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S.D. OF N.Y. conference

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHRISTINE C. ANDERSON,
Plaintiff,

v.

THE STATE OF NEW YORK, ET AL,
Defendants.

[Faint circular stamp]

ECG # 25

07 CV 09599 (SAS)

New York, N.Y.
December 12, 2007
4:45 p.m.

Before:

HON. SHIRA A. SCHEINDLIN,

District Judge

APPEARANCES

TEMBANI S. XABA
Attorney for Plaintiff

OFFICE OF NEW YORK STATE ATTORNEY GENERAL
Attorney for Defendants
BY: LEE A. ADLERSTEIN

ALSO PRESENT: CHRISTINE C. ANDERSON

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1 (In open court)

2 (Case called)

3 THE COURT: All right. Good afternoon Ms., is it,
4 Xaba?

5 MS. XABA: Xaba, yes.

6 THE COURT: Xaba is the right way to pronounce it.

7 MS. XABA: That's correct. Good afternoon, your
8 Honor.

9 THE COURT: And good afternoon, Ms. Anderson.

10 MS. ANDERSON: Thank you. Good afternoon, Judge.

11 THE COURT: And good afternoon, Mr. Adlerstein.

12 MR. ADLERSTEIN: Good afternoon, your Honor.

13 THE COURT: There was a different attorney on this
14 case, but we received a letter from him in chambers today
15 saying that he needed to withdraw because Ms. Xaba is an
16 attorney, is replacing you, and has made a notice of
17 appearance; so I saw no reason to require him to come --

18 MS. XABA: That's correct.

19 THE COURT: -- since Ms. Xaba has been substituted.

20 MS. XABA: That's correct.

21 THE COURT: And I'm just updating Mr. Adlerstein,
22 maybe he didn't see this letter, maybe he did see it.

23 MR. ADLERSTEIN: It was faxed to me this morning, your
24 Honor.

25 THE COURT: Oh, that's good, okay.

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1 Before we begin, I have to say I kind of been
2 inundated with letters or faxes from people I don't know; I
3 don't know what they have to do with this case.

4 But I received a letter from an Elliot Bernstein with
5 a company called Iviewit Technologies. That's I-v-i-e-w-i-t,
6 Iviewit Technology. He somehow got my e-mail address and sent
7 these by fax and e-mail, but I'm not entirely sure what he
8 wants. But anyway there are two of those for the record, and
9 they are dated December 11th, 2007.

10 I also have a letter from a Jackie Weaver of
11 Bennington, Vermont dated December 11th, 2007. I'm actually
12 copied on the letter. The letter is written to a Richard Samp,
13 S-a-m-p, the chief counsel of the Washington Legal Foundation
14 in Washington, D.C. And the line that says regarding says
15 regarding request for representation in Anderson v. State. And
16 the letter is copied to the Court, to Ms. Anderson's
17 then-attorney, Mr. Brewington, and to you, Mr. Adlerstein.

18 Then I have a letter from a Ms. Pamela Carvel,
19 C-a-r-v-e-l, which says that she is a fraud investigator and a
20 fiduciary to Thomas and Agnes Carvel, who are her uncle and
21 aunt, and I suppose somehow involved with the Carvel ice cream
22 franchise system. And these folks wrote a letter dated
23 December 3rd again to Mr. Richard Samp of the Washington Legal
24 Foundation. And the regarding line says request for
25 representation. And again, this letter is copied to the Court.

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1 to Mr. Brewington, the then-counsel, and to Mr. Adlerstein.

2 I have a letter from a William Gallison dated December
3 3rd, 2007; again written to Richard Samp, chief counsel at the
4 Washington Legal Foundation, and regarding request for
5 representation in this case, and copied to the Court, to
6 Mr. Brewington, the then-counsel for Ms. Anderson, and to you,
7 Mr. Adlerstein.

8 I think that's it. That's the correspondence I've
9 received so far. Has anybody received any other such letters?
10 Somebody behind you was raising her hand. What's your name?

