

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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ELISA W., et al., :

Plaintiffs, :

15 Civ. 5273 (LTS) (HBP)

-against- :

ORDER

THE CITY OF NEW YORK, et al., :

Defendants. :

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PITMAN, United States Magistrate Judge:

On June 9, 2016 I issued an endorsed Order in this matter which provided, among other things, that:

The City defendants are to respond to the discovery requests to which they are asserting only general objections no later than July 1, 2016 (a 22-day extension). For those discovery request for which the City defendants do not have general objections, the City defendants are to respond no later than July 21, 2016; to the extent that the City defendants are producing documents in response to plaintiffs' discovery requests, the documents are also to be produced by July 21, 2016.

(Docket Item 175).

Despite the clear language in the second clause of the last sentence, the City defendants served additional objections on plaintiffs' counsel on July 21 and announced that, notwithstanding my Order, they would not complete their document production until 90 days after July 21.

The underlying document request was served on May 6, 2016. Assuming that it was served by some method other than physical delivery to the City defendants' counsel, in the absence of my June 9 Order, the response would have been due on June 8, 2016. See Fed.R.Civ.P. 6(d). The City defendants' proposed date for the completion of their document production -- 90 days after July 21 or October 19 -- is approximately 130 days from the default date set in Rule 34 and more than 150 days after the requests were served.

I appreciate that Rule 34(b)(2)(B) permits a party that is responding to a document request to propose a "reasonable time" for the production of documents, but the City defendants no longer have that prerogative. It was clear from the correspondence that preceded the June 9 Order that plaintiffs were seeking documents, not merely a statement of objections. In response to plaintiff's June correspondence, the City defendants advised only that production by the July 14, 2016 date proposed by plaintiffs was unreasonable; the City defendants gave no indication whatsoever that they were seeking a document production schedule that would go into autumn nor did they propose such a schedule. If the City defendants needed more than three months beyond the July 14 date that plaintiffs were proposing, they should have raised the issue in June. Second, the City defendants lost

whatever discretion they may have formerly had under Rule 34(b)(2)(B) once I issued my June 9 Order that "to the extent that the City defendants are producing documents in response to plaintiffs' discovery requests, the documents are also to be produced by July 21, 2016." The foregoing language clearly required the production of the documents that the City defendants were producing by July 21. The City defendants never sought reconsideration of my June 9 Order nor did they ever object to it. The City defendants' current position that my June 9 Order somehow left them with the option of unilaterally proposing a drastically expanded schedule for document production is, at best, wishful thinking.

The City defendants are ordered (1) to complete their production of documents in response to plaintiffs' May 6, 2016 document request no later than August 18, 2016 and (2) to commence immediately the production of documents that the City defendants state they will produce in their July 29, 2016 letter (Docket Item 248). Because this the second time I have had to order the City defendants to produce documents in response to plaintiffs' May 6, 2016 document request, further disobedience by

the City defendants will result in the imposition of sanctions.

See Fed.R.Civ.P. 37(b).

Dated: New York, New York
August 8, 2016

SO ORDERED


HENRY PITMAN
United States Magistrate Judge

Copies transmitted to:

All Counsel