



THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NEW YORK 10007

JEFFREY D. FRIEDLANDER
Acting Corporation Counsel

RYAN G. SHAFFER
Assistant Corporation Counsel
E-mail: rshaffer@law.nyc.gov
Phone: (212) 356-2386
Fax: (212) 788-9776

January 30, 2013

BY ECF

Honorable Robert W. Sweet
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Schoolcraft v. The City of New York, et al.
10 CV 6005 (RWS)

Your Honor:

I am the Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, assigned to represent the City Defendants above-referenced matter. City Defendants write to respectfully request that the Court preclude plaintiff from relying, in any way whatsoever, on documents and witnesses which he was ordered to identify no later than January 22, 2014.

Names and Contact Information

On January 15, 2014, the Court ordered plaintiff to provide, by January 22, 2014 the names and contact information of all the individuals whose emails and other correspondence was previously produced without that information. The Court stated that as long as plaintiff was not going to rely on these witnesses at trial, the documents bearing the witnesses' names and contact information would remain Attorneys' Eyes Only. On January 24, 2014, City Defendants received only reproductions of the documents bearing Bates Nos. AS10059-AS10144. Plaintiff has not reproduced without redaction the documents previously produced on October 24, 2012 in response to City Defendants' Second Set of Document Requests, Document Request No. 2. As plaintiff has failed to produce the records according to the January 15, 2014 Order of the Court, it is respectfully requested that plaintiff be precluded in discovery, motion practice, and at trial from relying on any of the aforementioned documents, or the information contained therein.

Witnesses

Also on January 15, 2014, the Court ordered plaintiff to identify by January 22, 2014 the individuals from the previous productions that plaintiff intended to rely upon as witnesses in this matter. To date, Plaintiff has not complied with this order and has failed to identify any individuals either orally or in writing that he intends to use as a witness at trial. City defendants submit that plaintiff has waived the right to call any witnesses identified within the

documents bearing Bates Nos. AS10059-AS10144 and the documents produced on October 24, 2012 in response to City Defendants' Second Set of Document Requests, Document Request No. 2 at trial in this matter.

Memoranda Allegedly Given By Plaintiff to Non-Party NYPD Employees and Crime Complaint Reports In Plaintiff's Possession

The Court also ordered plaintiff to produce any memoranda allegedly given by him to non-party NYPD Employees as well any Crime Complaint Reports in plaintiff's possession by January 22, 2014. Once again, Plaintiff has failed to do so, indicating that he is not in possession of any of those documents. While no request related to this failure is being made at this time, City Defendants respectfully reserve their right to seek spoliation sanctions and/or an adverse inference charge against plaintiff for disposing of these documents during the pendency of litigation.

Accordingly, because plaintiff has violated Your Honor's January 15, 2014 Order he should be sanctioned as set forth herein. Thank you for your consideration of these requests.

Sincerely yours,



Ryan G. Shaffer
Assistant Corporation Counsel
Special Federal Litigation Division

Encl.

cc: Nathaniel Smith (By ECF)
Attorney for Plaintiff
111 Broadway, Suite 1305
New York, New York 10006

Gregory John Radomisli (By ECF)
MARTIN CLEARWATER & BELL LLP
Attorneys for Jamaica Hospital Medical Center
220 East 42nd Street 13th Floor
New York, NY 10017

Brian Lee (By ECF)
IVONE, DEVINE & JENSEN, LLP
Attorneys for Dr. Isak Isakov
2001 Marcus Avenue, Suite N100
Lake Success, New York 11042

Bruce M. Brady (By ECF)
CALLAN, KOSTER, BRADY & BRENNAN, LLP
Attorneys for Lillian Aldana-Bernier
1 Whitehall Street
New York, New York 10004

Walter A. Kretz , Jr. (By ECF)
SCOPPETTA SEIFF KRETZ & ABERCROMBIE
Attorney for Defendant Mauriello
444 Madison Avenue, 30th Floor
New York, NY 10022

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ADRIAN SCHOOLCRAFT,

Plaintiff,

-against-

THE CITY OF NEW YORK, DEPUTY CHIEF MICHAEL MARINO, Tax Id. 873220, Individually and in his Official Capacity, ASSISTANT CHIEF PATROL BOROUGH BROOKLYN NORTH GERALD NELSON, Tax Id. 912370, Individually and in his Official Capacity, DEPUTY INSPECTOR STEVEN MAURIELLO, Tax Id. 895117, Individually and in his Official Capacity, CAPTAIN THEODORE LAUTERBORN, Tax Id. 897840, Individually and in his Official Capacity, LIEUTENANT JOSEPH GOUGH, Tax Id. 919124, Individually and in his Official Capacity, SGT. FREDERICK SAWYER, Shield No. 2576, Individually and in his Official Capacity, SERGEANT KURT DUNCAN, Shield No. 2483, Individually and in his Official Capacity, LIEUTENANT CHRISTOPHER BROSCART, Tax Id. 915354, Individually and in his Official Capacity, LT. TIMOTHY CAUGHEY, Tax Id. No. 885374, Individually and in his Official Capacity, SERGEANT SHANTEL JAMES, Shield No. 3004, Individually and in her Official Capacity, SERGEANT RICHARD WALL, Shield No. 3099, Individually and in his Official Capacity, SERGEANT ROBERT W. O'HARE, Tax Id. 916960, Individually and in his Official Capacity, SERGEANT SONDR A WILSON, Shield No. 5172, Individually and in her Official Capacity, LIEUTENANT THOMAS HANLEY, Tax Id. 879761, Individually and in his Official Capacity, CAPTAIN TIMOTHY TRAINOR Tax Id. 899922, Individually and in his Official Capacity, and P.O.'s "JOHN DOE" #1-50, Individually and in their Official Capacity (the name John Doe being fictitious, as the true names are presently unknown) (collectively referred to as "City Defendants"), FDNY LIEUTENANT ELISE HANLON, individually and in her official capacity as a lieutenant with the New York City Fire Department, JAMAICA HOSPITAL MEDICAL CENTER, DR. ISAK ISAKOV, Individually and in his Official Capacity, DR. LILIAN ALDANA-BERNIER, Individually and in his Official Capacity and JAMAICA HOSPITAL MEDICAL CENTER EMPLOYEE'S "JOHN DOE" # 1-50, Individually and in their Official Capacity (the name John Doe being fictitious, as the true names are presently unknown),

Defendants.

ORDER

10-CV-6005
(RWS)

-----X
Sweet, D.J.,

City Defendants, having moved this Court for an Order to compel plaintiff to provide certain discovery to City Defendants,

NOW, on motion of Ryan G. Shaffer, Esq., Assistant Corporation Counsel of the City of New York and attorney for the City Defendants,

IT IS HEREBY ORDERED:

1. Plaintiff is precluded in discovery, motion practice, and at trial from relying on any documents or information that he was ordered to produce pursuant to the Court's January 15, 2014 Order.
2. Plaintiff has waived the right to call any witnesses identified within the documents bearing Bates Nos. AS10059-AS10144 and the documents produced on October 24, 2012 in response to City Defendants' Second Set of Document Requests, Document Request No. 2 at trial in this matter.

Date:

SO ORDERED:

Honorable Robert W. Sweet