

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

PLAINTIFF'S OBJECTIONS TO OPEN-ENDED REQUEST FOR EXTENSION OF TIME

Plaintiff objects to defendants' open-ended request for an extension of time for the following reasons:

1. Defendants first sought plaintiff's position on their request on the due date for filing. Plaintiff's counsel were unable to respond to the request because they were observing the Jewish Holyday of Yom Kippur.

2. Defendants' responsive pleadings were due yesterday, September 25, 2023, after one extension. (ECF No. 40.) On the due date for the pleadings, defendants filed a motion requesting an open-ended extension until 21 days after the Court rules on the pending motion to consolidate this case with *Mulero v. Guevara*, No. 23-cv-4795. (ECF No. 43.)

3. Defendants do not suggest that a ruling on consolidation will avoid the need to answer either complaint. Nor do defendants suggest that a ruling on consolidation will change the arguments they intend to raise in any “partial motion to dismiss certain claims.” (ECF No. 43 at 2, ¶ 6.)

4. Instead, defendants appear to assume that the Court will consolidate both cases and argue that further delay in the filing of responsive pleadings will “avoid excess expenses and costs to the parties” by allowing the three separately represented groups of defendants to file “one partial motion to dismiss.” (*Id.*)

5. Defendants are unable to identify any reason why they cannot file the same motion to dismiss in both cases before the Court rules on the motion to consolidate.

6. Moreover, any claimed “excess expenses and costs” involved in filing separate motions is insignificant in these cases involving false convictions for murder, five years on death row (for the plaintiff in *Mulero v. Guevara*, No. 23-cv-4795), and lengthy penitentiary terms for both plaintiffs.

There is no benefit, other than delay, in granting the requested open-ended extension. The Court should therefore deny the motion and order that defendants answer or otherwise plead to the complaint by October 10, 2023.

Respectfully submitted,

/s/ Kenneth N. Flaxman
Kenneth N. Flaxman
Joel A. Flaxman
200 S Michigan Ave Ste 201
Chicago, IL 60604-2430
(312) 427-3200
knf@kenlaw.com
attorneys for plaintiff