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MEMORANDUM November 7, 2023

VIA ECF

Honorable Paul G. Gardephe
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

The Application is granted.

SO ORDERED:

Paul G. Gardephe
Paul G. Gardephe, U.S.D.J.

Dated: Paul G. Gardephe

November 14, 2023

*The conference is adjourned
to January 11, 2024 at
11:00 AM*

Re: Rhashawn Wilson v. City of New York, et al.,
21 Civ. 479 (PGG)

Your Honor:

I represent defendants City of New York and McQuail in the above-referenced matter. Defendants City and McQuail write to respectfully request that the Court: (1) *sua sponte* grant defendants Officers Rogozinsky and Hartigan an extension of time to respond to the Amended Complaint to the same date by which Officer Carney must do so; and (2) adjourn the conference currently scheduled for January 4, 2024, at 10:00 a.m., to a later date convenient for the Court or, alternatively, convert the conference to a telephone conference. This is defendant City and McQuail's first such request. Plaintiff consents to this request.

By way of background, on October 19, 2023, plaintiff filed affidavits of service indicating that Officers Rogozinsky and Hartigan had been served with the Amended Complaint on October 19, 2023 (ECF Nos. 67-68). As such, Officers Rogozinsky and Hartigan's deadline to respond to the Amended Complaint is currently November 9, 2023. During the status conference on November 2, 2023, the Court granted plaintiff a third extension of time to serve Sgt. Carney with the Amended Complaint, to November 15, 2023 (ECF No. 69). Plaintiff has not yet filed an affidavit of service indicating that Sgt. Carney has been served. After the status conference, the Court scheduled an in-person status conference for January 4, 2024, at 10:00 a.m. (*id.*).

Defendants respectfully request that the Court *sua sponte* grant Officers Rogozinsky and Hartigan an extension of time to respond to the Amended Complaint to the same date that Sgt. Carney must do so, which is to be determined.¹ The chief reason for this request is to allow this Office to complete the process of assessing and assuming representation of Officers Rogozinsky

¹ This Office has not yet assumed representation of Officers Rogozinsky and Hartigan, and thus this request is not made on their behalf.

and Hartigan. See General Municipal Law § 50(k); Mercurio v. City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985); Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law). This Office has made progress in the process of assuming representation Officers Rogozinsky and Hartigan, but it will be unable to do so by November 9, 2023.

This request is also made for the sake of efficiency. That is, the requested extension will allow this Office to file one response to the Amended Complaint on behalf of Rogozinsky, Hartigan, and Carney, rather than filing multiple responses by defendants who are all likely to be represented by this Office. Additionally, defendants City and McQuail note that the requested extension will not affect the current discovery deadline.

Additionally, defendants City and McQuail respectfully request that the Court adjourn the status conference currently scheduled for January 4, 2023, at 10:00 a.m., to a later date convenient for the Court, or, alternatively, convert the conference to a telephone conference. The reason for this request is that I am scheduled to be out-of-state through January 6, 2024. Insofar as the Court is inclined to adjourn the conference to a later date as opposed to convert it to a telephone conference, the parties are available on January 8, 9, and 10, 2024.

Accordingly, defendants City and McQuail respectfully request that the Court: (1) *sua sponte* extend Officers Rogozinsky and Hartigan's deadline to response to the Amended Complaint from November 9, 2023, until the date by which Sgt. Carney must do so, which is soon to be determined; and (2) adjourn the status conference currently scheduled for January 4, 2024, at 10:00 a.m., to a later date convenient for the Court, or, alternatively, convert the conference to a telephone conference.

Thank you for your time and consideration.

Respectfully submitted,

/s/ Zachary Kalmbach

Zachary Kalmbach

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Special Federal Litigation Division

cc:

Via ECF

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