

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

JOSE CRUZ,

Plaintiff,

v.

FORMER DETECTIVE REYNALDO

GUEVARA, et al,

Defendants.

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Case No. 23-cv-04268

Honorable Judge Alexakis

Magistrate Judge Fuentes

JURY DEMAND

**OFFICER DEFENDANTS' MOTION TO STRIKE
PLAINTIFF'S MEMORANDUM IN SUPPORT OF CCSAO'S MOTION TO QUASH**

Defendants, Stephen Gawrys, Robert Rutherford, Anthony Riccio, Edward Mingey, Anthony Wojcik, Robert Boris, and Geri Lynn Yanow as special representative for Ernest Halvorsen, deceased ("Officer Defendants"), through their attorneys, The Sotos Law Firm, move this Honorable Court to strike Plaintiff's memorandum in support of the Cook County State's Attorney's Office ("CCSAO") Motion to Quash Kim Foxx's deposition subpoena. ([Dkt. 263](#).) In support thereof, Officer Defendants state as follows:

1. On September 13, 2024, the Cook County State's Attorney's Office filed its Motion to Quash Defendants' subpoena for the deposition of State's Attorney Kim Foxx. ("Motion to Quash.") ([Dkt. 223](#).)
2. This Honorable Court ordered Officer Defendants and the CCSAO to confer and submit a proposed agreed briefing schedule by noon on September 17, 2024. ([Dkt. 224](#).)
3. On September 17, 2024, the parties submitted their proposed briefing schedule, which the Court granted. (Dkt. [229](#), [230](#).)

4. Pursuant to the Court's briefing schedule order, "[T]he Officer Defendants (or any party that wishes to respond) shall file any response no later than 5 p.m. on 9/23/24, and the CCSAO is granted to 5 p.m. on 9/30/24 to file a reply." ([Dkt. 230.](#))

5. Officer Defendants filed their Response to the CCSAO's Motion to Quash on September 23, 2024, in compliance with this Court's order. ([Dkt. 236.](#))

6. The CCSAO filed their Reply in Support of their Motion to Quash on September 30, 2024, also in compliance with this Court's order. ([Dkt. 262.](#))

7. For no articulable or excusable reason, Plaintiff waited until October 1, 2024 to file his Memorandum in Support of the CCSAO Motion to Quash. ([Dkt. 263.](#)) Plaintiff never sought leave to file such a memorandum, and instead chose to completely disregard this Court's order.

8. It seems as though Plaintiff made a strategic choice to file his memorandum outside of the briefing schedule so Defendants would not have an opportunity to respond. Officer Defendants are prejudiced, due to the Response solely addressing arguments made by the CCSAO which differ from arguments raised by Plaintiff. Specifically, Plaintiff conflates the CCSAO's burden relating to its Motion to Quash with the burden of admissibility of evidence at trial which is irrelevant here.

9. Plaintiff's Memorandum must be stricken. The Court imposes deadlines for a reason – to effectively move the discovery process along, and to avoid unnecessary delays. Otherwise, parties may well disregard Court orders and deadlines at their election and management of cases would fall by the wayside. "We live in a world of deadlines. If we're late for the start of the game or the movie, or late for the departure of the plane or the train, things go

forward without us. The practice of law is no exception.” *Raymond v. Ameritech Corp.*, 442 F.3d 600, 606 (7th Cir. 2006) (internal quotation marks and citations omitted.).

10. As this Court is aware, the discovery extension deadline is December 3, 2024, which necessitates the parties resolving the issues discussed within the appropriately filed briefing in an expedited manner in order to move this case forward. Plaintiff’s disregard for this Court’s briefing schedule fundamentally thwarts the discovery process and blatantly disregards this Court’s deadline. “Judges must be able to enforce deadlines. Doing so means the use of sanctions, even severe ones....when parties ignore the ongoing proceedings and demand the right to set their own deadlines.... Toleration of delay could string out the case interminably, its pace established by the most slothful of the parties.” *Matter of Kilgus*, 811 F.2d 1112, 1118 (7th Cir.1987.)

