

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

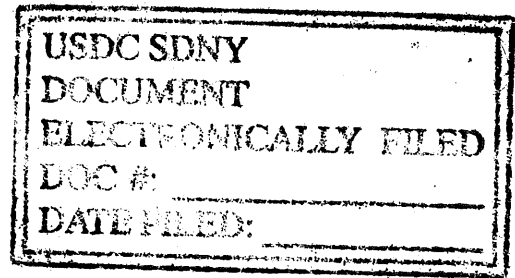
STEPHANIE JOHNSON,

Plaintiff,

-versus-

CITY OF NEW YORK, et al.

Defendants.



No. 16 Civ. 9561

LORETTA A. PRESKA, Senior United States District Judge:

Before the Court is a joint submission requesting a ruling on disputes regarding proposed redactions from medical records (dkt. no. 78) and plaintiff's motion requesting leave to amend the Joint Pre-Trial Order ("JPTO") (dkt. no. 77).

With respect to the first motion, the proposed redactions marked in black and red shall be redacted. The proposed red redactions (which marked areas of dispute) are not admissible under Fed. R. Evid. 803(4) because they are allegations of fault, not statements made for the purpose of diagnosis. Counsel shall assure that all redactions are complete, including those on Exhibit 10 at page DEF51, where it appears that the "mis" in "mistreated" is not covered by the redaction.

The motion to amend the JPTO to change the theory of liability against Roberto Gutierrez is denied. A direct excessive force claim is different from a supervisory liability claim. Today is the last business day before trial; it is too

late to change the theory of liability. This defendant will be prejudiced by a change of theory at the eleventh hour. Accordingly, the theory may not be changed at this late date.

Dated: New York, New York
January 24, 2020



LORETTA A. PRESKA
Senior U.S. District Judge