

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MEMO ENDORSED

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JAMEL MANNING,

Plaintiff,

-against-

NOTICE OF MOTION

MIGUEL A. FUENTES, JR., President
BRONXCARE HEALTH SYSTEM,

20-CV-9704 (LTS)(BCM)

Defendants.

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PLEASE TAKE NOTICE that upon the Memorandum of Law in Support of Defendant Fuentes's Motion to Dismiss the Complaint, dated March 29, 2021, and all other pleadings and proceedings had herein, Defendant Fuentes will move this Court, at the Daniel Patrick Moynihan United States Courthouse located at 500 Pearl St., New York, NY 10007, before the Honorable Laura Taylor Swain at a date and time to be set by the Court, for an order, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, dismissing the Complaint against Defendant Fuentes in its entirety on the grounds that Plaintiff has failed to state a claim for relief that is plausible on its face, and granting Defendants costs and fees, together with such other and further relief as the Court may deem just and proper.

Defendants have informally attempted to resolve the matters raised in this motion with Plaintiff. On March 19, 2021, the undersigned e-mailed Plaintiff explaining the grounds of the anticipated motion and requested a time to speak. The parties spoke on March 23, 2021. During the conversation the undersigned again explained the grounds for the motion and offered Plaintiff time to contemplate an amended complaint or to speak with any counsel/advisor Plaintiff wished, but noted the deadline to file. Plaintiff has not responded since the March 23rd

phone call. To date, the Complaint has not been amended in response to the arguments raised in this motion. Plaintiff has been provided copies of all unpublished cases contained in the accompanying memorandum of law. This motion does not refer to matters outside the pleadings as described in Federal Rule of Civil Procedure 12(b) or 12(c).

Dated: New York, New York
March 30, 2021

On the basis of the foregoing revised notice of motion, Defendant Fuentes's motion to dismiss the complaint (DE# 16) is hereby reinstated as of March 31, 2021. Any opposition to the motion must be filed by April 15, 2021, and any reply must be filed by April 22, 2021. The Clerk of Court is respectfully directed to terminate DE# 20 and restore the gavel on DE# 16.

SO ORDERED.

3/30/2021

/s/ Laura Taylor Swain, USDJ

COLLAZO & KEIL LLP

By: /s/

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