

MEMO ENDORSED

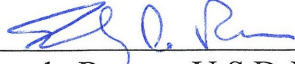
COHEN & GREEN

BY ECF

Hon. Edgardo Ramos
 United States District Court
 Southern District of New York
 40 Foley Square
 New York, NY 10007

The request for a pre-motion conference is GRANTED. A pre-motion conference will be held on April 15 at 11:00 AM. The parties are instructed to call (877) 411 9748 and enter access code 3029857# when prompted. Defendants are instructed to respond to this letter by no later than March 23, 2022.

SO ORDERED.


 Edgardo Ramos, U.S.D.J.
 Dated: March 18, 2022
 New York, New York

Re: *Burton, et al., v. Bussanich, et al.*, 18 CV 2039 (ER)

Your Honor:

I am co-counsel for Plaintiffs in this medical malpractice and wrongful death action brought against the United States under the Federal Tort Claims Act, and against certain individuals employed by the Bureau of Prisons (the “BOP”) under *Bivens*. This action arose from the death of Franklin Sanchez, a Colombian citizen who was in BOP custody after being extradited to the United States. I write pursuant to Section 2.A.i. of Your Honor’s Individual Rules of Practice to request an informal conference with the Court in advance of Plaintiffs’ motion to compel certain discovery from the Defendants. Alternatively, Plaintiffs respectfully request that the Court issue an Order directing defense counsel to promptly meet and confer with Plaintiffs’ counsel on the below issues.

On December 10, 2021, the Court issued an Order setting May 25, 2022 as the new deadline to complete all fact discovery. On February 1, 2022, the parties began conferring to secure deposition dates of the BOP officials and medical personnel involved in this incident. Over the course of the next month, I followed up with defense counsel Brandon Cowart numerous times by email to confirm dates of at least the first Defendants to be deposed so that the parties could start moving the ball on depositions.

On March 11th, Mr. Cowart finally confirmed late March deposition dates for Defendants Dr. Bussanich and Dr. Beaudoin. On March 14th, I emailed Mr. Cowart asking that he provide (1) responsive documents to Plaintiffs’ document requests 13-29, which relate to policies, practices and training at the facility in regards to medical treatment of people in BOP custody (*see* Exhibit 1, Plaintiffs’ document requests); and (2) certain documents which Mr. Cowart previously said he would not produce, such as photos of the area where Mr. Sanchez died, malpractice history and personnel files of the medical professional Defendants. (*See* Exhibit 1, Plaintiffs’ document requests 30, 36 -42).



Plaintiffs initially served document demands for these items on November 8, 2019. On August 10, 2020, Defendants served responses to demands 13-29 stating that “Defendants will search for and produce responsive documents.” Defendants objected to and refused to provide the photos, malpractice histories, and personnel files. Defendants’ responses and objections are attached as Exhibit 2.

Plaintiffs require these documents to go forward with depositions. In my March 14th email, I asked Mr. Cowart to provide these documents by March 16th or provide a time this week during which he is available to meet and confer on these issues in advance of Plaintiffs’ March 18, 2022 motion to compel. Mr. Cowart has not responded to my emails and, at this point, the depositions scheduled for late March will have to be adjourned because the lack of documents is obstructing counsel’s ability to prepare to take the depositions.

In light of the fact that Plaintiffs require these documents to move forward with depositions, and the fact that Mr. Cowart has not responded to our request for a meet and confer, Plaintiffs respectfully request that the Court issue an Order scheduling an informal conference with the Court in advance of Plaintiffs’ motion to compel certain discovery from the Defendants. Alternatively, Plaintiffs respectfully request that the Court issue an Order directing defense counsel to promptly meet and confer with Plaintiffs’ counsel on the below issues.

Plaintiffs thank the Court for its consideration of this request.

Respectfully Submitted,

/S/

Elena L. Cohen