11 MS. ESPOSITO: Luisa Esposito. I also sent you a copy
12 via fax.

13 THE COURT: When?

14 MS. ESPOSITO: A few days ago.

15 THE COURT: Two days ago? Maybe it got stapled or
16 clipped. Hold on one second. That's possible. Let's see.
17 Oh, yes. I'm glad we went through that. I have a letter here
18 dated December 6th, 2007 from Elizabeth Pagendarm, I think it's
19 P-a-g-e-n-d-a-r-m. She's the signatory, but there's four typed
20 names under her signature: Christopher Donohue, Elizabeth and
21 Michael Pagendarm, something called Equal Spokespersons. This
22 letter is also addressed to Richard Samp, chief counsel of the
23 Washington Legal Foundation. This one, on the regarding line,
24 says re: The identification of criminal acts as committed by
25 New York State lawyers, names the lawyers: Mary Niche, Luke

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1 Charr, Dominick Porco and other affiliated lawyers, and
2 Westchester County Surrogate's Court personnel. And it seems
3 to seek representation by this Mr. Samp for the named
4 beneficiaries of Fred F. Goetz Trust.

5 Oh, dear, there are more. And then I have one from a
6 Mr. Kevin McKeown, M-c-K-e-o-w-n, dated December 9, 2007. And
7 this one is written to a Dina Rosenbaum, Public Citizen
8 Litigation Group, and entitled request for representation,
9 Anderson v. State of New York. It is copied to the Court, to
10 Mr. Brewington, then-counsel to Ms. Anderson, and to
11 Mr. Adlerstein.

12 This person, Mr. McKeown, not only writes to
13 Ms. Rosenbaum of the Public Citizen Litigation Group, but she
14 also writes to Mr. Samp of the Washington Legal Foundation, to
15 Mr. Newborn of the Brennan Center for Justice. That seems to
16 be hers. This is the same one. I have one from Mr. Steven
17 Lamont, but he's part of Iviewit, I-v-i-e-w-i-t, so he writes a
18 separate letter, it's the same.

19 Now I found it. I have one dated December 3rd, 2007
20 from Ms. Luisa Esposito. She faxed to my chambers a copy of
21 her letter to Mr. Samp of the Washington Legal Foundation dated
22 December 3rd; again, it says regarding request for
23 representation, and is copied to this Court, to Mr. Brewington,
24 then-counsel to Ms. Anderson, and to Mr. Adlerstein.

25 Now I think I've mentioned all the correspondence that

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1 I've received.

2 I also have a letter from Mr. Adlerstein dated
3 November 29th, 2007 saying that the answer is due January 7th,
4 2008, but just in case for some reason his calculation is
5 inaccurate, he wants to be sure that the date that the answer
6 is due is set at today's conference. And he writes by that
7 time the question of service or process on the individual
8 defendants may have been clarified.

9 So I now think that summarizes the correspondence I
10 received. Did I miss you?

11 A VOICE: Yes.

12 MR. LAMONT: May it please the Court, P. Steven
13 Lamont, the CEO of Iviewit.

14 THE COURT: Well, I said I got your letter.

15 MR. LAMONT: We'd like to withdraw it based on the
16 complaint that I filed this afternoon on our own behalf and I
17 request an association to this case.

18 THE COURT: You filed a new case in federal court?

19 MR. LAMONT: Correct.

20 THE COURT: You marked it as related to this case?

21 MR. LAMONT: I did.

22 THE COURT: You did.

23 MR. LAMONT: And I gave you -- I gave the gentleman a
24 courtesy copy.

25 THE COURT: Have you seen this, Mr. Adlerstein?

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1 MR. ADLERSTEIN: No, your Honor.

2 THE COURT: No. Is this 07 CV 11196?

3 MR. LAMONT: Yes, your Honor.

4 THE COURT: I don't have the civil cover sheet, but
5 it's apparently marked as related. It's my only copy, but just
6 for the moment, would you hand this to Mr. Adlerstein.

7 And your name, ma'am?

8 MS. WEISSHAUS: My name is Gisella Weisshaus. I file
9 with Mr. Stamp and Dina Rosenbaum.

10 THE COURT: And you sent a copy to the Court?

11 MS. WEISSHAUS: No, I didn't send yet. I'm waiting
12 for the green card. I send it last week.

13 THE COURT: You're waiting -- oh, the green card? You
14 mean the card to show that it was sent by registered --

15 MS. WEISSHAUS: Yes.

16 THE COURT: Could you just spell your last name?

17 MS. WEISSHAUS: Yes. W-e-i-s-s-h-a-u-s.

18 THE COURT: Weisshaus.

19 MS. WEISSHAUS: Weisshaus.

20 THE COURT: Okay. All right. Thank you,
21 Ms. Weisshaus.

22 MS. WEISSHAUS: Thank you.

23 THE COURT: Anybody else? No. All right. Well,
24 these folks who are writing to the Court -- well, copying the
25 Court, writing to somebody named Mr. Samp and copying the Court

