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January 6, 2021

By ECF

Hon. Katherine Polk Failla
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

MEMO ENDORSED

Re: Figueroa v. City of New York, et al.,
19 Civ. 11178 (KPF)

Your Honor:

I am an Assistant Corporation Counsel in the office of James E. Johnson, Corporation Counsel of the City of New York, and the attorney representing defendants City of New York and David Dimitri ("City Defendants") in the above-referenced matter. I write (i) to respectfully request to withdraw as counsel for defendants Mary Padovano and Giovanni Caggia and (ii) to respectfully a stay or, alternatively, an extension, of fact and expert discovery, to permit time for defendants Padovano and Caggia to obtain new counsel before proceeding with discovery, including party and non-party depositions. Plaintiff's counsel takes no position regarding the undersigned's request to withdraw as counsel and is "not against any stay of discovery that will follow given change of counsel."

As background, the parties have been diligently working to complete fact discovery within the Court-Ordered deadline of January 26, 2020. Indeed, City Defendants timely collected, reviewed, and produced to plaintiff over four thousand electronically stored documents by the Court-Ordered deadline of December 31, 2020. (See Dkt. Entry No. 30). City Defendants had further conferred with plaintiff in an effort to schedule depositions in advance of the fact discovery deadline.

However, this Office recently learned of information that has created a conflict that prevents this Office from continuing to represent defendants Padovano and Caggia in this matter. As such, the undersigned respectfully requests to withdraw as counsel for these defendants and further seeks a stay, or, in the alternative, an extension of fact and expert discovery, in order to allow these defendants time to obtain new counsel.

The undersigned respectfully acknowledges that the parties' first joint request for a discovery extension in order to, *inter alia*, permit City Defendants time to produce electronically stored documents (which have now been produced) was denied. (See Dkt. Entry No. 30). However, the information affecting this Office's ability to continue to represent defendants Padovano and Caggia was not known at that time. Accordingly, based on this change of circumstances and the need for these individuals to obtain new counsel, the undersigned respectfully requests a stay, or, in the alternative, an extension of fact and expert discovery.

Should the Court require additional information regarding the basis of the conflict which prevents this Office from continuing to represent defendants Padovano and Caggia, the undersigned would respectfully request permission to file such information *ex parte* and under seal as such information necessarily implicates the attorney-client relationship. Courts in this circuit have routinely authorized filing such documents under seal for *ex parte* review. See, e.g., C.D.S., Inc. v. Zetler, No. 16-cv-3199 (VM) (JLC), 2017 U.S. Dist. LEXIS 43159, at *15 n.2 (S.D.N.Y. Mar. 23, 2017).

For the foregoing reasons, the undersigned respectfully requests to withdraw as counsel for defendants Mary Padovano and Giovanni Caggia and further respectfully requests either a stay or, in the alternative, an extension of discovery to permit time for defendants Padovano and Caggia to obtain new counsel before proceeding with discovery, including depositions.

The undersigned thanks the Court for its time and consideration in this matter.

Respectfully submitted,

/s/ Adria Bonillas

Adria Bonillas

Assistant Corporation Counsel

cc: Sam Maduegbuna, Esq. (by ECF)
William Cowles, Esq. (by ECF)

Mary Padovano (by mail and email)

Giovanni Caggia (by mail and email)

The Court is in receipt of Corporation Counsel's above letter requesting to withdraw as counsel for Defendants Padovano and Caggia, and to stay fact and expert discovery. The parties, including Defendants Padovano and Caggia, are hereby ORDERED to appear for a telephone conference regarding Corporation Counsel's application on January 14, 2021, at 10:00 a.m. The dial-in information is as follows: At 10:00 a.m. the parties shall call (888) 363-4749 and enter access code 5123533. Please note, the conference will not be available prior to 10:00 a.m.

Corporation Counsel is directed to file a letter regarding the basis for its conflict on or before January 12, 2021. Their submission may be filed *ex parte* and under seal. Though the Court expects that discussions regarding the reasons for withdrawal may be generalized or abbreviated so as not to invade the attorney-client privilege, the Court also expects that counsel has fully discussed the reasons for withdrawal with Defendants Padovano and Caggia.

Dated: January 7, 2021
New York, New York

SO ORDERED.

A handwritten signature in blue ink that reads "Katherine Polk Failla". The signature is written in a cursive, flowing style.

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE