



THE CITY OF NEW YORK
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January 28, 2020

VIA ECF

Honorable Stewart D. Aaron
 United States Magistrate Judge
 United States District Court
 Southern District of New York
 500 Pearl Street
 New York, NY 10007

Re: Robert J. Ortiz v. Detective Raymond Low, et al.,
 19 Civ. 3522 (AJN) (SDA)

Your Honor:

I am a Senior Counsel in the Office of James E. Johnson, Corporation Counsel of the City of New York, and the attorney for interested party New York City Corporation Counsel to the above-referenced case. I respectfully write in response to Your Honor's January 21, 2020 Order that "the City shall advise the Court which portions of the [Plaintiff's January 17, 2020] filing should filed under seal." Docket No. 49. Additionally, I write in accordance with the Court's December 4, 2019 Order advising that "[a]fter service is completed upon Defendants Detective Raymond Low, Detective Xavier Reynoso and Detective Manuel Cordova, the Court will entertain applications to extend their time to appear, answer or otherwise respond *sine die*." Docket No. 44. Accordingly, the undersigned respectfully requests that pages 8 and 9 of Document No. 48 on the docket be filed under seal for the reasons previously set forth in the Court's Order granting the City's Motion to Seal these documents. *See* Docket No. 38. The undersigned further respectfully requests that the Court stay the instant action, and that all presently scheduled appearances and deadlines be suspended *sine die*, until the New York City Police Department ("NYPD") administrative trial of this matter is concluded, and that the Court hold all answers or responses of the individual defendants in abeyance until the conclusion of the NYPD administrative trial.

By way of background, plaintiff brings this action pursuant to 42 U.S.C. § 1983 alleging, *inter alia*, that four New York City Police Department Members of Service, Raymond Low, Xavier Reynoso, Manuel Cordova, and Gregory Carty, used excessive force during the course of his arrest on August 18, 2017. Though not organized by specific claims, plaintiff also appears to raise claims that he was subjected to false arrest, malicious prosecution, and an unlawful search in which Detective Low "sexually harassed [plaintiff] by putting his unprotected hand in [plaintiff's] private area's [*sic*]." Docket No. 1.

Plaintiff filed his Complaint on April 18, 2019. *See* Docket No. 1. As part of his Complaint, plaintiff filed records of the Civilian Complaint Review Board's ("CCRB") findings as to

individual officers on the public docket. On October 2, 2019, the City filed a Motion requesting that pages 8 and 9 of the Complaint (hereinafter referred to as the “CCRB Pages”) be removed from the public docket. *See* Docket No. 25. The City then responded to the Court’s Order to Show Cause on this issue setting forth the City’s Motion to Seal Document in full. *See* Docket No. 36. The Court granted the City’s Motion to Seal Document on November 1, 2019, and Ordered that the CCRB Pages be filed under seal. Docket Nos. 38 and 40. However, on January 17, 2020, the plaintiff filed an “Affirmation of Affidavit [sic]” on the docket and, again, attached the CCRB Pages as pages 8 and 9 to Document No. 48 on the docket. Accordingly, the undersigned respectfully submits that these pages should be sealed for the reasons previously set forth in the Court’s Order granting the City’s Motion to Seal these documents. *See* Docket No. 38.

Additionally, on December 4, 2019, the Court granted the City’s motion to stay discovery in this case pending the outcome of the New York City Police Department administrative trial arising from the same allegations asserted herein. *See* Docket No. 44. On that same date, the Court extended *sine die* the time for Defendant Gregory Carty to “appear, answer, or otherwise respond to the Complaint.” *Id.* The Court indicated that it would “entertain applications to extend [the] time to appear, answer or otherwise respond” for Defendants Raymond Low, Xavier Reynoso, and Manuel Cordova after service was completed. On January 22, 2020, Marshal’s Process Receipts and Returns of Service Executed were filed on the docket indicating that service was accepted on behalf of Raymond Low, Xavier Reynoso, and Manuel Cordova on January 15, 2020. *See* Docket Nos. 50-52. Additionally, on January 28, 2020, the undersigned communicated with a representative of the CCRB Administrative Prosecution Unit who confirmed that the NYPD administrative trial concerning this matter remains ongoing. The undersigned will continue to comply with any Court Order to provide updates as to the status of the NYPD administrative trial, including the present Order to provide an update by February 17, 2020. *See* Docket No. 47. Accordingly, the undersigned respectfully requests that all answers or responses of all individual defendants be held in abeyance until the conclusion of the NYPD administrative trial for the reasons set forth in the City’s October 2, 2019 Motion. Docket No. 25.

For the reasons set forth herein, the undersigned respectfully requests that: (1) pages 8 and 9 of Document No. 48 on the docket be filed under seal; (2) the Court continue the stay of the instant action and all presently scheduled appearances and deadlines be suspended *sine die*, until the NYPD administrative trial of this matter is concluded; and (3) the Court hold all answers or responses of the individual defendants in abeyance until the conclusion of the NYPD administrative trial.

I thank the Court for its time and consideration of this request.

Requests GRANTED IN PART and DENIED IN PART.

(1) The City's request that pages 8 and 9 of Plaintiff's Affidavit at ECF No. 49 be filed under seal is GRANTED. The Court will cause the public document to be redacted and the Clerks Office shall place Plaintiff's original January 17, 2020 filing under seal.

Respectfully submitted,

/s/ Nelson R. Leese

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cc: VIA FIRST CLASS MAIL
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(2) As per the Court's January 8, 2020 Order (see ECF No. 47), the City's request to stay the instant action until the NYPD administrative trial is concluded is DENIED IN PART. This action will remain stayed until February 17, 2020 upon which date the City shall write to the Court a letter as to the status of the NYPD administrative trial and request a continuation of the stay, if appropriate. Following receipt of the City's letter, the Court will consider whether to continue the stay.

(3) the City's request to adjourn, *sine die*, the date for all answers or responses to the Complaint pending the outcome of the administrative trial is GRANTED. The Clerk shall mail this Order to *pro se* Plaintiff. SO ORDERED.

Dated: January 29, 2020

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