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1 on the correspondence, must realize there's nothing I can do
2 for you at all. You're just keeping me posted by sending me a
3 copy. But you're not asking this Court to do anything. So I
4 do want to make that clear to you. Ms. Esposito, who's here,
5 and Ms. Weisshaus, who's here, I guess that's it, I can't do
6 anything for you.

7 MS. WEISSHAUS: I want to join this case.

8 THE COURT: I know, but I don't know what that means
9 "join this case." Those are not legal words, "join this case."

10 MS. WEISSHAUS: I don't know how to --

11 THE COURT: I realize, but --

12 MS. WEISSHAUS: But I have problems from '95,
13 discipline --

14 THE COURT: I know. I understand. But it's not
15 something I can help you with. You either can find yourself a
16 lawyer, maybe these folks will respond to your letters, or we
17 have an office --

18 MS. WEISSHAUS: I hope so.

19 THE COURT: Or we have an office here --

20 MS. WEISSHAUS: I had complaints about the lawyers.

21 THE COURT: I know. Or we have an office here that
22 helps pro se litigants; that is, litigants who don't have a
23 lawyer. But I can't help you. I want to make it very clear
24 today that you're welcome to be here, it's a public courtroom,
25 and the public is always invited, but there's nothing I can do

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1 for you today.

2 MS. WEISSHAUS: I understand.

3 THE COURT: All right.

4 MS. WEISSHAUS: Thank you.

5 THE COURT: All right. Now, Ms. -- lost the name.

6 One second. Ms. Xaba.

7 MS. XABA: Yes.

8 THE COURT: Have you worked out a scheduling order
9 with Mr. Adlerstein?

10 MS. XABA: Unfortunately, we have not. As you may be
11 aware, I just noticed my appearance in this case about a week
12 ago. And I had spoken to former counsel, Mr. Brewington, we
13 were co-counsel at the time. He told me that he had already
14 worked it out with Mr. Adlerstein, so I believed --

15 THE COURT: Mr. Adlerstein, did you work out something
16 with Mr. Brewington?

17 MR. ADLERSTEIN: No, we did not. We spoke very
18 briefly. He was very heavily committed elsewhere; and there
19 was no discussion on specifics.

20 THE COURT: Okay.

21 MR. ADLERSTEIN: I told him we would need to get
22 together.

23 THE COURT: You do need to get together to work out a
24 schedule.

25 MR. ADLERSTEIN: Right. My proposal today was going

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1 to be to set a date by which we would answer or move on behalf
2 of the defendants, all of whom have been served; and that at
3 the same time counsel could present to the Court a proposed
4 scheduling. But I think it requires some discussion. We have
5 not had --

6 THE COURT: Yes, it does require discussion. The
7 problem with answering or moving is that neither stays
8 discovery, as you know, in federal court. So even if you make
9 a motion on behalf of all defendants to dismiss, that's not an
10 automatic stay. So you need to sit with Ms. Xaba and take my
11 standard form, which I happen to have a copy of, and work out a
12 schedule.

13 MS. XABA: As a matter of fact, your Honor, I'm sorry
14 to interrupt you, we did attempt to do that earlier today. I
15 spoke to Mr. Adlerstein last night, and -- well, actually
16 e-mailed with him, and I spoke to him earlier in the day. And
17 we arranged to meet today at 4 p.m., but he refused to sit down
18 with me in the presence of my client. He said he would not
19 have this discussion with my client present. I told him that
20 in any event I'm going to have to consult with my client to
21 have her confirm that all of the dates are correct, but he
22 simply refused.

23 THE COURT: Mr. Adlerstein, that sounds silly.

24 MR. ADLERSTEIN: Your Honor, it was not merely as
25 simple as that. According to my discussion with Ms. Xaba, I

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1 was here before 4 o'clock and expected to speak with her. It
2 turned out, however, that Ms. Anderson was insisting that she
3 be present for the discussion between counsel.

