

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

MADELINE MENDOZA, )  
 )  
 Plaintiff, )  
 )  
 ) No. 23-cv-2441  
 -vs- )  
 ) (Judge Durkin)  
 REYNALDO GUEVARA, et al., )  
 )  
 )  
 Defendants. )  
  
 MARILYN MULERO, )  
 )  
 )  
 Plaintiff, )  
 ) No. 23-cv-4795  
 -vs- )  
 ) (Judge Durkin)  
 REYNALDO GUEVARA, et al., )  
 )  
 )  
 Defendants. )

**PLAINTIFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL  
BRIEFS IN SUPPORT OF FACT DISCOVERY EXTENSION**

Plaintiffs, by their respective counsel, submit this response in opposition to Defendants' supplemental briefs for an extension of fact discovery to depose certain witnesses.

## I. Procedural History

On February 22, 2024, Defendants issued initial Rule 26(a)(1) disclosures, identifying more than 65 individual witnesses, including former Cook County State's attorneys, but not former ASA Michael Krejci, despite his well-documented

involvement in the subject criminal cases. (Exhibit 1). On November 9, 2024, this Court extended the non-*Monell* fact discovery deadline to February 28, 2025. On January 9, 2025, Defendants supplemented their witness disclosures – this time identifying 100 persons, including three persons who are deceased, six former ASAs, and disclosing former ASA Michael Krejci for the first time. (Exhibit 2)<sup>1</sup>. On January 31, 2025, defendants – for the first time – sought to serve a deposition subpoena on Krejci, as well as a Rule 30(b)(6) subpoena on the State’s Attorney of Cook County. (Dkts. 105-1; 105-2.)

On February 25, 2025, three days before the non-*Monell* fact discovery deadline, and without complying with Local Rule 37.2, Defendants asked the Court to extend discovery to take the depositions of Krejci, the Rule 30(b)(6) deposition of the Office of the State’s Attorney, and depositions of third-party witnesses Sandra Greer and Adolfo Davis. (Dkt. 103.) Plaintiffs oppose extending discovery for these depositions. (Dkt. 105.)

## **II. The Supplemental Materials**

Defendants have filed, in response to the Court’s order of March 3, 2025 (Dkt. 107), excerpts of the depositions of plaintiffs Mendoza (Dkt. 112-2), Mulero (Dkt. 112-3), and of Jacqueline Montanez. (Dkt. 112-1.) Defendants have also submitted excerpts

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<sup>1</sup> Defendants identified the matters about which deceased person “may testify.” (Exhibit 2, ¶¶ 11, 19, and 52. The disclosures stated that one of the deceased persons was “to be contacted through counsel for the City of Chicago.” (Exhibit 1, ¶ 52.)

The disclosures, while dated “January 8, 2024” were served on January 9, 2024. (Exhibit 3, Certificate of Service, January 9, 2025.)

of unsworn statements Montanez allegedly made “on a publicly available video podcast.” (Dkt. 112-4.) Nothing in these materials justifies the additional discovery defendants seek.

Plaintiff Mendoza testified at her deposition that neither she nor anyone on her behalf had ever promised any financial compensation to Montanez. (Dkt. 112-2, Mendoza Dep. 314:13-315:7.) Plaintiff Mulero made similar denials. (Dkt. 112-3, Mulero Dep. 434:7-435:2.)

Montanez then corroborated the testimony of plaintiffs, denying that she had had any “communications either directly or through intermediaries with either Ms. Mulero or Ms. Mendoza about giving [her] financial compensation.” (Dkt. 112-1, Montanez Dep. 259:3-7.) Montanez also described a conversation she claimed to have had about six months before her deposition with a person named Adolfo Davis:

And Madeline Mendoza had told Adolfo Davis, I can’t talk to Jacqueline because she’s still doing these interviews. I have no problem helping her because Adolfo informed her, like, you know, Jackie out there hurting. She’s homeless and everything. Like, is y’all going to at least help her? She got—you know what I’m saying? She got y’all out. Like she took the whole weight.

So she said, I cannot help her because I am involved with the victim’s families. So she was like, I have no problem helping her, but it would have to be through somebody else.

(Dkt. 112-1 at 3, Montanez Dep. 260:1-12.)

Montanez also described a conversation she claimed to have had with Cassandra Geer either eight or four months before her deposition (Dkt. 112-1 at 3, Montanez Dep. 261:7-10):

Mendoza and Mulero were invited to one of the events and I was hosting, they didn't want to come.

Mulero felt like—she told Cassandra Geer that I had threatened her, that I had threatened her life, and that she was informed by her attorneys that she could not be around me.

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So when I told Cassandra she's lying, she's lying, I never threatened her. I never once said I was going to do anything to her. She told Cassandra that I said, well, when she gets her money, if I don't get nothing, it's going to be an issue.

Never said that. Never threatened her life. Never did none of that. So when Cassandra told her, I said the only thing I had a problem with is, I never got a thank you for taking the blame. I never got a thank you for giving you your freedom. That was my issue.

Money was not an issue. I don't care about this money. I'm not getting it. I don't care. So Cassandra spoke to Mulero and Mulero said, I know that I wouldn't be home without her—without her, you know what I'm saying—doing what she's doing, and I'm grateful for her.

