

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

|                           |   |             |                     |
|---------------------------|---|-------------|---------------------|
| -----                     | X |             |                     |
|                           | : |             |                     |
| RICHARD ROSARIO,          | : |             |                     |
|                           | : | Plaintiff,  |                     |
|                           | : |             | 18 Civ. 4023 (LGS)  |
| -against-                 | : |             |                     |
|                           | : |             | <b><u>ORDER</u></b> |
| CITY OF NEW YORK, et al., | : |             |                     |
|                           | : | Defendants. |                     |
| -----                     | X |             |                     |

LORNA G. SCHOFIELD, District Judge:

WHEREAS, the jury trial in this case was adjourned sine die. It is hereby

**ORDERED** that the jury trial is rescheduled for July 25, 2022, at 9:45 a.m. subject to the availability of courtrooms during the COVID-19 pandemic. The trial will proceed Monday to Thursday except it will not proceed on July 28. It is further

**ORDERED** that the parties shall confer about limiting or other interim instructions they intend to propose and file a joint letter by **April 29, 2022**, stating the proposed instructions, whether the parties agree, any issues in dispute and the legal basis for the disputes. The parties may include any instruction explaining the absence of any person from all or part of the trial. It is further

**ORDERED** that the parties shall confer regarding demonstrative aids. If there are any issues, the parties shall file a joint letter by **May 13, 2022**, stating the issue and each party’s position on the issue and providing a copy of the demonstrative aid. It is further

**ORDERED** that Plaintiff shall file the additional photographs that they seek to use during Plaintiff’s direct testimony and a joint letter specifying the parties’ positions on the admissibility of each photograph where there is any disagreement by **May 20, 2022**. It further

**ORDERED** that the parties shall confer about potential testimony regarding why

Plaintiff's photo was in the mugshot book. If the parties cannot reach agreement about how to handle any issues, they shall file a joint letter stating the issue, the proposed solution, including any proposed limiting instruction, and the legal basis for the dispute by **May 20, 2022**. It is further

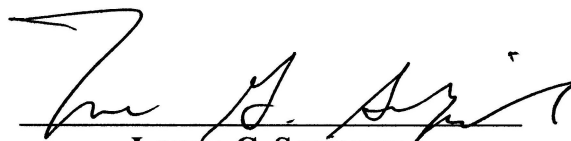
**ORDERED** that if Defendants would like rulings on any exhibits reconsidered in relation to Plaintiff's status as a robbery suspect, then Defendants shall file a letter by **May 20, 2022**. It is further

**ORDERED** that the NBC Dateline videos are excluded under Rule 403 for the same reason certain photos at Exhibit P93 were excluded. It is further

**ORDERED** that the twenty-two minute video of Plaintiff is excluded because the danger of unfair prejudice to Plaintiff strongly outweighs the probative value of the video to Defendants' defenses. The probative value of the video is extremely low, and the video may be used to suggest that Mr. Rosario is a threatening person. It is further

**ORDERED** that Plaintiff's request for clarification as to the admitted portions of the Silverman deposition is GRANTED. The following excerpts from Volume I are excluded: YB188:17-25, P128:25. The following excerpts from Volume II are excluded: Y208:19-25, Y236:13-22. The following excerpts from Volume I are admitted: B35:20-25; Y97:17; Y217:14-218:13.

Dated: March 17, 2022  
New York, New York

  
**LORNA G. SCHOFIELD**  
**UNITED STATES DISTRICT JUDGE**