4 I think that my experience is, especially with someone
5 who seems to be as involved in her case as Ms. Anderson is,
6 that the interplay, the give-and-take between counsel, doesn't
7 work out very well if you have a client sitting there who's
8 very heavily involved in the case.

9 And I told Ms. Xaba that we can go into a room; and
10 that anytime she wanted to break to consult with Ms. Anderson,
11 that was fine. But I don't think it works out very well to
12 have Ms. Anderson right there.

13 THE COURT: I appreciate your personal views, but if a
14 lawyer wants to have their client present at the 26(f)
15 conference, they are entitled to do it, whether or not you like
16 it, whether or not it's comfortable. I can't rule it out. I
17 can't say you're ordered to exclude your client. I would never
18 do that.

19 MS. XABA: Thank you, your Honor.

20 THE COURT: So you have to sit down with them and work
21 out a scheduling order.

22 As far as the time to move or answer, January 8th is
23 acceptable to you?

24 MR. ADLERSTEIN: Well, your Honor, I was going to ask
25 for a little bit more time on that. I was going to ask until

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1 the following Monday, which is, I think, the --

2 THE COURT: 14th?

3 MR. ADLERSTEIN: -- 14th.

4 THE COURT: Is that acceptable to you, Ms. Xaba?

5 MS. XABA: Just one thing, your Honor. Because I just
6 recently filed my appearance, I would like to have just a
7 little bit of time, maybe two or three weeks, to fully go
8 through all the allegations in the complaint, make sure
9 everything is adequately pled and amend the complaint, if
10 necessary. There is one additional claim we'd like to add:
11 Negligent supervision, possibly negligent retention. If that's
12 permissible, we would like to amend by January 2nd.

13 THE COURT: That would be great.

14 MS. XABA: And then if Mr. Adlerstein would like to
15 move or answer within 30 days thereafter, we have no objection.

16 THE COURT: Okay. Good. So you'll amend the
17 complaint as of right by January 2nd.

18 MS. XABA: Thank you, your Honor.

19 THE COURT: And, Mr. Adlerstein, you have till January
20 30th.

21 MR. ADLERSTEIN: May I have till February 10th, your
22 Honor, for the reason that I'm going to be out of town on
23 January 30th?

24 THE COURT: On January 30th? What does that mean?
25 When are you going out of town?

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1 MR. ADLERSTEIN: I'm leaving on the 26th, and I'm
2 expected back February the 6th. So I'd like to have a little
3 bit of time after I get back in order to be able to respond.
4 These had been preset plans, your Honor.

5 THE COURT: No, no, I don't mind that, but I don't see
6 why you don't get it done before you go by the 25th. You said
7 you're leaving on Saturday the 26th?

8 MR. ADLERSTEIN: Saturday evening the 26th, your
9 Honor.

10 THE COURT: I see. So it seems to me wise to get it
11 in by the 25th; I mean it's still three weeks and two days, it
12 should be enough. It's 23 days. I don't see why you can't do
13 it.

14 MR. ADLERSTEIN: Well, I have a trial commitment in
15 front of Judge Buchwald for January 16th, so that makes it
16 somewhat difficult.

17 THE COURT: Wednesday, January 16th is your trial
18 date?

19 MR. ADLERSTEIN: Yes, your Honor. Yes.

20 THE COURT: What case is that?

21 MR. ADLERSTEIN: It's called Ford v. Phillips in front
22 of Judge Buchwald. It's a section 1983 case where Mr. Ford is
23 represented by counsel. It's probably going to be a three-day
24 trial; it may spill into the following week, but it requires a
25 certain amount of attention during that period of time.

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1 THE COURT: Well, then you wanted till February what?

2 MR. ADLERSTEIN: 10th.

3 THE COURT: 10th is Sunday.

4 MR. ADLERSTEIN: Well, the Tuesday, then, the 13th.

5 THE COURT: 12th is Tuesday, but I think that might be
6 enough. 12th.

7 MR. ADLERSTEIN: Okay.

8 THE COURT: All right. With some reluctance, because
9 I want to get started. So February 12th.

10 Do you know now whether you intend to move or answer
11 or not yet?

12 MR. ADLERSTEIN: Well, I think there are two claims
13 that are -- they are very highly problematic as being in this
14 complaint. The first one is the Title 7 claim against
15 individuals, I think under the *Tompkin* case --

16 THE COURT: Yeah, under *Tompkin* you can't name the
17 individuals, okay.

18 MR. ADLERSTEIN: Right. So I think that ought to go
19 out.

20 THE COURT: She may do that voluntarily; you may not
21 have to move.

22 MR. ADLERSTEIN: Fine. The other one I think bears a
23 relationship to the fact that these other folks have been
24 communicating with the Court and are here today. And that
25 claim is a claim on the part of the plaintiff that part of the

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1 relief she seeks is to have a federal monitor selected to
2 oversee the day-to-day operations of the disciplinary committee
3 within the First Department of the New York State Supreme
4 Court.

