



“Waive Right to Jury Trial Agreement” a reference to the Shortened Time & Jury Waiver Agreement — even though the latter bears a different title and pertains not only to the waiver of the right to a jury trial, but also the applicable limitations period? The parties’ briefs do not adequately address this question, if they address it at all.

In light of the foregoing, the parties are hereby ORDERED to submit supplemental briefs addressing the following issues:

1. Whether and to what extent the Court may consider the Offer Letter — which is not referenced in the parties’ pleadings and is instead raised for the first time as part of Negro’s opposition papers — in evaluating the pending motions.
2. The relevant standard for determining as a matter of law whether one agreement is incorporated by reference into another and whether, applying that standard, the Court can and should conclude as a matter of law that the Shortened Time & Jury Waiver Agreement is or is not incorporated by reference into the Offer Letter.
3. If the Court cannot resolve the prior question as a matter of law, whether the question of incorporation by reference is a factual question to be decided by the Court (and, if so, at an evidentiary hearing) or by a jury at trial; whether discovery on the issue would be warranted; and what the relevant standard at a hearing or trial would be.

The parties’ supplemental briefs may not exceed ten pages each and shall be filed no later than

**June 18, 2021.** No replies will be permitted absent leave of Court.

SO ORDERED.

Dated: June 4, 2021  
New York, New York



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JESSE M. FURMAN  
United States District Judge