

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

MADELINE MENDOZA,)
)
)
Plaintiff,)
)
)
vs.) No.: 2023 CV 02441
)
)
CITY OF CHICAGO, REYNALDO)
GUEVARA, GERI LYNN YANOW, as)
Special Representative for ERNEST)
HALVORSEN, STEPHEN GAWRYS, and)
ANTHONY RICCIO,)
)
Defendants.)

**DEFENDANTS' MOTION FOR
EXTENSTION OF TIME TO FILE THEIR RESPONSIVE PLEADING**

NOW COME Defendants, THE CITY OF CHICAGO, REYNALDO GUEVARA, GERI LYNN YANOW as Special Representative for ERNEST HALVORSEN, deceased, STEPHEN GAWRYS, and ANTHONY RICCIO, by and through their respective undersigned counsel, and hereby submit this Motion for Extension of Time to file their Responsive Pleading. In support thereof, Defendants state as follows:

1. This case arises from the murder of Jimmy Cruz and Hector Reyes that occurred on May 12, 1992, and Plaintiff's subsequent arrest and prosecution for the crime. *See* Dkt. No. 1. On September 22, 1993, Plaintiff pleaded guilty to Jimmy Cruz's murder and was sentenced to 35 years for murder and 7 years for conspiracy to commit Reyes's murder. *Id.*

2. Plaintiff's co-defendant, Marilyn Mulero, was also charged and pleaded guilty to Jimmy Cruz's murder. *See* *Mulero v. Guevara, et al.*, No. 23 CV 04795, Dkt. No. 1. Ms. Mulero's case is currently assigned to the Honorable Judge Maldonado.

3. Now, both Plaintiff and Marilyn Mulero assert they were innocent of the crimes for

which they were charged and allege Defendants coerced them into confessing. *See Mendoza v. Guevara*, Dkt. No. 1; *Mulero v. Guevara*, Dkt. No. 1.

4. On August 23, 2023, the undersigned defense counsel conferred with Plaintiff's counsel in the present case, as well as with Ms. Mulero's counsel regarding the defendants' request to consolidate the two matters. Subsequently, on September 21, 2021, the Defendants filed their Joint Motion for Consolidation, seeking to consolidate these two matters because they share common questions of law and fact. *See*, Defendants' Joint Motion to Consolidate, Dkt. 41.

5. Pursuant to this Court's standing order, Defendants consulted with counsel for Plaintiff Mendoza and Mulero regarding their position on the Joint Motion For Consolidation as well as their requested briefing schedule. *See*, Dkt. 41 at pg. 7. Plaintiffs' counsel requested 21 days to evaluate and respond to the Defendants' Joint Motion. *Id.* This Court has set a briefing schedule on the pending motion, with Defendants' Reply due on October 19, 2023. *See*, Dkt. 42. Accordingly, this issue will likely not be resolved until mid to late October.

6. Defendants anticipate filing a partial motion to dismiss certain claims in Plaintiffs' complaints based on substantially the same factual allegations and legal principles. While the motion will not be fully dispositive, it will promote judicial efficiency, avoid excess expenses and costs to the parties and avoid potentially inconsistent results to file one partial motion to dismiss in a consolidated manner rather than in the two separate cases. Indeed, as explained in Defendants' Motion to Consolidate, one benefit of consolidating these cases is avoiding the potential of inconsistent judicial determinations.

7. However, Defendants' responsive pleading to Plaintiff's Amended Complaint is presently due on September 25, 2023. Defendant City's responsive pleading in the *Mulero* matter is also due on that date, while the Police Officer Defendants' responsive pleadings are due

September 28, 2023. *See Mulero* Dkts 37-39.

8. Accordingly, the Defendants seek an extension of time until 21 days after the resolution of the pending Joint Motion for Consolidation to file their responsive pleading to ensure all Defendants are proceeding on the same track. This is Defendants second motion for extension of time.

9. As of the filing of this motion, Counsel for the City has not heard back from Counsel for Ms. Mendoza regarding their position on this motion.

10. This request is not intended to cause undue delay or harm, and will not prejudice any Party.

WHEREFORE, Defendants, THE CITY OF CHICAGO, REYNALDO GUEVARA, GERI LYNN YANOW as Special Representative for ERNEST HALVORSEN, deceased, STEPHEN GAWRYS, and ANTHONY RICCIO, respectfully request this Honorable Court grant Defendants' Unopposed Motion for Extension of Time to Answer or Otherwise Plead and extend Defendants' deadline to file a responsive pleading to until 21 days *after* the resolution of the Defendants' Joint Motion for Consolidation, and for all other relief deemed equitable and just.

Dated: September 25, 2023

Respectfully Submitted,

/s/ Josh M. Engquist
JOSH M. ENGQUIST, Attorney No. 6242849
One of the Attorneys for Defendants
Riccio, Gawrys, and Halvorsen

James G. Sotos
Josh M. Engquist
Joseph M. Polick
John Timbo
Elizabeth Fleming
Thomas J. Sotos
THE SOTOS LAW FIRM, P.C.
141 W. Jackson Blvd, Suite 1240A

/s/Eileen E. Rosen
EILEEN E. ROSEN
One of the Attorneys for City of Chicago

Eileen E. Rosen
Theresa Carney
Catherine Barber
Austin Rahe
Andrew Grill
Jessica Zehner
Laure Ferrise
Rock Fusco & Connelly, LLC
333 W. Wacker Drive, 19th Floor
Chicago, IL 60606

Chicago, IL 60604
(630) 735-3300
jengquist@jsotoslaw.com

(312)494-1000
erosen@rfclaw.com
tcarney@rfclaw.com
cbarber@rfclaw.com
arahe@rfclaw.com
agrill@rfclaw.com
izehner@rfclaw.com
lferrise@rfclaw.com

/s/Emily E. Schnidt
EMILY E. SCHNIDT
One of the Attorneys for Reynaldo Guevara

Steven B. Borkan
Timothy Scahill
Emily E. Schnidt
Whitney Hutchinson
Borkan & Scahill, Ltd
20 S. Clark Street, Suite 1700
Chicago, IL 60603
(312)580-1030
sborkan@borkanscahill.com
tscahill@borkanscahill.com
eschnidt@borkanscahill.com
whutchinson@borkanscahill.com