

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DERRICK SCHAEFFER,)	
)	
Plaintiff,)	Case No. 19 C 7711
)	
v.)	Judge Robert M. Dow Jr.
)	
CITY OF CHICAGO, OFFICER JAMES A.)	Magistrate Judge Jeffrey T. Gilbert
BRANDON #7634, OFFICER MARIO)	
PEREZ #18936, OFFICER JAMES)	
KINSEY # 16189, and DETECTIVE)	
JOCELYN GREGOIRE-WATKINS, #20974,)	
)	
Defendants.)	

**DEFENDANTS' SUR-REPLY IN OPPOSITION TO
PLAINTIFF'S MOTION TO COMPEL**

Defendant City of Chicago, by and through its attorney, Mark A. Flessner, Corporation Counsel for the City of Chicago, and Defendants James Brandon, Mario Perez, James Kinsey, and Jocelyn Gregoire-Watkins, by and through one of their attorneys, Evan K. Scott, Assistant Corporation Counsel for the City of Chicago, (collectively, "Defendants") for their sur-reply in opposition to Plaintiff's motion to compel, state as follows:

Plaintiff's reply, Dkt. 60, misconstrues Defendants' response completely. Plaintiff claims that Defendants have withdrawn our objections to producing the court transcripts at issue. Reply at p. 2. Defendants have not. If Defendants had, Defendants would have so written. Plaintiff writes, "Plaintiff assumes that, as required by Rule 34, he would be permitted to copy the documents in any such inspection. In light of this change in position, the Court should grant plaintiff's motion to compel and order defendants to produce the transcripts electronically." Reply at p. 2. To be clear, the offer was to allow Plaintiff to determine which, if any, of the court transcripts Plaintiff

deemed actually relevant and worth ordering. Nothing about Rule 34 requires a party to produce copies at no expense.

That, however, is what Plaintiff is moving to compel Defendants to do. Defendants have always stated that to do so would deprive court reporters of income to which they are entitled and directed Plaintiff to the court reporters from whom he can receive copies. In our response and to this day, that remains Defendants' position. Defendants pointed out that contrary to Plaintiff's position, there is nothing in the Federal Rules of Civil Procedure that requires production of documents at no expense. Plaintiff continues to cite no case law or rules that suggests that he is entitled to complementary transcripts.

Plaintiff argues that in the context of the pandemic, he should not have to have an in-person inspection of documents. Reply at p. 2-3. If Plaintiff does not wish to inspect these documents in person because of COVID-19, that is his prerogative. However, the solution would be for him to order at his expense the transcripts through proper channels.

WHEREFORE, for the foregoing reasons, Defendants respectfully request that this Honorable Court deny Plaintiff's motion to compel and grant any other relief this Court deems just.

Respectfully submitted,

/s/ Evan K. Scott

Evan K. Scott, Assistant Corporation Counsel
Gregory Beck, Assistant Corporation Counsel Supervisor
Jessica Ziswa, Assistant Corporation Counsel
Federal Civil Rights Litigation Division
City of Chicago Department of Law
30 N. LaSalle Street, Suite 900
Chicago, Illinois 60602
(312) 744-9031 (PHONE)
(312) 744-6566 (FAX)
Attorneys for Defendant Officers

MARK A. FLESSNER,
Corporation Counsel for City of Chicago

BY: /s/ Raoul Vertick Mowatt
Iris Y. Chavira, Assistant Corporation Counsel Supervisor
Raoul Vertick Mowatt, Assistant Corporation Counsel
Stephanie Sotomayor, Assistant Corporation Counsel
Federal Civil Rights Litigation Division
City of Chicago Department of Law
30 N. LaSalle Street, Suite 900
Chicago, Illinois 60602
(312) 744-3283 (PHONE)
(312) 744-6566 (FAX)
Attorneys for Defendant City of Chicago