And she did state she said, if I could help her in any way, I will. She never said she was giving me any money. She never promised me any money. She just said, if I can help her. I will.

(Dkt. 112-1, Montanez Dep. 261:19-262:20.) Nothing in this testimony justifies out-of-time depositions of these third-party witnesses who will offer *zero* relevant information.

### **III. Argument**

Defendants fail to identify a legitimate basis to extend the discovery deadline to depose former ASA Krejci. Similarly, Ms. Montanez's testimony fails to establish a legitimate basis for deposing Sandra Greer and Adolfo Davis.

### **A. Deposition of Former Assistant State's Attorney Krejci**

Defendants assert that testimony from Krejci will be “a cornerstone of the defense presentation.” (Dkt. 111, ¶ 3.) According to defendants, Krejci is an important witness because he “was directly involved in the prosecution [of plaintiffs].” (*Id.*, ¶ 4.)

#### **1. Defendants were not diligent in pursuing Former Assistant State's Attorney Krejci Deposition**

As an initial matter, Defendants are unable to explain why they waited until January 9, 2025 to disclose Krejci (as one of six former attorneys employed by the State's Attorney of Cook County) as a person they “may use to support [their] claims or defenses,” as required by Rule 26(as)(1)(A). Nor do defendants attempt to offer any justification for waiting until January 31, 2025 for seeking to depose Krejci and then ignoring the close of discovery date of February 28 until February 25th, when they filed the motion at issue here. Defendants' only explanation for their lack of diligence is to assert that they “took all reasonable steps to secure the deposition of Mr. Krejci and to complete this before the previous discovery cut-off in this case.” This conclusory allegation is belied by the record and is not entitled to any weight.<sup>2</sup>

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<sup>2</sup> There is no merit in defendants' argument that they should be permitted to depose Krejci because they intend to call him as a trial witness. (Dkt. 111, ¶ 114.) Plaintiff will object to any trial testimony from Krejci because he was not timely disclosed under Rule 26(A)(1). This, of course, is not a matter presently before the Court and is not relevant to the present motion.

**2. Defendants fail to set forth a legitimate basis to justify Former Assistant State's Attorney Krejci's out-of-time deposition**

According to Defendants, the primary purpose of Krejci's trial testimony is to educate the jury on purported complex procedural mechanisms in criminal cases, and specifically here, to testify to the context in which plaintiffs Mendoza and Mulero were convicted. (Dkt. 111, ¶¶ 3-5.) There is minimal (if any) benefit to such testimony because neither plaintiffs Mendoza nor Mulero proceeded to trial. To the extent such testimony may be helpful in other wrongful conviction cases, the same purported complex procedural mechanisms are not at issue here. Moreover, even to the extent the parties determine that some form of contextual testimony is required at trial, it does not follow that the parties need to conduct discovery or a deposition on those issues, particularly out-of-time discovery.

Defendants further argue that Krejci can testify to his personal knowledge of these cases, as well as the Cook County State's Attorney's Office's ("CCSAO") related knowledge. (Dkt. 111, ¶¶ 6-11.) But neither Krejci's nor the CCSAO's knowledge are at issue. Plaintiffs allege that the Defendant officers and the City of Chicago engaged in misconduct, causing the Plaintiffs' wrongful convictions. Neither Krejci nor the CCSAO's related knowledge are germane. Defendants make the fanciful argument that Krejci may testify that he or the CCSAO were *aware* that the Defendant officers coerced Plaintiff Mulero's confession, proceeded to prosecute the Plaintiffs anyway, and that such an admission would serve as some sort of intervening cause that cuts off the

Defendants' liability. (Dkt. 111, ¶¶ 12-13). If the Defendants truly believed such testimony was at all possible, Defendants certainly would have pursued such discovery long ago and without having to seek a last-minute discovery extension.

The Court should deny defendants' request to depose Krejci, and the same is true for defendants' request to depose Sandra Greer and Adolfo Davis.

#### **B. Depositions of Sandra Greer and Adolfo Davis**

Ms. Montanez testified consistently with Plaintiffs that there were no "communications either directly or through intermediaries with [between Montanez and Plaintiffs] about giving [Montanez] financial compensation." (Dkt. 112-1, Montanez Dep. 259:3-7.)

Though Ms. Montanez stated that she recalled conversations with a Sandra (or Cassandra) Greer about statements plaintiff Mulero made to Greer, she further testified that no one offered to pay her any money, there were no promises of money, that Ms. Montanez was not interested in any such payments, and that no such assistance or help was ever provided. (Dkt. 112-1, at 259:08-262:20.) Similarly, Montanez testified that an Adolfo Davis told Montanez that Davis had spoken with plaintiff Mendoza and told her that Montanez "was homeless and everything" and needed financial assistance. (*See* above at Sec. II). According to Montanez, Davis told her that Mendoza responded "I cannot help her because I am involved with the victim's families." *Id.*

There is nothing in the record to suggest that Ms. Montanez was compensated for her testimony, and Defendants fail to make any argument that a deposition of either Ms. Greer or Mr. Davis are likely to result in relevant evidence.

#### IV. Conclusion

The Court should therefore deny defendant's motion.

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Respectfully submitted,

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