5 And I think that I've already cited to Ms. Xaba the
6 case of *City of Los Angeles v. Lyons*. There are a lot of other
7 cases in that line which talk about the comedy aspect. And
8 also, if a situation is not going to be repeated, that there is
9 no basis for that kind of relief.

10 We're dealing here with a discrimination case
11 involving one individual.

12 THE COURT: Right. But it's a whistle-blower
13 discrimination case. Basically, she's saying the reason I was
14 fired is I tried to bring to the attention of the committee
15 members certain things, and they didn't want to hear it; so
16 instead, they fired me.

17 MR. ADLERSTEIN: Well, there may be that aspect, but I
18 think that --

19 THE COURT: Yeah, there is that aspect.

20 MR. ADLERSTEIN: I think that *City of Lyons* still
21 applies to knock it out.

22 THE COURT: It may well. I'm not familiar with the
23 case. I just am pointing out that it's not a garden variety
24 discrimination case. She's saying it's a real retaliation case
25 for having tried to alert the folks to something that she

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1 thought was wrong. But anyway, so you think there will be at
2 least some motion practice.

3 MR. ADLERSTEIN: I think that we'll need to have the
4 Court address that at the outset.

5 THE COURT: So you expect to make a motion.

6 MR. ADLERSTEIN: That's correct.

7 THE COURT: At least in part. So maybe we should set
8 the whole schedule. So if he makes a motion on February 14,
9 how long do you need to respond?

10 MS. XABA: Your Honor, if opposing counsel is getting
11 approximately --

12 THE COURT: Well, he is out of town ten days of it, so
13 you might as well subtract the ten days, that's the whole
14 point.

15 MS. XABA: Okay. 30 days, your Honor?

16 THE COURT: All right. So that means -- so March
17 14th. And Mr. Adlerstein, to reply?

18 MR. ADLERSTEIN: I would think three weeks, your
19 Honor.

20 THE COURT: Three weeks. Three weeks. All right. My
21 goodness, we won't get this thing fully briefed till April 4th.

22 All right. Now, look, does this apply to the new case
23 that you've barely seen that's been handed to you, this case --
24 you said you filed it? Sorry, I forget your name.

25 MR. LAMONT: Steven Lamont.

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1 THE COURT: Mr. Lamont, you're appearing pro se; you
2 don't have a lawyer?

3 MR. LAMONT: Presently I'm pro se.

4 THE COURT: Pro se. But you are suing on your own
5 behalf, not on behalf of the corporation.

6 MR. LAMONT: It was our own behalf; myself and
7 Mr. Bernstein.

8 THE COURT: Okay. And what are you claiming?

9 MR. LAMONT: We're claiming whitewashing,
10 rubber-stamping --

11 THE COURT: No, but why is it a federal case? What's
12 the federal jurisdiction? The one I have in front of me is
13 employment discrimination; that's a federal statute. What are
14 you here on?

15 MR. LAMONT: Civil racketeering.

16 THE COURT: Civil racketeering. You plead a RICO
17 charge, do you?

18 MR. LAMONT: In part.

19 THE COURT: I don't care about in part, but do you
20 plead one?

21 MR. LAMONT: Yes.

22 THE COURT: You do.

23 MR. LAMONT: Yes.

24 THE COURT: All right. I guess you'll have a time to
25 look at the complaint, at least flip through it, but do you see

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1 a RICO charge, Mr. Adlerstein?

2 MR. ADLERSTEIN: Your Honor, it's a very dense
3 complaint. It would take me a little while to go through it.

4 THE COURT: Oh, really? Well, I mean just by your
5 looking at the claims or causes of action, I just want to know
6 if you have any sense of that.

