SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. HASA A. KINGO** **PART** **5M**

Justice

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REGINALD MARTIN,

Plaintiff,

- v -

THE CITY OF NEW YORK, PRINCE GEORGE ASSOCIATES, L.P., LIEUTENANT SEAN MCELLIGOT(6000), DETECTIVE DONALD HEGARTY (1988) AND POLICE OFFICERS JOHN DOE 1-3,

Defendants.

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INDEX NO. 156142/2016

MOTION DATE 04/09/2024

MOTION SEQ. NO. 003

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 003) 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96

were read on this motion for SUMMARY JUDGMENT.

Upon the foregoing documents, defendants, the City of New York (the "City"), Lieutenant Sean Mcelligot (6000), and Detective Donald Hegarty (1988) moves pursuant to CPLR §§ 3211 and 3212 for partial summary judgment to dismiss several causes of action. Plaintiff Reginald Martin ("Plaintiff") opposes the motion in part. For the reasons set forth herein, the motion is granted in part, and denied as to the remainder.

BACKGROUND

Plaintiff commenced this civil rights action to recover damages sustained in connection with his arrest by members of the New York City Police Department (the "NYPD") on July 15, 2015 (NYSCEF Doc No. 15, amended complaint ¶ 9). On that date, defendant Lieutenant Sean McElligott ("McElligott") escorted nuisance abatement personnel, including two attorneys and a detective from the NYPD legal bureau, to Plaintiff's residence at the Prince George Associate Hotel located at 14 East 28th Street, New York, NY 10016, Apartment 733, in order to evict Plaintiff from the residence pursuant to a court order dated July 21, 2015 (NYSCEF Doc No. 62, statement of material facts ¶¶ 3-4; NYSCEF Doc No. 78, order). Upon entering the subject premises, of which Plaintiff was the only occupant, McElligott observed a crack pipe with residue and drug paraphernalia in plain view on Plaintiff's kitchen table (NYSCEF Doc No. 62, statement of material facts ¶ 7). McElligott then observed a second crack pipe on top of Plaintiff's dresser table (*id.* ¶ 8). McElligott determined that the pipes were illegal crack pipes based on his experience and training in narcotics (*id.* ¶ 9).

Relying on this determination, the officers placed Plaintiff under arrest for Criminal Possession of a Controlled Substance (*id*. ¶¶ 9-10). The City alleges that Plaintiff resisted arrest by, *inter alia*, refusing to put his hands behind his back, flailing his arms, "locking McElligott's fingers inside the chain of the handcuffs," headbutting McElligott, and attempting to spit on McElligott (*id*. ¶¶ 12-14). Defendant Detective Donald Hegarty ("Hegarty") was the arresting officer who processed the paperwork for Plaintiff's arrest but was not present at the scene during the arrest (NYSCEF Doc No. 62, statement of material facts ¶ 15). Plaintiff asserts that a video of the arrest depicts McElligott use excessive force on Plaintiff during the arrest by executing a leg sweep maneuver on Plaintiff which caused him to fall and hit the floor face first, resulting in a fracture to his right eye orbit, along with other fractures, as well as soft tissue injuries involving Plaintiff's Shoulders, neck and back (NYSCEF Doc No. 85, aff in opposition ¶¶ 3, 11).

On July 22, 2025, Plaintiff commenced this action by filing a summons and complaint that interposed causes of action against the City of New York, Prince George Associates, L.P. ("Prince George"), and Police Officers John Doe #1-5 (NYSCEF Doc No. 1). Defendant Prince George filed an answer on October 5, 2016 (NYSCEF Doc No. 8). On January 24, 2018, Plaintiff filed a motion to amend the complaint to add McElligott and Hegarty and modify the John Doe defendants from #1-5 to #1-3 (NYSCEF Doc Nos. 12, 15, notice of motion, amended complaint). The City cross-moved pursuant to CPLR § 3211 (a)(5) and (7) to dismiss the complaint for failure to timely serve a Notice of Claim and for failure to state federal cause of action for malicious prosecution (NYSCEF Doc No. 17, notice of cross-motion). Plaintiff then moved, by order to show cause, for leave to file a late Notice of Claim *nunc pro tunc* (NYSCEF Doc No. 36, order to show cause).

