

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

THOMAS KELLY,

Plaintiff,

v.

REYNALDO GUEVARA, *et al.*,

Defendants.

Case No. 24 C 05354

Hon. Judge Georgia N. Alexakis
District Judge

Hon. Laura K. McNally
Magistrate Judge

JOSE TINAJERO,

Plaintiff,

v.

REYNALDO GUEVARA, *et al.*,

Defendants.

Case No. 24 C 01598

Hon. Judge Georgia N. Alexakis
District Judge

Hon. Laura K. McNally
Magistrate Judge

JOHN MARTINEZ,

Plaintiff,

v.

REYNALDO GUEVARA, *et al.*,

Defendants.

Case No. 23 C 01741

Hon. Judge Georgia N. Alexakis
District Judge

Hon. Laura K. McNally
Magistrate Judge

JOINT STATUS REPORT

The parties, by their respective undersigned counsel, and pursuant to this Court's January 22, 2025 Minute Entry (*Martinez* Dkt. 218) respectfully submit the following joint status report for the three above-captioned cases:

1. Progress of Discovery

The current fact discovery deadline in these cases is March 31, 2025 for all party discovery and May 30, 2025 for all non-party discovery. (*Martinez* Dkt. 221.)

Written Discovery: On February 13, the Cook County State's Attorney's Office acknowledged receipt of Plaintiffs' subpoena regarding any payments to third-party witnesses. Plaintiffs are in the process of conferring with the Cook County State's Attorney's Office regarding the subpoena.

Counsel are close to reaching a written stipulation covering the scope of 404(b) witnesses who may be called to offer live testimony at trial. If no such agreement can be reached, Defendants will be filing a motion to limit Plaintiffs' over two-hundred 404(b) disclosures, including the recently disclosed 404(b) disclosures related to Eloy Garza.

Plaintiffs have been conferring with counsel for the City regarding an ESI protocol across the Guevara cases the respective counsel's firms are litigating. Plaintiffs expected to hear back regarding this proposal last week and have requested that the City respond by close of business today. The City continues to investigate the issues raised by Plaintiffs with respect to ESI discovery in the Guevara cases (related to criminal investigations that occurred 25-30 years ago) and has nearly completed its investigation but will not be in a position to respond to the issues raised by Plaintiffs in this and the other Guevara cases by close of business today. Specifically, the City is still investigating what electronic storage data systems existed in the 1980s and 1990s

and to the extent they did exist, do they still exist today and can they be searched. The City expects to complete its investigation within the next 7-10 days.

Plaintiffs have requested a time to confer with the City of Chicago regarding arrest reports and IR jackets. The City requested the identified arrest reports and IR jackets upon receipt of Plaintiffs' email and will produce upon receipt.

Plaintiffs intend to file a motion to compel the City of Chicago to produce a complete investigative file in this case, given the discrepancies Plaintiffs have located in other homicide files in other cases in which the City and Detective Guevara are Defendants. The City does not know what Plaintiff intends to compel. Plaintiff has not raised any concerns in this case about the completeness of the investigative file. Thus from the City's perspective, the parties are not at impasse.

Plaintiffs Martinez and Kelly have issued supplemental Rule 26(a)(1) disclosures, regarding 404(b) witnesses who can testify as to Defendant Guevara's and other Chicago police officers' involvement in the murder of Eloy Garza and its cover up.

Oral Discovery: Since the January 17, 2025 status report, the Parties have taken the depositions of Plaintiff John Martinez, John DeLeon, Ada Rivera, Leslie Tinajero, Darlene Solis, Angel Serrano, Joseph Szybist, Brian Suth, Steven Wilson, Rubi Garcia, and Jazmine Martinez.

Deposition of Plaintiff John Martinez:

Plaintiffs' Position: On March 18, Plaintiff Martinez completed his deposition of seven hours of on-the-record time, as is the maximum permitted under Federal Rule of Civil Procedure 30(d). Defense counsel must determine among themselves how to split the time between each other. Defense counsel left ten minutes of on-the-record time for counsel for ASA Rubinstein to conduct her questioning. Defendants spent a great deal of time questioning Plaintiff about

irrelevant topics including his gang membership and gang-related documents Plaintiff testified he had never seen before. Additionally, Assistant State's Attorney Rubinstein and the subject of his involvement in this case, including the handwritten statement, was discussed at length in the questioning by counsel for the Defendant Officers. Finally, Plaintiffs Martinez and Kelly have settled their claims with Defendant Rubinstein. Counsel for Plaintiff Martinez will not be reproducing him for another deposition.

