

EXHIBIT 4

Archived: Friday, November 22, 2024 3:15:11 PM

From: [Krystal Gonzalez](#)

Sent: Thu, 24 Oct 2024 15:46:19

To: [Carter Grant Joel Flaxman](#)

Cc: [Carter Grant Joel Flaxman](#) [Antonio Romanucci](#) [Sam Harton](#) [pdriscoll](#) [Dana Kondos](#) [Brian Eldridge](#) [Steven Hart](#) [John Marrese](#) [Bhavani Raveendran](#) [Kenneth Flaxman](#) [Andrea Checkai](#) [Morgan Forbes](#) [John Timbo](#) [Catherine M. Barber](#) [Tim Scahill](#) [Emily Schmidt](#) [Whitney Hutchinson](#) [Kellie Voss](#) [Elena Favela](#) [Christiane Murray](#) [Thomas J. Sotos](#) [Joseph M. Polick](#) [Elizabeth R. Fleming](#) [Elise A. Lindsley](#) [Josh M. Engquist](#) [George Yamin](#) [Alexis M. Gamboa](#) [Kara Hutson](#) [Eileen E. Rosen](#) [Austin Rahe](#) agrill@rfclaw.com Jessica.Zehner@rfclaw.com [Theresa B. Carney](#)

Subject: RE: Marilyn Mulero . Guevara, et al; Case No. 23-cv-4795; 37.2 letter

Importance: Normal

Sensitivity: None

Dear Counsels,

We are reaching out in accordance with Local Rule 37.2. Upon reviewing Plaintiff Mulero's Complaint, we noted that Plaintiff Mulero has disclosed significantly more than 30 Rule 404(b) witnesses. As you are aware, courts have typically limited plaintiffs to 10 or fewer Rule 404(b) witnesses in similar cases.

Additionally, we still have outstanding issues regarding both Plaintiffs' responses to Guevara's written discovery, specifically:

1. 1. Mendoza's tax records
2. 2. Mendoza's employment and wage records from 2023 to the present
3. 3. Plaintiffs' post-conviction appellate records
4. 4. Contact information for Mendoza's sister
5. 5. Communications from Plaintiffs during their incarceration at CCDOC and IDOC
6. 6. Inadequate identification of documents in Plaintiffs responses to requests for production, including attorney files
7. 7. The absence of a privilege log as required by Rule 45

We acknowledge receipt of your deposition notice and the attached affidavit from Ms. Montanez. We will discuss internally whether the proposed date works for our defense counsel. However, please note that Defendants maintain they are entitled to question Ms. Montanez first at her deposition, given her alignment with the Plaintiffs, as indicated by the affidavit you provided. *See, e.g., Lumpkin v. Kononov*, 2013 WL 1343666, at *1-2 (N.D. Ind. 2013). This issue has been litigated in several recent cases involving Mr. Guevara and our position on this has been adopted by several other judges. *See Rivera v. Guevara, et al.*, 23 CV 1743, Dckt. 80, *Hernandez v. Guevara, et al.*, 23 CV 1737, Dckt. 98, *Martinez v. Guevara, et al.*, 23 CV 1741, Dckt. 124.

Please advise whether you agree that the defense may question Ms. Montanez first at her deposition.

To avoid unnecessary motion practice, we also request that you supplement Plaintiffs' responses to Guevara's Interrogatories and Requests for Production to address the above-described issues as well as provide any communications your office (or anyone acting on its behalf) has had with Ms. Montanez or her agents relating to this affidavit or any other relevant subjects.

Additionally, please limit the disclosure of Rule 404(b) witnesses to a total of 10 within the next 14 days.

If Plaintiff is not amendable, please inform us of your availability to discuss these issues next week. We aim to resolve as many of these matters as possible, and if necessary, we can identify the matters that are appropriate for Defendant's Motion to Compel. -Krystal

From: Morgan Forbes <mforbes@hmelegal.com>

Sent: Thursday, September 26, 2024 5:35 PM

To: John Timbo <JTimbo@jsotoslaw.com>; Carter Grant <cgrant@hmelegal.com>; Krystal Gonzalez <kgonzalez@borkanscahill.com>; Catherine M. Barber <cbarber@rfclaw.com>; Tim Scahill <tscahill@borkanscahill.com>; Emily Schmidt <eschnidt@borkanscahill.com>; Whitney Hutchinson <whutchinson@borkanscahill.com>; Kellie Voss <kellie@kmlltdlaw.com>; Elena Favela <elena@borkanscahill.com>; Christiane Murray <cmurray@borkanscahill.com>;

Archived: Friday, November 22, 2024 3:15:24 PM

From: [Carter Grant](#)

Sent: Tue, 29 Oct 2024 15:37:59

To: [Catherine M. Barber](#) [gyamin](#) [Krystal Gonzalez](#) [John Timbo](#) [Tim Seahill](#) [Emily Schnidt](#) [Whitney Hutchinson](#) [Kellie Voss](#) [Elena Favela](#) [Christiane Murray](#) [Thomas J. Sotos](#) [Joseph M. Polick](#) [Elizabeth R. Fleming](#) [Elise A. Lindsley](#) [Josh M. Engquist](#) [Alexis M. Gamboa](#) [Kara Hutson](#) [Eileen E. Rosen](#) [Austin Rahe](#) [Andrew Grill](#) [Jessica Zehner](#) [Lauren Ferrise](#) [Theresa B. Carney](#) [Andrea Checkai](#)

Cc: [Antonio Romanucci](#) [Sam Harton](#) [pdriscoll](#) [Dana Kondos](#) [Brian Eldridge](#) [Steven Hart](#) [John Marrese](#) [Bhavani Raveendran](#) [Kenneth Flaxman](#) [Joel Flaxman](#) [Morgan Forbes](#)

Subject: Re: Marilyn Mulero . Guevara, et al; Case No. 23-cv-4795; 37.2 letter

Importance: Normal

Sensitivity: None

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Understood.