These motions were resolved pursuant to a May 29, 2018 stipulation between the parties wherein they agreed to amend the caption to include McElligott and Hegarty, modify the John Doe defendants to #1-3, deem the proposed amended complaint served upon all appearing parties, and discontinue all state causes of action against the City and its employees with prejudice (NYSCEF Doc No. 39, so-ordered stipulation). The matter then proceeded to discovery, and Plaintiff filed the note of issue on December 11, 2023 (NYSCEF Doc No. 61).

The City now moves pursuant to CPLR §§ 3212 and 3211 for summary judgment and to dismiss the remaining causes of action interposed against the City, including Plaintiff's first cause of action for false arrest and malicious prosecution with regards to the charge of resisting arrest, second cause of action for deprivation of rights under the United States Constitution and 42 U.S.C. § 1983, third cause of action for dereliction of duty, deliberate indifference, and failure to intercede, eighth cause of action for excessive force with respect to municipal liability, tenth cause of action for excessive force, thirteenth cause of action for *Monell* liability, and to dismiss the complaint in its entirety against the John Doe defendants (NYSCEF Doc No. 61, notice of motion). Plaintiff "does not contest the bulk" of the motion, but asserts that "questions of fact exist which preclude summary dismissal of Plaitniff's claims based upon excessive force" (NYSCEF Doc No. 85, aff in opposition ¶ 2).

DISCUSSION

A motion for summary judgment "shall be granted if, upon all the papers and proofs submitted, the cause of action or defense shall be established sufficiently to warrant the Court as a

matter of law in directing judgment in favor of any party" (CPLR § 3212 [b]). "The proponent of a motion for summary judgment must demonstrate that there are no material issues of fact in dispute, and that it is entitled to judgment as a matter of law" (*Dallas-Stephenson v Waisman*, 39 AD3d 303, 306 [1st Dept 2007]). The movant's burden is "heavy," and "on a motion for summary judgment, facts must be viewed in the light most favorable to the non-moving party" (*William J. Jenack Estate Appraisers & Auctioneers, Inc. v Rabizadeh*, 22 NY3d 470, 475 [2013] [internal quotation marks and citation omitted]). Upon proffer of evidence establishing a *prima facie* case by the movant, the party opposing a motion for summary judgment bears the burden of producing evidentiary proof in admissible form sufficient to require a trial of material questions of fact (*Zuckerman v City of New York*, 49 NY2d 557, 562 [1980]). "A motion for summary judgment should not be granted where the facts are in dispute, where conflicting inferences may be drawn from the evidence, or where there are issues of credibility" (*Ruiz v Griffin*, 71 AD3d 1112, 1115 [2d Dept 2010] [internal quotation marks and citation omitted]).

Where a Defendant moves to dismiss pursuant to CPLR § 3211(a)(7), the court must "accept the facts as alleged in the complaint as true, accord the plaintiff the benefit of every possible favorable inference, and determine only whether the facts as alleged fit within any cognizable legal theory" (*Leon v Martinez*, 84 NY2d 83, 87-88 [1994] [citations omitted]). Ambiguous allegations must be resolved in the plaintiff's favor (*see JF Capital Advisors, LLC v Lightstone Group, LLC*, 25 NY3d 759, 764 [2015]). "The motion must be denied if from the pleadings' four corners factual allegations are discerned which taken together manifest any cause of action cognizable at law" (*511 West 232nd Owners Corp. v Jennifer Realty Co.*, 98 NY2d 144, 152 [2002] [internal citations omitted]). "However, when evidence is submitted on a motion to dismiss, we look to whether plaintiff has a cause of action, rather than whether it is pleaded" (*Braun v Lewis*, 99 AD3d 574 [1st Dept 2012]; citing *Guggenheimer v Ginzburg*, 43 NY2d 268, 275 [1977]).