11. Officer Defendants respectfully request this Honorable Court strike Plaintiff’s Memorandum in support of the CCSAO’s Motion to Quash. Alternatively, if this Court believes Plaintiff’s Memorandum is appropriate, Officer Defendants respectfully request at least fourteen (14) days to file a response.

WHEREFORE, Officer Defendants, respectfully requests that this Honorable Court grant its Motion to Strike Plaintiff’s Untimely Memorandum in Support of the CCSAO’s Motion to Quash and for any other relief as this Court deems necessary and just.

Dated: October 4, 2024

Respectfully submitted,

/s/ Alexis M. Gamboa

ALEXIS M. GAMBOA, Atty. No. 6331348
Special Assistant Corporation Counsel for
Defendants Officers

James G. Sotos
Josh M. Engquist
Lisa M. Meador

Alexis M. Gamboa
Jeffrey C. Grossich
THE SOTOS LAW FIRM, P.C.
141 W. Jackson Blvd, Suite 1240A
Chicago, IL 60604
P: (630) 735-3300
agamboa@jsotoslaw.com

CERTIFICATE OF SERVICE

I certify under penalty of perjury pursuant to 28 U.S.C.A. § 1746 that the foregoing is true and correct, that on October 4, 2024, I electronically filed the foregoing **Officer Defendants' Motion to Strike Plaintiff's Memorandum in Support of CCSAO's Motion to Quash** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following CM/ECF participants listed in the below service list.

Attorneys for Plaintiff

Stuart J. Chanen (Stuart@ChanenOlstein.com)
Ariel Olstein (Ariel@ChanenOlstein.com)
CHANEN & OLSTEIN LLP
8822 Niles Center Rd., Suite 100
Skokie, IL 60077
P: 847-469-4669

Jack Samuel Tenenbaum
Northwestern Pritzker School of Law
375 E. Chicago Ave., Suite 411
Chicago, IL 60611
P: 312-503-4808
s-tenenbaum@law.northwestern.edu

Attorneys for the City of Chicago

Eileen E. Rosen (erosen@rfclaw.com)
Andrew J. Grill (agrill@rfclaw.com)
Austin G. Rahe (arahe@rfclaw.com)
Catherine M. Barber (cbarber@rfclaw.com)
Lauren M. Ferrise (lferrise@rfclaw.com)
Theresa B. Carney (tcarney@rfclaw.com)
Rock, Fusco & Connelly
333 West Wacker Drive, 19th Floor
Chicago, IL 60606
P: (312) 494-1000

Attorneys for Reynaldo Guevara

Steven B. Borkan (Sborkan@borkanscahill.com)
Timothy P. Scahill (tscahill@borkanscahill.com)
Graham P. Miller ([gmiller@borkanscahill.com](mailto:gmilller@borkanscahill.com))
Emily E. Schnidt (eschnidt@borkanscahill.com)
Molly Boekeloo (mboekeloo@borkanscahill.com)
Whitney Hutchinson (whutchinson@borkanscahill.com)
Mischa Itchhaporia (mitchhaporia@borkanscahill.com)
Krystal Gonzalez (kgonzalez@borkanscahill.com)
Andrea F. Checkai (acheckai@borkanscahill.com)
Borkan & Scahill

20 S. Clark Street, Suite 1700
Chicago, IL 60603
P: (312)-580-1030

Attorneys for Edward Maloney

William B. Oberts (wboberts@tribler.com)
Kevin C. Kirk (kkirk@tribler.com)
Oberts Galasso Law Group
161 N. Clark Street, Suite 1600
Chicago, IL 60601
P: (312) 741-1024

/s/ Alexis M. Gamboa

ALEXIS M. GAMBOA, Atty. No. 6331348
*Special Assistant Corporation Counsel for
Defendants Officers*