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December 13, 2023

**BY ECF**

Honorable Laura T. Swain  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: Mark Nunez, et al. v. City of New York et al., 11 Civ. 5845 (LTS)

Your Honor:

I am a Senior Counsel in the Special Federal Litigation Division of the New York City Law Department and an attorney assigned to the above-referenced matter. In advance of the conference in this matter scheduled for tomorrow afternoon, Defendants write to respectfully request that the Court extend the briefing schedule for the Motion for Contempt and Application for Appointment of a Receiver as set forth below. Defendants have conferred with the Plaintiff Class and the United States Attorney for the Southern District of New York, who oppose the instant application. Defendants are prepared to further discuss this request at tomorrow afternoon's conference should the court deem it appropriate to do so.

By way of background, the briefing schedule for the instant motion practice was set by the Court on August 10, 2023. On November 1, 2023, plaintiffs made an application, which the Court granted, asking permission to file a memorandum of law not to exceed one hundred (100) pages. On November 17, 2023, plaintiffs filed their motion, along with one hundred and fifty one (151) exhibits, and one thousand one hundred and eighty two (1182) proposed findings of fact. Defendants respectfully submit that with regard to a matter as important as the question of receivership, an extension of time to respond to plaintiffs' voluminous motion, the scope of which was expanded pursuant to their November 1<sup>st</sup> application, is warranted. In addition, the amici briefs that were filed to bolster plaintiffs' arguments change the position defendants were in when the briefing schedule was set on August 10, 2023.

Furthermore, and as the Court is aware, Commissioner Lynelle Maginley-Liddie was appointed by Mayor Adams as the new commissioner of the Department of Correction ("DOC") on December 8, 2023. Defendants respectfully submit that Commissioner Maginley-Liddie should be afforded the opportunity to substantively set the tone and direction of

defendants' moving papers in light of her vision for DOC; notwithstanding her prior role at DOC, the remaining time on the current briefing schedule is insufficient for this purpose.

We fully recognize and are cognizant of the circumstances alleged by the Plaintiff Class. However, Defendants respectfully submit that, given the changes in circumstance since the briefing schedule was set, as well as the complexity of the motion at issue, its public policy importance, the appointment of a new Commissioner, and the need to give her an opportunity to meaningfully participate in the preparation of the defendants' motion papers, the instant application should be granted.

Therefore, we respectfully request that the Court extend the briefing schedule as follows:

- Extend the time for Defendants to file their Opposition to Plaintiffs' Motion from January 16, 2024 to March 15, 2024; and
- Extend the time for Plaintiffs to file their Reply Memorandum from February 15, 2024 to April 15, 2024.

We thank the Court for its consideration of this motion.

Respectfully submitted,

*/s/ Omar J. Siddiqi*

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cc: All counsel of record