Pursuant to the May 29, 2018 stipulation between the parties, all of Plaintiff's state causes of action asserted against the City and its employees were discontinued, including the fourth cause of action for negligence, fifth cause of action for negligent hiring, screening, retention, supervision, and training, sixth cause of action for negligent infliction of emotional harm, seventh cause of action for intentional infliction of emotional harm or distress, ninth cause of action for common law assault and battery, and the eleventh cause of action for state claims of negligence, carelessness, and/or recklessness by the City (NYSCEF Doc No. 39, so-ordered stipulation). The City now moves for summary judgment and to dismiss the remaining causes of action asserted against it. Plaintiff opposes the motion only to the extent that the City seeks summary dismissal of "Plaintiff's claims based upon excessive force" (NYSCEF Doc No. 2, aff in opposition ¶ 2). Plaintiff does not specify which causes of action he asserts are "based upon excessive force," but affording the Plaintiff a liberal interpretation, this may include the second cause of action for deprivation of rights under the United States Constitution and 42 U.S.C. § 1983 against the City of New York, the eighth cause of action for excessive force with respect to municipal liability, the tenth cause of action for excessive force against the individual defendants, and the thirteenth cause of action for *Monell* liability. As such, the uncontested portions of the City's motion are granted on consent, and the first and third causes of action are dismissed.

Although the second cause of action is not explicitly pleaded as a *Monell* claim, in substance, both the second and thirteenth causes of action plead *Monell* claims. Plaintiff's second cause of action for deprivation of rights under the United States Constitution and 42 U.S.C. § 1983 by the City of New York alleges that the City, "acting through its fire department and through Defendants [McElligott], [Hegarty], and Police Officers John Doe #1-3, had in effect actual and/or *de facto* policies, practices, customs and usages which were a direct and proximate cause of the unconstitutional conduct alleged herein" (NYSCEF Doc No. 15, amended complaint ¶ 58). The complaint further alleges that the City was aware that its failure to properly train, screen, supervise, and discipline members of the NYPD and emergency medical personnel acting on behalf of the City leads to improper conduct and deliberate indifference, and that such "polices, practices, customs, and usages were a direct and proximate cause" of the harmful conduct that resulted in a deprivation of Plaintiff's constitutional rights (*id*. ¶ 60). Specifically, Plaintiff contends that the actions of McElligott and Hegarty caused "unnecessary pain on Plaintiff while forcefully and brutally restraining Plaintiff," which deprived Plaintiff of his constitutional rights as guaranteed under 41 U.S.C. § 1983 and the First, Fourth, Eighth, and Fourteenth Amendments to the United States Constitution" (*id*. ¶¶ 60-61).

Plaintiff's thirteenth cause of action for deprivation of rights under the United States Constitution and 42 U.S.C. § 1983 by the City of New York for *Monell* liability alleges that the the City, "acting through its fire department and through Defendants [McElligott], [Hegarty], and Police Officers John Doe #1-3, had in effect actual and/or *de facto* policies, practices, customs and usages which were a direct and proximate cause of the unconstitutional conduct alleged herein" (*id*. ¶ 129). Plaintiff further pleads that the City is aware that its lack of training, screening, supervision, and discipline employees and police officers leads to improper conduct and deliberate indifference, and that the City is aware that the "persistent and substantial risk of improper detention of persons based on insufficient or incorrect information, effective training, screening, supervision and discipline would lessen the likelihood of such occurrences" (*id*. ¶ 131).

The complaint cites several customs, practices, procedures, and rules of the City and NYPD that Plaintiffs alleges proximately caused deprivations of his constitutional rights, including, but not limited to the following:

> (1) arresting persons known to be innocent in order to meet "productivity goals"; (2) falsely swearing out criminal complaints and/or lying and committing perjury during sworn testimony to protect other officers and meet productivity goals; (3) failing to supervise, train, instruct and discipline police officers thereby encouraging their misconduct and exhibiting deliberate indifference towards the constitutional rights of persons within the officers' jurisdiction; (4) discouraging police officers from reporting the corrupt or unlawful acts of other officers; (5) retaliating against officers who report police misconduct; and (6) failing to intervene to prevent the above-mentioned practices when they reasonably could have been prevented with proper supervision.

(*id*. ¶ 134).

Plaintiff contends that the existence of these customs and policies "may be inferred from repeated occurrences of similar wrongful conduct, as documented by [] civil rights actions and parallel prosecutions of police officers" (*id*. ¶ 136). Plaintiff cites to *Colon v. City of New York* (US Dist Ct, ED NY, No. 09-CV-8, 2009 WL 4263362, Weinstein, J., 2009), other civil rights actions against the City, scholarly articles, and assertions regarding the Civilian Complaint Review Board ("CCRB") to support his allegations that such customs, polices, and practices exist within the NYPD that led to the deprivation of Plaintiff's right (*id*. ¶¶ 136-139).

