

<b>Uniformed Fire Officers Assn. v De Blasio</b>
2020 NY Slip Op 32318(U)
July 15, 2020
Supreme Court, New York County
Docket Number: 154982/2020
Judge: Carol R. Edmead
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. C. Edmead PART 35

Justice

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UNIFORMED FIRE OFFICERS ASSOCIATION,
UNIFORMED FIREFIGHTERS ASSOCIATION OF
GREATER NEW YORK, CORRECTION OFFICERS'
BENEVOLENT ASSOCIATION OF THE CITY OF NEW
YORK, INC., POLICE BENEVOLENT ASSOCIATION OF
THE CITY OF NEW YORK, INC., SERGEANTS
BENEVOLENT ASSOCIATION, LIEUTENANTS
BENEVOLENT ASSOCIATION, CAPTAINS' ENDOWMENT
ASSOCIATION, DETECTIVES' ENDOWMENT
ASSOCIATION,

INDEX NO. 154982/2020
MOTION DATE 07/15/2020
MOTION SEQ. NO. 001

Plaintiff,

- v -

BILL DE BLASIO, IN HIS OFFICIAL CAPACITY AS MAYOR
OF THE CITY OF NEW YORK, THE CITY OF NEW YORK,
DANIEL A. NIGRO, IN HIS OFFICIAL CAPACITY AS THE
COMMISSIONER OF THE FIRE DEPARTMENT OF THE
CITY OF NEW YORK, CYNTHIA BRANN, IN HER
OFFICIAL CAPACITY AS THE COMMISSIONER OF THE
NEW YORK CITY DEPARTMENT OF CORRECTION,
DERMOT F. SHEA, IN HIS OFFICIAL CAPACITY AS THE
COMMISSIONER OF THE NEW YORK CITY POLICE
DEPARTMENT, THE FIRE DEPARTMENT OF THE CITY
OF NEW YORK, THE NEW YORK CITY DEPARTMENT OF
CORRECTION, THE NEW YORK CITY POLICE
DEPARTMENT, FREDERICK DAVIE, IN HIS OFFICIAL
CAPACITY AS THE CHAIR OF THE CIVILIAN COMPLAINT
REVIEW BOARD, THE CIVILIAN COMPLAINT REVIEW
BOARD

ORDER

Defendant.

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The application of Petitioners/Plaintiffs Uniformed Fire Officers Association; Uniformed
Firefighters Association of Greater New York; Correction Officers' Benevolent Association of
the City of New York, Inc.; Police Benevolent Association of the City of New York, Inc.;
Sergeants Benevolent Association; Lieutenants Benevolent 75, Association; Captains
Endowment Association; and Detectives' Endowment Association for an Order
pursuant to CPLR §6301, on behalf of Petitioners/Plaintiffs ("Petitioners") Uniformed Fire Officers

Association, Uniformed Firefighters Association of Greater New York, Correction Officers Benevolent Association of the City of New York, Police Benevolent Association of the City of New York, Inc., Sergeants Benevolent Association, Lieutenant Benevolent Association, Captains Endowment Association, and Detectives' Endowment Association, preliminarily restraining Respondents, and those acting in concert with them, from publicly disclosing any records concerning disciplinary matters against individual New York City police officers, firefighters, and correction officers that are non-final, unsubstantiated, unfounded, exonerated or resulted in a finding of not guilty ("Unsubstantiated and Non-Final Allegations"), or that regard settlement agreements entered into prior to June 12, 2020, is decided in accordance with the "So Ordered" transcript (Laura Ludovico, Sr.Ct.Rptr.)

During the court's first oral argument on this application, Counsel for Defendants/Respondents advised the court that this matter was being **Removed** from the Supreme Court of the State of New York, County of New York, to the United States District Court for the Southern District of New York. Initially counsel for Defendants/Respondents consented to this court issuing the following which was "So Ordered" by the Court:

It is hereby

**ORDERED** that pending the issue of an Interim Stay before the United States District Court for the Southern District of New York, the Defendants/Respondents, and those acting in concert with them, are *Stayed* from publicly disclosing any records concerning Unsubstantiated and Non-Final Allegations or settlement agreements as defined in the instant Petition, entered into prior to June 12, 2020, relating to the repeal of N.Y.C. Civ. Rights Law §50-a(1).

Thereafter, the court received an e-mail from counsel for Defendants/Respondents

advising as follows:

Since the case has been removed it is our position, respectfully, that it is not appropriate for the Court to issue an order, including a stay pending the Federal Court hearing the TRO.

Per 28 USC 1446(d):

(d)Notice to Adverse Parties and State Court. —

Promptly after the filing of such notice of removal of a civil action the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of such State court, which shall effect the removal **and the State court shall proceed no further unless and until the case is remanded.**

A second Skype conference was held (Laura Ludovico, Sr. Ct.Rptr.) to address the issue of this court's authority to issue a Stay. Firstly, the above e-mail from counsel for Defendants/Respondents was not copied to counsel for Plaintiffs/Petitioners. Secondly uploading the Removal notice to NYCEF apparently does not constitute filing of a copy of the notice with the clerk of the court.<sup>1</sup> Thirdly, counsel for Plaintiffs/Petitioners were not provided a written notice of removal. And finally, and most importantly, the court's stay Order was in effect. For the foregoing reasons, the following Order of this Court is in full force and effect.

It is hereby

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<sup>1</sup> . From the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases -Subsection J Paragraph 1-" If an order in a NYSCEF case directs that the County Clerk take action, a copy of the order must be served on the County Clerk (CPLR § 8019 (c)), as the order will usually expressly provide. This shall be done by filing with NYSCEF a completed Notice to the County Clerk - CPLR § 8019 (c) (NYSCEF Form EF-22, available on the NYSCEF site)."

**ORDERED** that pending the issue of an Interim Stay before the United States District Court for the Southern District of New York, the Defendants/Respondents, and those acting in concert with them, are *Stayed* from publicly disclosing any records concerning Unsubstantiated and Non-Final Allegations or settlement agreements as defined in the instant Petition, entered into prior to June 12, 2020, relating to the repeal of N.Y.C. Civ .Rights Law §50-a(1).

7/15/2020  
DATE

  
HON. CAROL R. EDM EAD  
J.S.C.  
J.S.C.

CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION		
	<input type="checkbox"/>	GRANTED	<input type="checkbox"/> DENIED	<input checked="" type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		<input type="checkbox"/>	SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE