



THE CITY OF NEW YORK
LAW DEPARTMENT
 100 CHURCH STREET
 NEW YORK, NY 10007

JAMES E. JOHNSON
Corporation Counsel

PETER W. BROCKER
Assistant Corporation Counsel
 Phone: (212) 356-2332
 Fax: (212) 356-3509
 pbrocker@law.nyc.gov

January 5, 2021

BY ECF

Hon. P. Kevin Castel, U.S.D.J.
 United States District Court
 Southern District of New York
 500 Pearl Street
 New York, NY 10007

Re: Kevin Monahan, et al. v. City of New York,
 20 Civ. 2610 (PKC)

Your Honor:

I am the attorney assigned to the defense of the above-referenced matter, and I write to seek a brief extension of time to comply with the Court's Order that the City of New York ("Defendant") produce affidavits in response to the topics identified in Plaintiffs' Rule 30(b)(6) deposition notice. (See, Dkt. No. 38). Specifically, Defendant requests that the Court extend the time for this production from January 6th to January 8th for affidavits regarding the arrests of plaintiffs Kevin Monahan, Antonio Serna, and Robert LaMorte, and an extension for one additional week to January 15th for affidavits related to the arrests of plaintiffs Pablo Varona Borges and Emer McKenna. This is Defendant's first request for an extension, and Plaintiffs consent to this request.¹

By way of brief background, this matter was brought by five individuals alleging that they were falsely arrested while protesting on the first anniversary of the Occupy Wall Street movement on September 17, 2012. Plaintiffs' sole claim, however, is against the City of New York for failing to adequately train officers of the New York City Police Department ("NYPD") on the proper application of New York State laws prohibiting disorderly conduct and obstruction of governmental administration.

Defense counsel in this matter have worked diligently to comply with the Court's Order to produce affidavits from persons with knowledge of the facts underlying Plaintiffs' arrests, and

¹ Defendant notes for the Court that there is a conference currently scheduled for January 14, 2021 at 11:30 a.m., which may be affected by this extension.

*Application
 Granted
 SO ORDERED
 [Signature]
 USDS
 1-6-21*

are in the process of compiling affidavits from the individuals who averred to observing Plaintiffs' illegal conduct in paperwork supporting the arrests. Despite these efforts, because the events at issue were eight years ago, two of the officers are now retired and were not easily reached. The two retired officers are anticipated affiants regarding the arrests of plaintiffs McKenna and Varona Borges. Counsel has left voicemails on their phones, liaised with NYPD's Legal Bureau to make contact, and sent letters to their pension addresses, but have not yet heard back from these two officers. Further, because of the impact of the holidays, the undersigned had additional difficulty reaching the officers who are still employed by the NYPD. As of the filing of this letter, defense counsel have successfully met with those three affiants, however, and are in the process of finalizing those affidavits. Additional time is needed to finalize these three affidavits, which are anticipated to be completed by Friday January 8th.

As a result, Defendant seeks a brief extension of time, from January 6th to January 8th to file the Ordered affidavits regarding the arrests of plaintiffs Monahan, Serna, and LaMorte, and an extension of one additional week to January 15th to file the Ordered affidavits related to the arrests of plaintiffs Varona Borges and McKenna.

Thank you for your consideration of this matter.

Sincerely,

Peter W. Brocker /s/

Peter W. Brocker, Esq.

Assistant Corporation Counsel

cc: All counsel of record (via ECF)