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September 22, 2021

VIA ECF

Honorable Paul A. Engelmayer
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: Antoine Ross v. Capt. Willis, et al., 16-CV-6704 (PAE) (KNF)

Your Honor:

I am an Assistant Corporation Counsel in the Office of Georgia M. Pestana, Corporation Counsel of the City of New York, representing defendants Correction Officers George and Genoves in the above-referenced matter. In that capacity, I write to respectfully request an extension of time to complete the pretrial submissions from October 25, 2021, to November 23, 2021. This is the second request for an extension of time to complete the pretrial documents. Counsels for Defendant Captain Willis joins this application. Plaintiff counsel does not consent to this application for the reasons explained below.

As the Court is aware, the defendants filed the first extension request on August 13, 2021, with the consent of all the parties, for the parties to explore whether this case could be resolved by settlement. ECF No. 193. The Court granted the first extension request on August 16, 2021. ECF No. 194. After several settlement discussions between the parties, the plaintiff rejected the defendants' offer on September 21, 2021. Accordingly, the parties will proceed to trial on the remaining excessive force claim against Captain Willis and the failure to intervene claim against Correction Officers George and Genoves.

As your Honor is aware, the drafting of pretrial documents requires several discussions and coordination between the parties before submitting the pretrial documents to the Court. The parties have not yet been able to agree to a pretrial schedule due to the fact that defendants were waiting to get a response to our counteroffer from September 2, 2021 to September 21, 2021, which was ultimately rejected. Now that settlement discussions are over, the

parties are working to finalize a schedule in order to complete all of the pretrial submissions in this case. However, the undersigned respectfully request an enlargement of time to complete the pretrial submissions as the undersigned is scheduled to begin trial in the matter of Elvis Sanchez v. Captain White, et al., 18 Civ. 1259 (JPC), on October 18, 2021, in the Southern District of New York, before the Honorable John P. Cronan and will be unavailable the week of October 18, 2021 to October 22nd. Prior to that trial date, the undersigned will be conducting trial preparation, which currently conflicts with plaintiff's proposed pretrial schedule in this case.

Additionally, codefendant for Capt. Willis joins this application as this extension will allow new counsel to familiarize himself with the facts and various discovery documents exchanged in this case.

Plaintiff's Position:

Mr. Ross does not consent to a second one-month extension to file pretrial materials. While corporation counsel cites a trial beginning on October 18, the court hearing that case had directed the parties in an August 4, 2021 conference to be ready for trial by October 18. *Sanchez v. White*, No. 18 Civ. 1259 (S.D.N.Y. Aug. 4, 2021) (minute entry). One week later, counsel represented to this Court that it could submit pretrial materials by the current October 25, 2021 due date. Dkt. 193 (August 13, 2021 extension motion). Nor has counsel provided any reason why it would be necessary to extend the pretrial deadline by another month after completing the *Sanchez* trial, which counsel has represented will last only two to four days. And given that this case has already been pending over five years, Mr. Ross wishes to avoid any further unnecessary delay before he can have his day in court.

However, as a courtesy, and recognizing that new counsel for Mr. Willis has appeared in this case, Mr. Ross offered as a compromise to extend the date for pretrial submissions to November 8, 2021. That offer was rejected.

Defendants Response:

Contrary to plaintiff's assertions, in light of the current public health pandemic the trial before Judge Cronan was only confirmed for a trial date on August 27, 2021. See Sanchez v. Capt. White, et al., 18-CV-1259, ECF No. 143. Plaintiff's proposed date of November 8, 2021, will still present problems for the undersigned as it will require the undersigned to engage with counsel on pretrial documents for this case while on trial for another matter¹. Presently, there is no current trial date for this case, thus, it is respectfully requested that the Court grant this enlargement request from October 25, 2021 to November 23, 2021.

Thank you for your consideration.

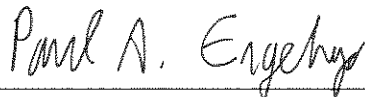
Respectfully submitted,
William T. Gosling /S
William T. Gosling
Assistant Corporation Counsel

¹ The undersigned is also involved in several other active cases in both the Southern District and Eastern District of New York.

cc: Justin M. Ellis, Lauren F. Dayton, Sara Ellen Margolis (by ECF)
Attorneys for Plaintiff

James G. Frankie, Steven Charles Stern (By ECF)
Attorneys for Captain Willis

The Court thanks counsel for their letter and adjourns the deadline for the submission of the joint pretrial order to November 8, 2021. As the Court's deadline to submit dates for a trial in the first quarter of 2022 is November 15, 2021, the Court expects to reach out to counsel promptly after November 8 to discuss potential trial dates. SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge
09/27/2021