Section 1983 of the United States Code provides that "[e]very person who, under color of any statute, ordinance, regulation, custom, or usage . . . subjects, or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured" (42 USC § 1983). "To state a claim under Section 1983, a plaintiff must plausibly allege (1) that the defendants deprived him of a right secured by the Constitution or laws of the United States; and (2) that they did so under color of state law" (*Buari v City of New York*, 530 F Supp 3d 356 [SDNY 2021] [internal quotation marks and citations omitted]). "Section 1983 itself creates no substantive rights; it provides only a procedure for redress for the deprivation of rights established elsewhere" (*id*.).

As asserted against the City, a municipality "is not vicariously liable for its employees" actions under § 1983 (*Connick v Thompson*, 563 US 51, 60 [2011], citing *Monell v Dep't of Soc. Servs. of City of New York*, 436 US 658, 691 [1978]). "Rather, it is only when the municipality itself commits the misdeed, that is, 'when execution of a government's policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an entity is responsible under § 1983'" (*Walker v City of New York*, 974 F2d 293 [2d Cir 1992], citing *Monell*, 436 US at 694).

A plaintiff can plead a "policy" or "custom" by alleging one of the following:

> (1) a formal policy officially endorsed by the municipality; (2) actions taken by government officials responsible for establishing the municipal policies that caused the particular deprivation in question; (3) a practice so consistent and widespread that, although not expressly authorized, constitutes a custom or usage of which a supervising policy-maker must have been aware; or (4) a failure by policymakers to provide adequate training or supervision to subordinates to such an extent that it amounts to deliberate indifference to the rights of those who come into contact with the municipal employees.

(*Buari*, 530 F Supp 3d at 397-398).

Plaintiff's complaint alleges broadly that the City and the NYPD have six "customs, practices, procedures, and rules" that proximately caused the violation of Plaintiff's constitutional rights (NYSCEF Doc No. 15, amended complaint ¶ 134). These broad, conclusory allegations are insufficient to sustain a *Monell* cause of action (*see Felix v City of New York*, 344 F Supp 3d 644, 653 [SDNY 2018] ["boilerplate assertions of municipal policy are insufficient to state a claim for *Monell* liability . . . [f]acts supporting the policy's existence must be pled"]; *Sandoz v Doe*, Dist Ct, SD NY, 17-CV-5447 [VSB], 2020 WL 3318262, Broderick, J., June 18, 2020 ["Plaintiff's bare allegations that the correction officers routinely engage in the type of conduct alleged here are

"plainly insufficient" to establish a widespread custom, much less to establish that City officials must have been aware of it"]). While a plaintiff "may also plead the existence of de facto customs or policies by citing to complaints in other cases that contain similar allegations, . . . [s]uch complaints must involve factually similar misconduct, be contemporaneous to the misconduct at issue in the plaintiff's case, and result in an adjudication of liability" (*Buari*, 530F Supp 3d at 398-399). Plaintiff's reference to other similar civil rights actions, without indicating whether they resulted in a finding of liability against the officers involved or the City or providing specific details about the cases are insufficient to plead a custom or policy sufficient to sustain a *Monell* claim (*Breton v City of New York*, 404 F Supp 3d at 817; *Walker v City of New York*, US Dist Ct, SD NY, 14-CV-808 ER, 2015 WL 4254026, Ramos, J., July 14, 2015).

Plaintiff also relies heavily on allegations that the City's failure to adequately train NYPD officers amounts to deliberate indifference to the rights of those who come in contact with the NYPD. "Under limited circumstances, proof of a municipality's failure to train can be the basis for liability under § 1983" (*Holland v City of Poughkeepsie*, 90 AD3d 841, 848 [2d Dept 2011], citing *Canton v Harris*, 489 US 378, 387 and n 6). "However, "[o]nly where a municipality's failure to train its employees in a relevant respect evidences a 'deliberate indifference' to the rights of its inhabitants can such a shortcoming be properly thought of as a city 'policy or custom' that is actionable under § 1983" (*id*.). "In order for the plaintiff to sufficiently plead deliberate indifference, the plaintiff must allege that: (1) a policymaker knows to a moral certainty that her employees will confront a given situation, (2) the situation either presents the employee with a difficult choice of the sort that training or supervision will make less difficult or that there is a history of employees mishandling the situation, and (3) the wrong choice by the city employee will frequently cause the deprivation of a citizen's constitutional rights" *Breton v City of New York*, 404 F Supp 3d 799, 818 [SDNY 2019]). Here, Plaintiff did not plead the elements necessary to demonstrate that the City's purportedly failure to train amounts to deliberate indifference to the rights of those who come in contact with the NYPD, nor has he demonstrated how this purported failure resulted in the deprivation of his rights under the circumstances in question. The failure to present specific information is particularly inadequate on summary judgment where discovery is complete. Therefore, the motion is granted with respect to the second and thirteenth causes of action.

