

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

CHRISTINE TOWNSEND,

Plaintiff,

v.

15-CV-704A(Sr)

CITY OF BUFFALO, et al.,

Defendants.

DECISION AND ORDER

This case was referred to the undersigned by the Hon. Richard J. Arcara, pursuant to 28 U.S.C. § 636(b)(1), for all pretrial matters. Dkt. #6.

Plaintiff commenced this action seeking damages pursuant to 42 U.S.C. § 1983 and common law, alleging that she was subjected to, *inter alia*, warrantless entry into her home, excessive force, false arrest and malicious prosecution after she called 911 to complain about loose dogs in her neighborhood. Dkt. #1.

Currently before the Court is plaintiff's motion to compel *in camera* review of personnel records of defendant Mark Vara, City of Buffalo Police Officer, including internal police reports of past instances of complaints of misconduct, and disclosure of department policies pertaining to the use of force. Dkt. #23.

Defendant responds that notwithstanding defense counsel's letter requesting that plaintiff's counsel contact him if he had an issues with respect to

defendants' discovery responses, plaintiff's counsel failed to confer with defense counsel regarding this dispute as required by the Local Rules of Civil Procedure. Dkt. #27. Defendant also notes that this motion was filed more than a month after the close of discovery as set forth in the Amended Case Management Order. Dkt. #27.

Defendant responded to plaintiff's discovery demands on September 9, 2016. Dkt. #23-1 & Dkt. #27-1. The Amended Case Management Order provided that all discovery shall be completed no later than January 20, 2017. Dkt. #16. Plaintiff's motion to compel was not filed until February 22, 2017. Dkt. #23. Plaintiff's motion does not contain an affidavit setting forth good cause for the failure to move to compel discovery within the deadlines set forth in the Amended Case Management Order. Moreover, plaintiff's motion is not accompanied by an affidavit detailing a good faith attempt to resolve the discovery dispute as required by Rule 7(d)(4) of the Local Rules of Civil Procedure. For these reasons, plaintiff's motion to compel is denied. However, counsel shall be afforded the opportunity, within 30 days of the entry of this Order, to file a renewed motion which corrects these procedural deficiencies.

SO ORDERED.

DATED: Buffalo, New York
June 28, 2017

s/ H. Kenneth Schroeder, Jr.
H. KENNETH SCHROEDER, JR.
United States Magistrate Judge