plaintiffs' counsel.