Plaintiff's eighth cause of action for excessive force with respect to municipal liability seeks to hold the City liable for the excessive force allegedly perpetrated by McElligott (NYSCEF Doc No. 15, amended complaint ¶¶ 91-96). Plaintiff again alleges that "Plaintiff's treatment during his arrest was the arrest of 'something more' than a single officer's misconduct," specifically a "custom or policy of encouraging, condoning or turning a blind eye to the types of misconduct complained of" (*id*. ¶ 94). Plaintiff's complaint further contends that his excessive force claim "is an amalgam of physical assaults by police officers," which, "for present purposes, [] may be treated collectively" (*id*. ¶ 95). This cause of action fails because a municipality is not liable under 42 U.S.C. § 1983 for an injury inflicted by its employees or agents based upon the doctrine of respondeat superior or vicarious liability (*Holland v City of Poughkeepsie*, 90 A.D.3d at 847). To the extent that the Plaintiff again asserts liability on the basis of a municipal policy or practice, the cause of action fails for the same reason as the *Monell* causes of action. Therefore, summary judgment is granted with respect to the eighth cause of action for excessive force against the City.

Nevertheless, Plaintiff may proceed against McElligott on his tenth cause of action for excessive force under federal law (*Corcoran v City of New York*, 186 AD3d 1151, 1152 [1st Dept 2020] ["A person has a private right of action under 42 U.S.C. § 1983 against police officers who, acting under color of law, violate federal constitutional or statutory rights"]; *Delgado v City of New York*, 86 AD3d 502, 510 [1st Dept 2011] ["A complaint alleging gratuitous or excessive use of force by a police officer states a cause of action under the statute against that officer"]). The court is unpersuaded by the City's argument that the tenth cause of action should be dismissed in its entirety because it is "not pled against any individually named defendants with the exception of "JOHN DOE OFFICERS 1-5" (NYSCEF Doc No. 96, reply aff ¶ 21). Although the heading to the tenth cause of action as set forth in the amended complaint only purports to be asserted against "John Doe #1-5," it is readily apparent from the pleadings' factual allegations that Plaintiff intended to plead a cause of action for excessive battery against the individual defendants (*511 West 232nd Owners Corp. v Jennifer Realty Co.*, 98 NY2d at 152 ["The motion must be denied if from the pleadings' four corners factual allegations are discerned which taken together manifest any cause of action cognizable at law"]).

Plaintiff's failure to amend the heading to the tenth cause of action was likely the result of an inadvertent error when the complaint was amended. This is evidenced by Plaintiff's substitution of the individual defendant's names into all other causes of action in place of "John Doe #1-5" and the alteration of "John Doe #1-5" to "John Doe #1-3" in the caption and all other causes of action. Plaintiff also explicitly pled a state law cause of action for battery and assault against McElligott and Hegarty, and "assault and battery claims, when alleged against a police officer, are evaluated like excessive force claims" (*Brown v City of New York*, 2013 WL 491926 [SDNY 2013], citing (*Holland v City of Poughkeepsie*, 90 AD3d at 845). Although Plaintiff later discontinued the state law claim, this is nonetheless indicative of Plaintiff's intent to plead causes of action for excessive force against the individual defendants.

