By **November 28, 2023**, the City Defendants shall file a letter with an update on the status of representation for Defendants Maldonado, Castelluccio, Rosas and Vasquez, including whether they join in City Defendants' motion to dismiss. So Ordered.

The Clerk of Court is respectfully directed to mail a copy of this Order to the pro se Plaintiff.

Dated: November 13, 2023
New York, New York

LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

By ECF
Honorable Lorna G. Schofield
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: Ali Moore v. City of New York, et al.
22-CV-10957 (LGS)

Your Honor:

I am an Assistant Corporation Counsel in the Office of the Honorable Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and the attorney for defendant the City of New York, David Castro, Nilsa Nivar (formerly Nilsa Patricio), and Sanjay Bajnauth (hereinafter "City defendants") in the above-referenced action. City defendants write to respectfully request that the Court, *sua sponte*, hold defendants Rosas, Vasquez, Maldonado, and Castelluccio's deadline to respond to the Fourth Amended Complaint in abeyance, pending the outcome of City defendants' motion to dismiss, which is concurrently being filed today.

On May 3, 2023, the parties attended a telephonic conference to address then-plaintiff's counsel's motion to withdraw as counsel and NYCH+H defendants' pre-motion conference letter. City defendants informed the Court that they also intended to move to dismiss the amended complaint. The Court stayed all defendants' time to answer or move pending plaintiff's counsel's motion to withdraw, and after plaintiff indicated whether he intended to proceed *pro se* or obtain new counsel. After plaintiff indicated his intention to proceed *pro se*, the Court then continued the stay for defendants to respond until after plaintiff amended his pleadings. On October 23, 2023, the Court extended defendants' time to move to dismiss until November 8, 2023.

Due to an oversight regarding the number of named defendants from the NYPD and FDNY who had previously been served with process and remained in plaintiff's Fourth Amended Complaint, and because some defendants' names barely appear, if at all, in the factual allegations of the Fourth Amended Complaint, this Office has not yet finalized representation

decisions for defendants Maldonado, Castelluccio, Rosas, and Vasquez.[1] However, all of City defendants' arguments articulated in their motion papers apply equally to defendants Maldonado, Castelluccio, Rosas, and Vasquez. Thus, if City defendants' motion is granted in its entirety, all claims against these additional defendants would also be dismissed. Therefore, it would best serve judicial economy and the spirit of the Federal Rules to hold the additional NYPD/FDNY defendants' deadlines to respond to the Fourth Amended Complaint in abeyance until after the Court rules on the motion. *See* Fed. R. Civ. P. 1 (providing that the Rules should be construed and employed to "secure the just, speedy, and inexpensive determination of every action and proceeding"); *see also Komatsu v. City of New York, et al.*, S.D.N.Y. Civil Docket No. 20-CV-7046 (ER), at ECF No. 87 (staying deadlines to answer for all individual defendants who had not yet appeared, pending the resolution of a fully dispositive motion to dismiss).

Accordingly, City defendants respectfully request that defendants Maldonado, Castelluccio, Rosas, and Vasquez's time to respond to the Fourth Amended Complaint be held in abeyance during the pendency of City defendants' motion to dismiss. In the alternative, City defendants respectfully request a two-week *sua sponte* extension of time for this Office to determine representation for defendants Maldonado, Castelluccio, Rosas, and Vasquez so they can join in City defendants' motion to dismiss.

We thank the Court for its time and consideration of this matter.

Respectfully submitted,

Evan J. Gottstein /s/
Evan J. Gottstein
Assistant Corporation Counsel
Special Federal Litigation Division

cc: Via First Class Mail
Ali Moore
Plaintiff Pro Se
2506 East Overland Avenue
Baltimore, Maryland 21214

Via ECF
Eldar Mayouhas, Esq.
Attorney for NYCH+H Defendants
Lewis Brisbois Bisgaard & Smith, LLP
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[1] Plaintiff also lists a "Police Officer Sergeant Montesino" in the caption of the Fourth Amended Complaint. Upon information and belief, however, there was no sergeant in the NYPD with the last name Montesino at the time of the incidents at issue, nor were there any individuals assigned to the 26th Precinct at that time with the last name Montesino. Further, there is no indication that any Police Officer or Sergeant Montesino was served with process in this action.