



**INSTITUTE FOR
FREE SPEECH**

April 17, 2024

The Hon. Diane Gujarati
U.S. District Judge
225 Cadman Plaza East
Brooklyn, NY 11201

Via ECF

Re: *Alexander v. Sutton*, No. 1:22-cv-2224-DG-JRC

Dear Judge Gujarati:

Plaintiffs are constrained to oppose Defendants' requested extension of time to respond to the complaint.

First, Corporation Counsel lacks standing to make this request, at least on behalf of defendants Mickens, CEC 14, Sutton, Manzanares, and Banks in his personal capacity, because she insists that she does not represent these defendants—and indeed, she insists that she may be unable to represent them owing to a conflict of interest.

Counsel and defendants cannot have it both ways. They either have an attorney-client relationship or they don't. It cannot be that when we ask for something, Corporation Counsel is powerless to represent these perfect strangers, or may even be conflicted, yet Corporation Counsel can come to court asking for a 32-day extension of a 21-day deadline on their behalf.

We especially oppose any extension for these defendants because defendants Sutton and CEC 14 are evading service – and because Corporation Counsel has now backtracked on her assurances that they were properly served. CEC 14's offices are apparently not staffed, and the process server has made multiple service attempts at different times of day at Sutton's home, but she is not coming to the door. On at least one occasion, it appeared someone was home. *See* attached Affidavit of Attempted Service. And on April 13, Corporation Counsel emailed me to say, "the CEC-14, Ms. Sutton, and Ms. Manzanares have now been properly served," *see* attached email, only to later backtrack this position, as she has in her motion.

We cannot agree to extend the time to respond to the complaint for evaders who run up our costs and try to frustrate the orderly course of proceedings. It is a standard practice for defendants seeking more time to respond to a complaint, to at least agree not to contest service. If Corporation Counsel wants to argue that service is ineffective, she at least needs to enter an appearance for these defendants and file a proper motion to that effect—on time.

If Corporation Counsel now wishes to take the position that these defendants were not served and that she does not represent them, then there is nothing for her to ask the Court on their behalf.

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As we have always maintained to Corporation Counsel, we would have been happy to agree to this requested extension in exchange for minimal cooperation on service. We are disappointed that Corporation Counsel has instead purported to retract her acceptance of service for some of these defendants.

In any event, Corporation Counsel lacks standing to make this request for any defendant for which she refuses to appear. The requested extension should be denied.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Alan Gura', is written in a cursive style.

Alan Gura
Counsel for Plaintiffs