Defendant Rubinstein's Position: The deposition of John Martinez was initially scheduled to proceed on January 12, 2025. The deposition date was unilaterally cancelled by his attorneys, continued to February 6, 2025, again cancelled by his attorneys and continued to March 18, 2025. At his March 18, 2025 deposition, Counsel for Defendant Rubinstein was afforded less than ten minutes to question John Martinez before Plaintiff refused her request for additional time and terminated the deposition. During the course of the deposition, Plaintiff Martinez dramatically changed his testimony from the testimony he swore to, under oath, at his criminal trial, including adding additional facts with respect to Defendant Rubinstein that need to be clarified. Additionally, he provided multiple answers that were non-responsive, requiring questions to be asked multiple times, ultimately causing the deposition to proceed at a slower pace. On March 19, 2025, pursuant to Local Rule 37.2, Counsel for Defendant Rubinstein asked Plaintiff's counsel to confer by phone and/or via zoom regarding her request to extend the time for her to complete her examination of Plaintiff Martinez, via zoom. Counsel for Defendant Rubinstein believes she can complete her examination in less than one hour prior to the March 31, 2025 cut-off for party depositions. Counsel for Defendant Rubinstein is awaiting Plaintiff's response with the hope that this issue can be amicably resolved.

Remaining Depositions:

Depositions have been or will be noticed and served for the following dates:

- a. March 21: Plaintiff Jose Tinajero
- b. March 25: Plaintiff Thomas Kelly
- c. March 31: Defendant Jacob Rubenstein
- d. April 4 at 10 am: Lawrence Sommers
- e. May 9 at 10 am: Caesar Rodriguez
- f. May 9 at 1 pm: Norma Rodriguez
- g. May 13 at 10 am: Shannon DeJesus
- h. May 13 at 1 pm: Roxanne Kelly
- i. May 15: Elizabeth Felicano
- j. May 16 at 10 am: John Martinez, Jr.
- k. May 16 at 1 pm: Sonia Rosado
- l. May 22: Judge Melissa Durkin

Plaintiffs intend to file a motion for service via certified mail this week for the deposition of third-party witness Melloney Parker after repeated failed service attempts. Plaintiffs have requested and are awaiting a date for Officer Jon Woodall's deposition. Plaintiffs also intend to depose Edward Mingey.

Edward Mingey is currently a named defendant. Plaintiffs have agreed to dismiss Mingey as a defendant, and the parties anticipate they will file an agreed stipulation dismissing Mingey by the end of the week. Defendants also intend to take the depositions of disclosed witnesses John Byrne, Karl Leonard, Gregory Swygert, Dennis Giovannini, Joseph Kennelly, ASA Donald Lyman, Jesus Fuentes, Esteban Rodriguez, and Manuel Rodriguez. Defendants collectively offered dates for all these outstanding depositions to Plaintiffs on March 14, 2025, and are still

waiting on Plaintiffs' counsel for Martinez and Kelly to confirm availability for these depositions.

In addition, Defendants intend to file a motion seeking leave to re-depose John Martinez's defense attorney, John DeLeon, based on testimony from Martinez's March 18 deposition that was not previously disclosed to Defendants, and based on the fact that Mr. DeLeon was instructed not to answer certain questions posed to him in his deposition regarding Martinez's defense. Defendants will confer with Plaintiffs before filing any motion with the Court, if necessary.

Plaintiffs have been conferring with the City regarding the 30(b)(6) deposition across all of counsel's current cases in which Detective Guevara is a defendant. Plaintiffs expected to hear last week regarding Defendants' proposed dates and await dates from Defendant City of Chicago. The City is near completion of its investigation into the agreed upon topics from Plaintiff's 30(b)(6) notice in this and other Guevara related cases. The City is awaiting confirmation from Plaintiffs' counsel that there will be one designated attorney, irrespective of the fact that the testimony will apply to multiple cases, to ask questions at the deposition to ensure that the deposition proceeds efficiently. The City expects that the parties will be in a position next week to discuss date(s) for the deposition. Additionally, the Parties designated testimony from prior Guevara cases for other 30(b)(6) topics Plaintiffs have requested in these cases obviating the need for additional testimony.

3. Settlement

Defendant Cook County responded to Plaintiff Tinajero's initial settlement demand on January 6, 2025 with an initial offer. Plaintiff Tinajero responded on January 8, 2025 with a counter. Cook County has not responded to plaintiff's counter. The parties have fully briefed the

good faith finding motion filed by the County and Plaintiffs Martinez and Kelly. (*Martinez* Dkt. 198, 211, 213.) The City Defendants have not yet received a settlement demand from Plaintiffs.

RESPECTFULLY SUBMITTED,

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