Furthermore, when evidence is submitted on a motion to dismiss, the court must look to whether the plaintiff has a cause of action, rather to whether it is pleaded (*Braun v Lewis*, 99 AD3d 574 [1st Dept 2012]; citing *Guggenheimer v Ginzburg*, 43 NY2d at 275). The video evidence demonstrates that Plaintiff has a cause of action for excessive force against McElligott, and questions of fact exist regarding whether McElligott's actions constitute excessive force (*Holland v City of Poughkeepsie*, 90 AD3d at 844 ["Because of its intensely factual nature, the question of whether the use of force was reasonable under the circumstances is generally best left for a jury to decide"]). Questions of fact also exist regarding whether McElligott is entitled to qualified immunity because qualified immunity does not attach on a cause of action for excessive force absent a determination that the officer's use of force was objectively reasonable under the circumstances presented at the time of arrest (*see Lennox v Miller*, 968 F3d 150, 157 [2d Cir 2020]). Hegarty, on the other hand, is entitled to summary judgment because the uncontradicted evidence offered by the City demonstrates that he was not present at the time of Plaintiff's arrest. Therefore, summary judgment on the tenth cause of action is denied with respect to McElligott and granted as to Hegarty.

Finally, the City moves pursuant to CPLR §§ 3211, 3212, 3215 (c), 1024, and 306 (b) to dismiss the unnamed defendants identified in the amended complaint as John Doe. The City relies primarily on CPLR § 3215 (c) in support of its motion, arguing that the John Doe defendants

should be dismissed from the action because Plaintiff failed to move for entry of a default judgment against them within one year of commencement of the action (NYSCEF Doc No. 96, aff in support ¶ 17). Section 3215 (c) of the CPLR provides that "[i]f the plaintiff fails to take proceedings for the entry of judgment within one year after the default, the court shall not enter judgment but shall dismiss the complaint as abandoned, without costs, upon its own initiative or on motion, unless sufficient cause is shown why the complaint should not be dismissed." A party's default occurs when they fail to timely appear in an action after service is effectuated (CPLR Rule 320; 3215 [a]). Therefore, a plaintiff's time to move for entry of a default judgment does not begin to run until service is completed (*see First Fed. Sav. & Loan Ass'n of Charleston v Tezzi*, 164 AD3d at 760 ["Since service was never completed, the defendant's time to answer the complaint had not yet started to run and, therefore, she could not be in default"]).

In this case, two John Doe defendants were identified and timely substituted into the action pursuant to CPLR § 1024. The remaining John Doe defendants were never identified or served. As such, CPLR § 3215 (c) is entirely irrelevant to the present action because the unnamed defendants are not in default (*see Valentin v The City of New York*, 2024 NY Slip Op 30968 [U], *4 n [Sup Ct, NY County 2024] [Noting that City's argument regarding CPLR § 3215 (c) is not compelling because service on defendant was never completed]). Nevertheless, dismissal of the unidentified John Doe defendants is warranted pursuant to CPLR § 306-b for failure to serve the parties within 120 days of commencement of the action. Therefore, the motion to dismiss is granted with respect to the unidentified parties designated as "John Doe #1-3."

Accordingly, it is

ORDERED that the motion for summary judgment is granted in part and to the extent set forth herein, and denied as to the remainder; and it is further

ORDERED that the first, second, third, eighth, and thirteen causes of action are dismissed; and it is further

ORDERED that the tenth cause of action is dismissed as against defendant Detective Donald Hegarty; and it is further

ORDERED that the complaint is dismissed in its entirety as against the unnamed parties identified in the amended complaint as "John Doe #1-3"; and it is further

ORDERED that the Clerk is directed to enter judgment accordingly; and it is further

ORDERED that the action is severed and continued against the remaining defendants; and it is further

ORDERED that the caption be amended to reflect the dismissal of the unnamed parties identified as "John Doe #1-3" and that all future papers filed with the court bear the amended caption; and it is further

ORDERED that counsel for the moving party shall serve a copy of this order with notice of entry upon the Clerk of the Court and the Clerk of the General Clerk's Office, who are directed to mark the court's records to reflect the change in the caption herein; and it is further

ORDERED that such service upon the Clerk of the Court and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website); and it is further

ORDERED that a settlement conference will be held in this matter on July 23, 2025 at 11:30 a.m. at 80 Centre Street, Room 320, New York, New York.

This constitutes the decision and order of the court.

7/22/2025
DATE

HON. HASA A. KINGO, J.S.C.

CHECK ONE:		**CASE DISPOSED**			X	**NON-FINAL DISPOSITION**	
		GRANTED		**DENIED**	X	**GRANTED IN PART**	**OTHER**
APPLICATION:		**SETTLE ORDER**				**SUBMIT ORDER**	
CHECK IF APPROPRIATE:		**INCLUDES TRANSFER/REASSIGN**				**FIDUCIARY APPOINTMENT**	**REFERENCE**