UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAMARIS CUEVAS,

Plaintiff,

-against-

THE CITY OF NEW YORK & OFFICERS JOHN DOES,

Defendants.

07 Civ. 4169 (LAP)

SCHEDULING ORDER

LORETTA A. PRESKA, United States District Judge:

In light of Plaintiff's repeated failures to meet the filing deadlines set in this action (see Ms. Smith's May 12 letter (attached)), Defendants' motion pursuant to Rule 12(c) is deemed sub judice, and the June 4, 2009 argument is cancelled.

SO ORDERED

June 1, 2009

Loretta A. Preska

Loretta A. Preska, U.S.D.J.

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

MICHAEL A. CARDOZO
Corporation Counsel

KATHERINE E. SMITH
Phone: (212) 513-0462
Fax: (212) 788-9776
ksmith@law.nyc.gov

May 28, 2009

BY FACSIMILE
Honorable Loretta A. Preska
United States District Judge
United States Courthouse, Southern District of New York
500 Pearl Street
New York, New York 10007
Fax: 212-805-7941

Re: Damaris Cuevas v. City of New York, et al., 07 Civ. 4169 (LAP)

Your Honor:

As the Assistant Corporation Counsel assigned to the defense of the above-referenced civil rights action on behalf of the City of New York, I write to respectfully request that defendant City's Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(c) be deemed unopposed and, as such, be granted in its entirety and that the Oral Arguments scheduled for June 4, 2009 at 8:30 a.m. be adjourned.

On May 7, 2009, defendant served its Motion to Dismiss on plaintiff's counsel, Jennielena Rubino, Esq., by first class mail. On May 7, 2009, this office filed defendant's motion with the Clerk of the Court and, pursuant to Your Honor's Individual Rules, sent a courtesy copy to Chambers. Originally, plaintiff's opposition papers to Defendant's Motion to Dismiss were to be filed and served by May 14, 2009, defendant's reply papers, if any, served and filed by, May 20, 2009 and Oral Arguments scheduled for May 21, 2009 at 11:00 a.m.

However, on May 20, 2009, an impromptu telephone conference with the Court was held, during which plaintiff's counsel requested, and was granted, additional time in which to file and serve opposition papers. The Court Ordered that plaintiff's opposition papers were to be served and filed by **May 22, 2009**, defendant's reply papers, if any, served and filed by, today, **May 28, 2009** and Oral Arguments scheduled for **June 4, 2009** at **8:30 a.m.**

To date, plaintiff has neither filed opposition papers with the Court nor served defendant with said papers. Accordingly, defendant respectfully requests that its Motion to

Dismiss Pursuant to Fed. R. Civ. P. 12(c) be deemed unopposed and, as such, be granted in its entirety and that the Oral Arguments scheduled for June 4, 2009 at 8:30 a.m. be adjourned.

Thank you for your consideration herein.

Respectfully submitted,

Katherine E. Smith
Assistant Corporation Counsel

cc: Jennielena Rubino, Esq.
Attorney for Plaintiff
240 Madison Avenue, 7th Floor
New York, New York 10016
Fax: 212-681-1556
(By Facsimile)