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February 12, 2014

Honorable Robert W. Sweet
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 1007

*Schoolcraft v. The City of New York, et al.,
10-cv-6005 (RWS)*

Dear Judge Sweet:

I am writing to respond to the City Defendants' January 30, 2014 letter-motion, which is on the Court's calendar for submission on February 19, 2014. The motion should be denied for the reason set forth below.

1. *The AEO Production.* On January 24, 2014, I sent to all counsel the plaintiff's supplemental production, marked as AS 10145-10230, in accordance with the Court order that the emails and other communications received from other NYPD police officers who shared their experiences at the NYPD or otherwise responded to the web site created by the plaintiff's prior counsel be produced on an attorney's-eyes-only basis to protect those police officers from retaliation. A copy of the transmittal email is attached. To the extent that the City Defendants are saying that they did not get this email or the attachment, then they should have told me so, rather than filing this motion without seeking any kind of good faith resolution of the issue with opposing counsel, as required by the rules. Thus, that portion of the motion should be denied.

2. *The Witness Designation.* On January 15, 2014, the Court also ordered that the plaintiff designate 30 days after the production of the above-referenced unreacted identifying information which, if any, of those police officers the

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plaintiff wanted to use as witnesses. Thus, the time in which to make that designation has not passed and the plaintiff is required to make that designation by February 21, 2014. Accordingly, that portion of the City Defendants' motion should be denied.

3. *The Memos or Other Documents.* As noted in the City Defendant's motion, the plaintiff has not been able to locate the 2006 or 2007 memoranda or reports requested by the City Defendants. Since the City Defendants do not make any request for relief with respect to these documents, the Court need not make any ruling at this time.

4. *The Sanctions Request.* The City Defendants' sanctions request is meritless for the reasons noted above and because there is not even any attempt to seek to establish any grounds for that relief.

Respectfully submitted,



Nathaniel B. Smith

By ECF
All Counsel
(by ECF)



Nat Smith <natbsmith@gmail.com>

AEO Supplemental Production

1 message

Nat Smith <natbsmith@gmail.com>

Fri, Jan 24, 2014 at 12:37 PM

To: "Gregory J. Radomisli" <radomg@mcblaw.com>, "Shaffer, Ryan (Law)" <rshaffer@law.nyc.gov>, "Brian E. Lee" <brianelee@idjlaw.com>, Walter Kretz <wakretz@seiffkretz.com>

Cc: "Mettham, Suzanna (Law)" <smettham@law.nyc.gov>, Matthew Koster <mkoster@ckbbblaw.com>, Brian Osterman <osterb@mcblaw.com>, "lawyers@suckleschlesinger.com" <lawyers@suckleschlesinger.com>, "pcallan@ckbbblaw.com" <pcallan@ckbbblaw.com>, "john.lenoir@gmail.com" <john.lenoir@gmail.com>, "has@suckleschlesinger.com" <has@suckleschlesinger.com>, "bbrady@ckbbblaw.com" <bbrady@ckbbblaw.com>, "bauza.magdalena@gmail.com" <bauza.magdalena@gmail.com>, "Seligman, Rachel A. (Law)" <rseligma@law.nyc.gov>, "Smith-Williams, Qiana (Law)" <qwilliam@law.nyc.gov>, "Blackman, Duane (Law)" <dblackma@law.nyc.gov>

Counsel, Attached please find plaintiff's supplemental production, bates-stamped AS 10145-10230, which the Court ordered be produced to you on an attorney's-eyes-only basis on January 15, 2014. If you have any questions, please give me a call. Thank you.

Nathaniel B. Smith, Esq.
111 Broadway – Suite 1305
New York, New York 10006
212-227-7062 (tel)
212-346-4665 (fax)
natbsmith@gmail.com

From: "Gregory J. Radomisli" <radomg@mcblaw.com>

Date: Tue, 21 Jan 2014 19:06:28 +0000

To: "'Shaffer, Ryan (Law)'" <rshaffer@law.nyc.gov>, Nat Smith <natbsmith@gmail.com>, "'Brian E. Lee'" <brianelee@idjlaw.com>, 'Walter Kretz' <wakretz@seiffkretz.com>

Cc: "Mettham, Suzanna (Law)" <smettham@law.nyc.gov>, 'Matthew Koster' <mkoster@ckbbblaw.com>, Brian Osterman <osterb@mcblaw.com>, "lawyers@suckleschlesinger.com" <lawyers@suckleschlesinger.com>, "pcallan@ckbbblaw.com" <pcallan@ckbbblaw.com>, "john.lenoir@gmail.com" <john.lenoir@gmail.com>, "has@suckleschlesinger.com" <has@suckleschlesinger.com>, "bbrady@ckbbblaw.com" <bbrady@ckbbblaw.com>, "bauza.magdalena@gmail.com" <bauza.magdalena@gmail.com>, "Seligman, Rachel A. (Law)" <rseligma@law.nyc.gov>, "Smith-Williams, Qiana (Law)" <qwilliam@law.nyc.gov>, "Blackman, Duane (Law)" <dblackma@law.nyc.gov>

Subject: RE: Del Pozo Deposition

And the day my daughter made "Silvers" in two events at her swim meet in N.C.

Gregory J. Radomisli
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From: Shaffer, Ryan (Law) [mailto:rshaffer@law.nyc.gov]
Sent: Tuesday, January 21, 2014 2:01 PM
To: 'Nat Smith'; 'Brian E. Lee'; 'Walter Kretz'
Cc: Mettham, Suzanna (Law); Gregory J. Radomisli; 'Matthew Koster'; Brian Osterman; lawyers@suckleschlesinger.com; pcallan@ckbblaw.com; john.lenoir@gmail.com; has@suckleschlesinger.com; bbrady@ckbblaw.com; bauza.magdalena@gmail.com; Seligman, Rachel A. (Law); Smith-Williams, Qiana (Law); Blackman, Duane (Law)
Subject: RE: Del Pozo Deposition

To be clear, your email in which you withdrew the subpoena was sent on Martin Luther King, Jr. Day. That is a Federal, State, and Local holiday.

From: Nat Smith [mailto:natbsmith@gmail.com]
Sent: Tuesday, January 21, 2014 1:27 PM
To: Shaffer, Ryan (Law); 'Brian E. Lee'; 'Walter Kretz'
Cc: Mettham, Suzanna (Law); 'Gregory J. Radomisli'; 'Matthew Koster'; 'Brian Osterman'; lawyers@suckleschlesinger.com; pcallan@ckbblaw.com; john.lenoir@gmail.com; has@suckleschlesinger.com; bbrady@ckbblaw.com; bauza.magdalena@gmail.com; Seligman, Rachel A. (Law); Smith-Williams, Qiana (Law); Blackman, Duane (Law)
Subject: Re: Del Pozo Deposition

Counsel, As already stated, I am reserving the right to re-schedule Del Pozo's deposition. It is also incorrect that the subpoena was "withdrawn with less than one business days' notice. Nat Smith

From: "Shaffer, Ryan (Law)" <rshaffer@law.nyc.gov>
Date: Tue, 21 Jan 2014 17:04:20 +0000
To: "Brian E. Lee" <brianelee@idjlaw.com>, 'Walter Kretz' <wakretz@seiffkretz.com>, Nat Smith <natbsmith@gmail.com>
Cc: "Mettham, Suzanna (Law)" <smettham@law.nyc.gov>, "Gregory J. Radomisli" <radomg@mcblaw.com>, 'Matthew Koster' <mkoster@ckbblaw.com>, 'Brian Osterman' <osterb@mcblaw.com>, "lawyers@suckleschlesinger.com" <lawyers@suckleschlesinger.com>, "pcallan@ckbblaw.com" <pcallan@ckbblaw.com>, "john.lenoir@gmail.com" <john.lenoir@gmail.com>, "has@suckleschlesinger.com" <has@suckleschlesinger.com>, "bbrady@ckbblaw.com" <bbrady@ckbblaw.com>, "bauza.magdalena@gmail.com" <bauza.magdalena@gmail.com>, "Seligman, Rachel A. (Law)" <rseligma@law.nyc.gov>, "Smith-Williams, Qiana (Law)" <qwilliam@law.nyc.gov>, "Blackman, Duane (Law)" <dblackma@law.nyc.gov>
Subject: RE: Del Pozo Deposition

Counsel:

As Mr. Smith withdrew his subpoena, the deposition will not go forward tomorrow. Moreover, DI Del Pozo will not be produced at a later date as plaintiff has waived his right to the deposition by withdrawing the deposition subpoena with less than one business day's notice.

Thank You,

Ryan G. Shaffer

From: Brian E. Lee [mailto:brianelee@idjlaw.com]
Sent: Tuesday, January 21, 2014 11:58 AM
To: 'Walter Kretz'; 'Nat Smith'
Cc: Mettham, Suzanna (Law); 'Gregory J. Radomisli'; 'Matthew Koster'; 'Brian Osterman'; Shaffer, Ryan (Law); lawyers@suckleschlesinger.com; pcallan@ckbblaw.com; john.lenoir@gmail.com; has@suckleschlesinger.com; bbrady@ckbblaw.com; bauza.magdalena@gmail.com; Seligman, Rachel A. (Law); Smith-Williams, Qiana (Law); Blackman, Duane (Law)
Subject: RE: Del Pozo Deposition

Counsel:

Are we proceeding with this deposition tomorrow? I agree that we all set aside the time for it, and it is better to get it done now.

Thank you.