We also write in response to Defendant Guevara's Rule 37.2 correspondence on October 24th. We will let counsel for Ms. Mendoza address the items that were specifically directed to her – i.e. items 1, 2, and 4.

As for the remaining items, Ms. Mulero responds as follows:

- * *No. 3 Plaintiffs' post-conviction appellate records:* As stated in our October 24th email, we have received and completed our review of the Office of the State Appellate Defender's ("OSAD") file. We are in the process of completing the conversion of the paper file into an electronic file for bates labeling and production – as the defendants requested. The production is relatively large however, so it is taking some time to complete that process. We hope to have it to you by November 15.
- * *No. 5 Communications from Plaintiffs during their incarceration at CCDOC and IDOC:* Plaintiff Mulero has produced what she has.
- * *No. 6 Inadequate identification of documents in Plaintiffs responses to requests for production, including attorney files:* He have met and conferred on this issue multiple times (both on the phone and via written correspondence) and have made clear that we disagree with your position that Plaintiff's identification of documents to your RFPs are inadequate.
- * *No. 7 The absence of a privilege log as required by Rule 45:* we will produce a privilege log in conjunction with our supplemental document production as set forth in our response to No. 3 above.

As to the deposition of Ms. Montanez, we have reviewed the case law you cited for the proposition that you are entitled to question Ms. Montanez first, as well as the additional Guevara cases in which this issue has arisen which you did not cite to. In short, we do not find your position, or your authority, to be persuasive as it relates to Ms. Montanez. We are *not* agreeing to allow the defense to question our subpoenaed witness first. If you would like to meet and confer further on this issue to fulfill our Rule 37.2 obligations,

please propose some dates and times.

Thank you.



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From: Catherine M. Barber <cbarber@rfclaw.com>

Date: Friday, October 25, 2024 at 1:44 'a0PM

To: gyamin <gyamin@jsotolaw.com>, Krystal Gonzalez <kgonzalez@borkanscahill.com>, Carter Grant <cgrant@hmelegal.com>, John Timbo <JTimbo@jsotolaw.com>, tscahill@borkanscahill.com <tscahill@borkanscahill.com>, eschnidt@borkanscahill.com <eschnidt@borkanscahill.com>, whutchinson@borkanscahill.com <whutchinson@borkanscahill.com>, kellie@kmltdlaw.com <kellie@kmltdlaw.com>, elena@borkanscahill.com <elenaborkanscahill.com>, Christiane Murray <cmurray@borkanscahill.com>, Thomas J. Sotos <TSotos@jsotolaw.com>, Joseph M. Polick <JPolick@jsotolaw.com>, Elizabeth R. Fleming <efleming@jsotolaw.com>, Elise A. Lindsley <elindsley@jsotolaw.com>, Josh M. Engquist <JEngquist@jsotolaw.com>, Alexis M. Gamboa <AGamboa@jsotolaw.com>, Kara Hutson <khutson@rfclaw.com>, Eileen E. Rosen <ERosen@rfclaw.com>, Austin Rahe <arahe@rfclaw.com>, Andrew Grill <agrill@rfclaw.com>, Jessica Zehner <jzehner@rfclaw.com>, Lauren Ferrise <lferrise@rfclaw.com>, Theresa B. Carney <tcarney@rfclaw.com>, Andrea Checkai <ACheckai@borkanscahill.com>

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Subject: RE: Marilyn Mulero . Guevara, et al; Case No. 23-cv-4795; 37.2 letter

That process works for the City as well. Thanks.

From: George Yamin <GYamin@jsotolaw.com>

Sent: Friday, October 25, 2024 1:43 PM

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From: Joel Flaxman <jaf@kenlaw.com>
Sent: Tuesday, October 29, 2024 1:27 PM
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Subject: Mendoza v. Chicago, 23-cv-2441: Various Discovery Matters

I am writing to address various discovery matters listed in Krystal's email of 10/24/24. I did not respond to the matters that I believe were for Mulero, so please let me know if I missed something that was addressed to my client.

We attach, subject to protective order, Ms. Mendoza's tax returns from 2020 and 2021 as MMENDOZA 8117-8127 and MMENDOZA 8128-8135. We are searching for additional tax information.

I previously informed you that we had determined that the Cook County Public Defender's Office represented Ms. Mendoza in the appeal of her post-conviction petition. I followed up with Emily Mallor about her office's attempts to locate that file yesterday, and she informed me that she will have an update later in the week. She also informed me that the file will not contain anything except filed pleadings and transcripts.

I expect to be able to respond later this week about contact information for Ms. Mendoza's sister and about communications during incarceration.

And we concur in the response on behalf of Mulero regarding the deposition of Ms. Montanez.

Joel Flaxman