

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KWAINE THOMPSON,

Plaintiff,

-against-

CITY OF NEW YORK,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 11/13/2023

21-CV-10371 (VEC) (BCM)

ORDER**BARBARA MOSES, United States Magistrate Judge.**

During today's telephonic status conference, plaintiff assured the Court that, since the last conference on August 22, 2023, he received and responded to defendant's written discovery requests as required. (See Dkt. 78 ¶ 4.) However, when informed that the Assistant Corporation Counsel assigned to this case never received those responses, plaintiff speculated that his responses might have been mailed to a different Assistant Corporation Counsel, who represents the City of New York in another case filed by plaintiff. Plaintiff then requested another copy of defendant's written discovery requests.

For the reasons discussed during the conference, it is hereby ORDERED that:

1. No later than **November 15, 2023**, defendant shall serve plaintiff with an additional copy of its written discovery requests and file proof of such service on the docket. This will be the *fifth time* that defendant has served those requests on plaintiff. The Court does not intend to require defendant to serve the same requests a sixth or a seventh time. Plaintiff shall serve his responses to defendant's written discovery requests within *one week* of receiving them, and shall include, with his responses, a copy of the Monkeypox testing poster that he described during the conference.
2. No later than **November 15, 2023**, defendant shall contact attorney Gregory Accarino, counsel of record for defendants in *Thompson v. City of New York, et al.*,

Case No. 22-CV-1458 (S.D.N.Y.), to determine whether plaintiff's responses to defendant's written discovery requests in this case were mistakenly sent to attorney Accarino. No later than **November 17, 2023**, defendant shall advise the Court on the result of its inquiry.

With respect to plaintiff's written discovery requests, it is hereby ORDERED that:

3. No later than **November 15, 2023**, defendant shall file a copy of plaintiff's written discovery requests, in the form received from plaintiff (including the envelope) on the docket of this action.
4. Defendant shall make a diligent inquiry to obtain and produce copies of any "court-orders from Manhattan Criminal Court Judge directing Riker's Island to have [plaintiff] tested for the monkeypox virus" that are in the possession, custody, or control of the New York City Department of Corrections (NYC DOC). (*See* Dkt. 84-1 at 1.) However, plaintiff is advised that since the orders may no longer be in the possession of the NYC DOC, he should also request copies from his criminal defense attorney.
5. Defendant shall make a diligent inquiry to obtain and produce any Monkeypox testing posters displayed in 2022 at or near the Anna M. Kross Center clinic (identified by plaintiff as C71).
6. Defendant shall produce records of plaintiff's 311 calls from October 2021 to October 2022, inclusive, concerning Monkeypox.

It is further ORDERED that:

7. The deadline for all remaining written discovery is EXTENDED to **December 29, 2023**. The deadline for all remaining fact discovery, including depositions, is EXTENDED to **January 31, 2024**.
8. The Court will hold a status conference on **January 10, 2024, at 11:00 a.m.**, via teleconference. The parties shall dial (888) 557-8511 and enter the access code 7746387 a few minutes before the scheduled time. No later than **January 5, 2024**, defendant shall, after conferring with plaintiff, file a status letter outlining the progress of discovery to date.

Dated: New York, New York
November 13, 2023

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge