

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ESTATE OF LIONEL WHITE SR.,)
Plaintiff,) Case No. 17 C 02877
vs.) Honorable Sara Ellis
CITY OF CHICAGO, et al.) Magistrate Judge Laura K. McNally
Defendants.)

**PLAINTIFF'S UNOPPOSED MOTION FOR LEAVE TO FILE BRIEFS IN EXCESS OF
PAGE LIMIT IN RESPONSE TO DEFENDANTS' DISPOSITIVE AND DAUBERT
MOTIONS AND TO FILE CERTAIN MATERIALS UNDER SEAL**

Plaintiff respectfully requests leave to file multiple briefs with excess pages and to file certain materials under seal. In support of this motion, Plaintiff states as follows:

Summary Judgment Filings

1. First, Plaintiff requests leave to file an omnibus brief that is 103 pages long, along with a Statement of Additional Material Facts containing 121 paragraphs, in response to Defendants' motions for summary judgment. Plaintiff also requests leave to file a sealed version of their summary judgment brief, along with a publicly available redacted version that redacts certain information that the federal government has requested them to redact. Finally, Plaintiff requests leave to file certain exhibits under seal that the producing parties have marked as "Confidential" under the relevant protective orders in this case.

2. Defendants filed three separate briefs in support of their motions for summary judgment, which totaled 84 pages. In addition, Defendant Watts joined portions of those motions for summary judgment. Defendants' briefing includes numerous overlapping issues, which are

most efficiently addressed in one omnibus response brief that responds to all of Defendants' arguments.

3. Given the scope of the record and the amount of briefing to which Plaintiff is responding, additional pages are required to adequately respond to Defendant's motions for summary judgment. Plaintiff's omnibus brief is 103 pages long. Plaintiff attempted to write as concise of a response brief as possible while still addressing all of Defendants' arguments and providing the Court with the information necessary to explain why summary judgment should be denied in large part.

4. In addition, to give the Court a full picture of the available evidence that warrants a trial in this case, Plaintiff requests leave to file additional statements of fact beyond the number permitted by Local Rule 56.1. In total, Plaintiff requests leave to file a Statement of Additional Material Facts that contains 121 paragraphs. Plaintiff also notes that a few of those paragraphs include subparagraphs or charts when it is most efficient to present the evidence in that manner. The overwhelming majority of the 121 paragraphs in Plaintiff's additional statements of fact rely at least in part on expert testimony. These paragraphs were included in Plaintiff's statement of additional facts rather than the parties' Joint Statement of Facts as a result of the ruling on the parties' motion for clarification regarding the Court's summary judgment procedures.

5. Moreover, Plaintiff's response to the summary judgment motions, like the City's motion, refers to and attaches documents from the federal investigation that resulted in the convictions of Defendants Watts and Mohammed. The federal government has marked those documents as "Confidential" in this case, and in earlier *Watts* cases where the same issues arose, the government requested that the parties redact the names of potential confidential informants or cooperators, as well as the names of federal employees who worked on the investigation (and

further indicated that it wanted the parties to follow the same course in later cases). With one exception relating to a declaration that the federal government filed on the public docket, the parties agreed to make those redactions, and Judge Valderrama ordered them to do so. *See* Dkt. 443 in Case No. 16-cv-8940.

6. Plaintiff requests leave to file their summary judgment materials under seal, and to file a publicly available version on the docket that redacts the from the information from the federal investigation that the federal government previously asked the parties (and the courts) to redact.

7. Finally, Plaintiff's summary judgment materials include additional exhibits that were marked as "Confidential" when produced during this litigation, primarily complaint registers ("CRs") and other information relating to investigations into complaints made against police officers. Plaintiff requests leave to file those exhibits under seal as well and to file slip sheets with its publicly available version of its summary judgment papers.

Responses to *Daubert* Motions

8. Additionally, Plaintiff's response briefs in opposition to Defendants' motions to bar Jeffrey Danik and Jon Shane relate to and discuss confidential information, some of which is derived from the FBI investigation of Watts and Mohammed.

9. When the FBI produced the relevant investigation records in this litigation, the records were marked as Confidential under the Privacy Act Order in this case. *See* Dkts. 3 & 84 in Case No. 19-cv-1717.

10. Therefore, Plaintiff seeks to file a complete version of these two briefs and related exhibits under seal.

11. Pursuant to Local Rule 26.2, Plaintiff will provisionally file the responses and exhibits electronically under seal and will subsequently file a public version of the responses with redactions of the confidential information.

12. In addition, Plaintiff respectfully requests leave to file responses to Defendants' *Daubert* motions that exceed the Local Rule page limit. Defendants' motions to bar Mr. Danik and Dr. Shane are each 25 pages long.

13. Defendants seek to bar Dr. Shane's and Mr. Danik's testimony in their entirety and raised a number of arguments in support of their motions.

14. Plaintiff has attempted to write as concise as possible in his responses, but he was unable to adequately address all of Defendants' arguments while staying within the local rule's 15-page limit.

15. Thus, Plaintiff requests leave to file a brief of no more than 37 pages in response to Defendants' motion to bar Dr. Shane, and no more than 27 pages in response to Defendants' motion to bar Mr. Danik.

Conferral with Defendants

16. Plaintiff has conferred with Defendants, who do not oppose any of the requests in this motion.

WHEREFORE, Plaintiff requests that the Court granted the relief requested in this motion.

Respectfully Submitted,

/s/ Gianna Gizzi
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