Sincerely,

Brian E. Lee
Ivone Devine & Jensen, LLP
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Lake Success, NY 11042
(516) 326-2400
Fax (516) 328-0661
Cell/Text (516) 902-5653

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From: Walter Kretz [mailto:wakretz@seiffkretz.com]
Sent: Monday, January 20, 2014 3:46 PM
To: Nat Smith
Cc: Suzanna Publicker Mettham; Gregory J. Radomisli; Brian E. Lee; Matthew Koster; Brian Osterman; Ryan Shaffer; lawyers@suckleschlesinger.com; pcallan@ckbblaw.com; john.lenoir@gmail.com; has@suckleschlesinger.com; bbrady@ckbblaw.com; bauza.magdalena@gmail.com; ACC Rachel Seligman-Weiss; Smith-Williams, Qiana (Law); Blackman, Duane (Law)
Subject: Del Pozo Deposition

Nat - I would like to proceed with the Del Pozo deposition, and ask that the City have him appear at my office for a deposition on Wednesday. He clearly has knowledge of information directly relevant to many of the matters at issue and since everyone has indicated their availability for Wednesday, I would like to take his deposition now rather than later. Thanks - Walter

Walter A. Kretz, Jr.

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From: Nat Smith [mailto:natbsmith@gmail.com]

Sent: Monday, January 20, 2014 3:14 PM

To: Walter Kretz

Cc: Suzanna Publicker Mettham; Gregory J. Radomisli; Brian E. Lee; Matthew Koster; Brian Osterman; Ryan Shaffer; lawyers@suckleschlesinger.com; pcallan@ckbbllaw.com; john.lenoir@gmail.com; has@suckleschlesinger.com; bbrady@ckbbllaw.com; bauza.magdalena@gmail.com; ACC Rachel Seligman-Weiss; Smith-Williams, Qiana (Law); Blackman, Duane (Law)

Subject: Withdrawal of Del Pozo Subpoena

Counsel, Please Take Notice that I am withdrawing the subpoena I issued for the Del Pozo deposition. Thus, the deposition will not go forward on the 22nd at my office.

Walter, Regrading your email of earlier today, I will provide a copy of the video and request that you provide me with your requests for documents. I have not seen the deposition transcript and do not know what documents you are seeking. If you provide me with that, then I will see if a search can be conducted and the results turned over. I object under any circumstances to any lawyer or party going to the plaintiff's home and will treat any such conduct as harassment of the plaintiff.

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From: Walter Kretz <wakretz@seiffkretz.com>

Date: Mon, 20 Jan 2014 13:48:50 -0500

To: Nat Smith <natbsmith@gmail.com>

Cc: Suzanna Publicker Mettham <smettham@law.nyc.gov>, "Gregory J. Radomisli" <radomg@mcblaw.com>, "Brian E. Lee" <brianelee@idjlaw.com>, Matthew Koster <mkoster@ckbblaw.com>, Brian Osterman <osterb@mcblaw.com>, Ryan Shaffer <rshaffer@law.nyc.gov>, <lawyers@suckleschlesinger.com>, <pcallan@ckbblaw.com>, <john.lenoir@gmail.com>, <has@suckleschlesinger.com>, <bbrady@ckbblaw.com>, <bauza.magdalena@gmail.com>, ACC Rachel Seligman-Weiss <rseligma@law.nyc.gov>, "Smith-Williams, Qiana (Law)" <qwilliam@law.nyc.gov>, "Blackman, Duane (Law)" <dblackma@law.nyc.gov>

Subject: Mauriello deposition video and Larry Schoolcraft documents

Nat - I have received the Mauriello deposition transcript from you for his review and signature, but the video of hios deposition was not included. I need the video so it can be viewed while reviewing the transcript and any corrections can be properly and efficiently be made. It also would allow us to express any objection to the quality of the video itself. Please provide at your earliest convenience.

Also, as we discussed, I would like to arrange for a review of the documents and any other relevant items Larry Schoolcraft has in storage in his garage or in any other location. Larry indicated in the immediate aftermath of the events of October 31, 2009, and thereafter has repeated, that he has two or three copies of anything Adrian had relating to the NYPD. He confirmed this at his deposition and indicated defendants could make arrangements to review everything he has. When I raised this with you last week, you expressed objection to any such review being conducted at the site where the documents are currently stored, which is Larry's home, because it also is the home of Adrian. I am willing to consider, and I am sure all defendants are willing to consider, any reasonable proposal you would like to make for us to arrange with Larry to have this review conducted as soon as possible. One simple idea would be to schedule the review at the house on a date when Adrian plans or can arrange to be somewhere else, if that is what he prefers. Please advise within the week. Otherwise, we will make appropriate arrangements directly with Larry, with the intervention of the Northern District if necessary.

Thanks - Walter

Walter A. Kretz, Jr.

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