

Lane v City of New York
2021 NY Slip Op 31533(U)
May 5, 2021
Supreme Court, New York County
Docket Number: 153022/2015
Judge: J. Machelle Sweeting
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. J. MACHELLE SWEETING PART IAS MOTION 62

Justice

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INDEX NO. 153022/2015

DENISE LANE,

MOTION DATE 01/28/2021

Plaintiff,

MOTION SEQ. NO. 001

- v -

THE CITY OF NEW YORK, NEW YORK CITY
DEPARTMENT OF CORRECTIONS, COMMISSIONER
JOSEPH PONTE, WARDEN ANTONIO CUIN,
MANHATTAN DETENTION COMPLEX

**DECISION + ORDER ON
MOTION**

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59

were read on this motion to/for STRIKE PLEADINGS.

Pending before the court is a motion filed by plaintiff seeking to strike the Answer of the defendants (collectively, the “City”), or in the alternative, to compel discovery.

This case was conferenced before the undersigned on May 4, 2021. Pursuant to such conference, it is **HEREBY ORDERED** that:

Plaintiff’s motion seeking to strike the City’s Answer is **DENIED**, as the City did not engage in willful or contumacious conduct.

That part of plaintiff’s motion seeking to compel discovery of records for non-party William Jones is also **DENIED**. Such records include the following, as described in the

Affirmation of plaintiff’s counsel (NYCEF Document #40):

- 1) The Inmate Report on p. 2, ¶ 7, section titled “Paragraph 6”
- 2) The medical reports on p. 3, ¶ 7, section titled “Paragraph 7”; the medical treatment records on p. 5, ¶ 7, section titled “Paragraph 12”; the drug tests on p. 6, ¶ 7, section titled “Paragraph 13”

- 3) The Classification level on p. 4, ¶ 7, section titled “Paragraph 9”
- 4) The prior infractions on p. 4, ¶ 7, section titled “Paragraph 10”; the Rap Sheet p. 5, ¶ 7, section titled “Paragraph 11”)

That part of plaintiff’s motion seeking to compel discovery of correction officers’ personnel records is also DENIED, as no officers were individually named as defendants in this lawsuit.

With respect to items described in pages 9-12 of the Reply Affirmation of plaintiff’s counsel (NYCEF Document #55), which each relate to plaintiff’s October 21, 2019 Notice for Discovery and Inspection:

Paragraph 1: The City is to produce the rule book, revisions or block training refresher course materials and the rules and regulations for correction s officers accompanying and/or protecting healthcare workers.

Paragraph 2: The City is to produce post description for the correction officers who were assigned to escort and accompany medical personnel outside the clinic and who were assigned to the intake area where nurse Lane was escorted to when this incident took place.

Paragraph 4: The City is in compliance, as the video of the incident had already been produced. Plaintiff is seeking video of 30 minutes prior, which City maintains no longer exists pursuant to the City’s retention policy. This application was withdrawn.

Paragraph 5: The City is to produce the use of force log book entry (Book 10 page 14 of the MD facility).

Paragraph 8: To the extent that plaintiff is seeking that part of the Supervisor’s report that includes medical records for William Jones, this request is denied.

Paragraph 14: The City is to make available for inspection by plaintiff’s counsel the original of C.O. Christopher Cruz’s use of force report.

With respect to items described in pages 12-17 of the Reply Affirmation of plaintiff's counsel (NYCEF document #55), which each relate to plaintiff's February 27, 2020 Notice for Discovery and Inspection:

Paragraphs 1, 2, 3, 4: Denied, in that this request seeks personal information, namely: admission packet, inmate folder, floor cars and computer system entries of William Jones.

Paragraph 5: The City is to produce a copy of the rule book referred to by Correction officers Perez and Alphonse at their EBT's.

Paragraph 6: The City is to produce a copy of the revision block training materials and refresher materials referred to by Officer Perez at his EBT.

With respect to items described in pages 17-18 of the Reply Affirmation of plaintiff's counsel (NYCEF Document #55), which each relate to plaintiff's February 28, 2020 Notice for Discovery and Inspection:

Paragraph 1: Denied.

With respect to items described in pages 18-19 of the Reply Affirmation of plaintiff's counsel (NYCEF Document #55), which each relate to plaintiff's February 15, 2017 Notice for Discovery and Inspection:


Paragraphs 7-11: Denied as overly broad in time and scope.

Paragraph 13: Same, and additionally denied as it seeks records for non-party William Jones.

Paragraph 14: The City is to produce (subject to obtaining proper authorization from plaintiff), plaintiff Denise Lane’s clinic records as requested.

Finally, the deposition of Corrections Officer Cai is scheduled to take place on May 5, 2021, and thus a motion to compel the deposition is denied as MOOT.

This is the order of the court.

<u>5/5/2021</u> DATE		 J. MACHELLE SWEETING, J.S.C.
CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
	<input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED	<input type="checkbox"/> GRANTED IN PART <input checked="" type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER
CHECK IF APPROPRIATE:	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT <input type="checkbox"/> REFERENCE