7 MR. ADLERSTEIN: Let me just see. I don't see the
8 RICO statute cited.

9 THE COURT: You have to have federal jurisdiction is
10 what I want to explain to you. So there has to be what we
11 sometimes call colloquially a federal hook. One federal hook
12 is citizens of different state, that's called diversity
13 jurisdiction; if some parties are from California, some are
14 from New York and the amount in controversy is more than
15 \$75,000, that's called diversity jurisdiction. The other kind
16 of jurisdiction is a federal question, which means it arises
17 under a federal statute. So I just want to alert you to this.
18 If there's no federal jurisdiction, I can't keep the case
19 anyway.

20 MR. LAMONT: That's what we're claiming, federal
21 jurisdiction.

22 THE COURT: Yeah, I know. But there's two ways to
23 assert it: Citizens of different states or a federal question.
24 I have to find out if you've asserted either one of those,
25 because I don't want to waste time. If you haven't and if you

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1 want to amend the complaint to add appropriate allegations of
2 federal jurisdiction, fine; otherwise, it's a waste of time.

3 MR. LAMONT: I believe we've asserted both.

4 THE COURT: Both diversity of citizenship and federal
5 question?

6 MR. LAMONT: Correct.

7 THE COURT: It's already in there? Did you already
8 plead it?

9 MR. LAMONT: I believe so, your Honor.

10 THE COURT: Okay. I just wanted to bring that out.

11 MR. LAMONT: And if it's not, we'll amend it.

12 THE COURT: Right. Okay. Then let me say,
13 Mr. Adlerstein, can we be on the same schedule? If you're
14 going to answer or move, it would be February 14th; his reply,
15 March 14th; and the response, April 4th.

16 MR. ADLERSTEIN: Your Honor, I don't know who this
17 case is going to be assigned to.

18 THE COURT: Me. It's marked as related.

19 MR. ADLERSTEIN: I understand that it's marked as
20 related to your Honor, but within my office, I'm not --

21 THE COURT: Oh, you mean which attorney in the office,
22 not which judge.

23 MR. ADLERSTEIN: Right. That's right.

24 THE COURT: Well, then tell whatever attorney catches
25 it, that's the schedule.

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1 MR. ADLERSTEIN: Your Honor, there are many defendants
2 here. Your Honor, I think there's going to be a logistical
3 problem with that, if I can explain. There are many defendants
4 here.

5 THE COURT: There may not be service.

6 MR. ADLERSTEIN: There may not be service, there may
7 not be requests for representation. Our office is not going to
8 be in a position to appear for folks who haven't been served
9 properly.

10 THE COURT: All right.

11 MR. ADLERSTEIN: So I think it would be improvident to
12 set the schedule right now.

13 MR. LAMONT: If Mr. Adlerstein is a counsel for the
14 State of New York, they are not one of the defendants.

15 THE COURT: They are not one of the defendants.

16 MR. LAMONT: They are not.

17 THE COURT: That's his whole point; he doesn't know
18 who the lawyers will be. I don't know if you've served this
19 yet on the many defendants.

20 MR. LAMONT: Have not.

21 THE COURT: Have not. So they haven't been served;
22 they don't know who will represent them. It may be some of
23 them are state employees, maybe not, I gave it away so I don't
24 have the caption in front of me.

25 MR. LAMONT: That's correct, some are state employees.

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1 THE COURT: So his office might represent some, maybe
2 not others, they aren't even served yet. So he's saying it's
3 premature to set the same briefing schedule.

4 MR. LAMONT: I would agree.

5 THE COURT: Ms. Esposito?

6 MS. ESPOSITO: Your Honor, I'm going to be filing a
7 complaint this week also with the First Department -- against
8 the First Department for a section 1983 claim, due process.

9 THE COURT: Okay. Do what you want to do. I'm just
10 telling you right now I don't have a case with you. Yes.

11 MR. ADLERSTEIN: Your Honor, I just wanted the Court
12 to be aware of the fact, just because it's part of the
13 background here, there is a web site which appears to have been
14 providing information about Ms. Anderson's filing, and perhaps
15 encouraging others to come forward in a similar vein with some
16 claims about some kinds of grievances against the grievance
17 process. And so this all intermixes within it.

18 How the Court is going to deal with a myriad of people
19 coming in I suppose will have to be something the Court will
20 have to grapple with. But I just wanted your Honor to be aware
21 that that is part of the background.

22 THE COURT: Okay.

23 MS. XABA: And I'd just like to say that we have not
24 created, we do not control this web site.

25 THE COURT: You don't know who created it?

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1 MS. XABA: No.

2 THE COURT: Well, in any event, so I have a schedule
3 in the Anderson case for the motions. You still need to work
4 out a scheduling order. Do you have my form?

5 MS. XABA: We do, yes.

6 THE COURT: All right. Do we have to have another
7 in-person conference or would you try to meet and submit the
8 form?

9 MR. ADLERSTEIN: I would suggest we be given a couple
10 of weeks to try to get in the form.

11 THE COURT: All right. But I need to sort of make
12 sure I control it calendar-wise. So shall we say by the end of
13 December I will have a scheduling order submitted?

14 MS. XABA: That's fine with us, your Honor.

15 THE COURT: If you can. If you can't resolve one,
16 then, Ms. Xaba, I guess it's your obligation, you're the
17 plaintiff's lawyer, to ask for a conference with the Court if
18 you can't work it out.

19 MS. XABA: Okay.

20 MR. ADLERSTEIN: One item I think would be useful to
21 address right now in terms of assisting us in creating a viable
22 schedule is that there are going to be confidentiality concerns
23 likely --

24 THE COURT: I would think.

25 MR. ADLERSTEIN: -- in connection with the kinds of

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Conference

1 files that will have to be produced dealing with people who
2 have been disciplined or who have been investigated toward
3 discipline.

4 THE COURT: Right.

5 MR. ADLERSTEIN: And I would just like to elicit from
6 Ms. Xaba that she would cooperate in fashioning a proper
7 confidentiality order.

8 THE COURT: I'm sure she'll at least hear you and see
9 if you can reach agreement. I can't say anything more at this
10 time; but obviously it's something on your agenda to bring up.
11 As I invited her, if you can't reach resolution in the
12 scheduling order that you want to submit to the Court or any
13 other pretrial issue, ask for a conference and I'll work it
14 out.

15 MS. XABA: Thank you, your Honor. On that point, I
16 would be happy to review any form that Mr. Adlerstein prepares
17 and submits to me, and then we would submit it to your Honor.

18 THE COURT: If you can get together, fine; if you
19 can't, you won't.

20 All right. Is there anything further at this time?
21 No?

22 MR. ADLERSTEIN: Your Honor, if we'd just have it
23 stated one more time what the dates are.

24 THE COURT: Yes. February 14th, March 14th, April
25 4th.

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Conference

1 MR. ADLERSTEIN: Thank you, your Honor.

2 THE COURT: Okay. Thank you.

3 MR. ADLERSTEIN: And I have this copy of the
4 complaint.

5 THE COURT: No, I'm afraid not.

6 MR. ADLERSTEIN: No, I mean I have it to give back.

7 THE COURT: Oh, yeah, we're taking it back.

8 MR. ADLERSTEIN: That's what I meant.

9 THE COURT: Okay. Very good. Thank you,
10 Mr. Adlerstein.

11 MS. XABA: I'm sorry, your Honor. You said February
12 14th, March 14th, and April 4th.

13 THE COURT: Yes, I did.

14 MS. XABA: Thank you very much.

15 THE COURT: All right. We're done. Thank you.

16 MS. XABA: Okay. Thank you, your Honor.

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I (We) hereby certify that the foregoing
is a true and accurate copy of the
of my (our) stenographic notes.

Shirley E. Davis

Official Capacity of _____

7CCVANDC Conference

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----x

CHRISTINE C. ANDERSON,

Plaintiff,

v.

07 CV 09599 (SAS)

THE STATE OF NEW YORK, ET AL,

Defendants.

-----x

New York, N.Y.
December 12, 2007
4:45 p.m.

Before:

HON. SHIRA A. SCHEINDLIN,

District Judge

APPEARANCES

TEMBANI S. XABA
Attorney for Plaintiff

OFFICE OF NEW YORK STATE ATTORNEY GENERAL
Attorney for Defendants

BY: LEE A. ADLERSTEIN

ALSO PRESENT: CHRISTINE C. ANDERSON

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S. D. OF N. Y. conference

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHRISTINE C. ANDERSON,
Plaintiff,

v.

THE STATE OF NEW YORK, ET AL,
Defendants.

Original

ECG # 25

07 CV 09599 (SAS)

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