

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

----- X  
R.C., J.J., and A.G., suing under pseudonyms, :  
On behalf of themselves and all others similarly situated, :  
: **Index No. 153739/2018**  
Plaintiffs, : Justice Lyle E. Frank  
:   
-against- :  
:   
THE CITY OF NEW YORK and JAMES P. O'NEILL, :  
New York City Police Department Commissioner, in his :  
official capacity, :  
:   
Defendants. :  
----- X

**BORCHETTA AFFIRMATION IN SUPPORT OF  
PLAINTIFFS' MOTION TO LIFT THE STAY OF DISCOVERY  
AND TO SCHEDULE A PRELIMINARY CONFERENCE**

JENN ROLNICK BORCHETTA, an attorney duly admitted to practice in the courts of the state of New York, affirms under penalty of perjury pursuant to CPLR 2106(a) as follows:

1. I am the Deputy Director of Impact Litigation at The Bronx Defenders and counsel to Plaintiffs in this action. I submit this affirmation in support of Plaintiffs' motion to lift the stay of discovery pursuant to CPLR 3214(b) and to schedule a preliminary conference.

2. Under my direction, counsel for Plaintiffs conducted an internet search of news articles that included information from sealed arrest records and attributed that information to law enforcement or police sources. The search returned, *inter alia*, the following articles:

- a. On August 14, 2018, the *Daily News* reported on the arrest of a woman for driving under the influence. The arrest would had been effected by the NYPD because it occurred in Manhattan. The article repeatedly cites "police" sources on the details of the arrest. Referring again to a "police source," the article reports that the source "said the suspect has two sealed

arrests for possession of stolen property.” Emilie Ruscoe and Rocco Parascandola, *Woman driving drunk, wrong way in Chelsea with foster son, 3, in car: cops*, N.Y. Daily News, Aug. 14, 2018, <https://www.nydailynews.com/new-york/ny-metro-foster-mom-dwi-chelsea-20180814-story.html>, annexed hereto as Exhibit A.

- b. On October 29, 2018, the *New York Post* reported the arrest of an off-duty corrections officer. The article repeatedly cites “police” and “law enforcement sources” for the details of the arrest, which would have been effected by the NYPD because it was in Queens. The article then cites “police sources” as sharing that the off-duty corrections officer who had been arrested “has one prior arrest, which is sealed.” Tina Moore and Stephanie Pagones, *Off-duty corrections officers tased after road rage incident*, N.Y. Post, Oct. 29, 2018, <https://nypost.com/2018/10/29/off-duty-corrections-officer-tased-after-road-rage-incident>, annexed hereto as Exhibit B.
- c. On January 2, 2019, the *New York Post* reported on the arrest of a man for allegedly groping a child on the subway. The article quotes NYPD Chief of Detectives Dermot Shea for the details of the arrest, which was effected by the NYPD. Chief Shea is quoted as referring to the arrestee’s “extremely lengthy rap sheet.” The article then cites “police sources” as saying the man arrested has “arrests that were sealed.” Tina Moore, *NYPD thinks sicko who groped girl on subway has struck before*, N.Y. Post, Jan.

- 2, 2019, <https://nypost.com/2019/01/02/nypd-believes-sicko-who-groped-4-year-old-on-subway-has-struck-before>, annexed hereto as Exhibit C.
- d. On February 5, 2019, the *New York Post* reported on proceedings against a man alleged to have killed a person on a subway in Queens. The article refers to “police sources” in describing the proceedings. It then reports that the suspect “has been collared at least nine previous times, including for drug possession and possession of stolen property, sources said, adding that five of his arrests are sealed.” Tina Moore, *Subway killing suspect was out on \$2,500 bail for burglary plot*, N.Y. Post, Feb. 5, 2019, <https://nypost.com/2019/02/05/subway-killing-suspect-was-out-on-2500-bail-for-burglary-plot>, annexed hereto as Exhibit D.
- e. On February 14, 2019, *AM New York* reported on the victim of a police shooting in Queens that occurred when the NYPD was attempting to effect an arrest. The article cites “police” and “cops” repeatedly for the details of the encounter and for the charges against one victim, Christopher Ransom, who was the target of the arrest. The article cites the “police” as saying body-worn camera footage of the incident is under review, and only the NYPD would have knowledge of that review. The article then cites “a law enforcement source” as saying that Mr. Ransom “has 25 prior arrests” and that “[m]any of [his] prior arrests are sealed.” Lauren Cook, *Police in friendly-fired death of NYPD detective in Queens fired 42 rounds, cops say*, AM New York, Feb. 14, 2019, <https://www.amny.com/news/cop-shot-queens-investigation-1.27273243>, annexed hereto as Exhibit E.

- f. On February 18, 2019, the *Daily News* reported on an arrest for an alleged stabbing, which would have been effected by the NYPD because it happened in the Bronx. The article cites “police” sources repeatedly for details about the arrest and the incident. The article then cites “sources” as saying that the person arrested “has 73 arrests, many of them sealed.” Rocco Parascandola, *One of three attackers wanted in fatal stabbing of Bronx teen arrested*, N.Y. Daily News, Feb. 18, 2019, <https://www.nydailynews.com/new-york/ny-metro-murder-arrest-bronx-teen-trio-nypd-20190218-story.html>, annexed hereto as Exhibit F.
- g. On March 25, 2019, the *New York Post* reported on an arrest for an alleged assault on the subway, which would have been effected by the NYPD because the arrest was in Manhattan. The article cites “law enforcement sources” for the details of a prior arrest. The article then cites “sources” as saying that the person “has old, sealed arrests for assault and possession of a gun and marijuana.” Emily Smith, *Accused ‘granny-kicker’s’ co-workers set him up for arrest*, N.Y. Post, Mar. 25, 2019, <https://nypost.com/2019/03/25/accused-granny-kickers-co-workers-set-him-up-for-arrest/>, annexed hereto as Exhibit G.

3. In addition, on February 24, 2019, the *Daily News* reported on a sealed arrest of now Public Advocate Jumaane Williams. The arrest had occurred on January 9, 2009 and would have been effected by the NYPD because it was in Brooklyn. Citing “[a] law enforcement source,” the article shares the details of that arrest. The article reports that “[t]he record of the arrest is sealed.” Mr. Williams has said the charges were dropped. Rocco Parascandola and Jillian Jorgensen, *Jumaane Williams, councilman running for public advocate, was arrested in*

2009 argument with girlfriend, N.Y. Daily News, Feb. 24, 2019, <https://www.nydailynews.com/news/politics/ny-pol-jumaane-williams-2009-arrest-criminal-mischief-20190223-story.html>, annexed hereto as Exhibit H.

4. Other news outlets picked up on this information and reported on the sealed arrest. *See, e.g.,* Jeffrey C. Mays and Shane Goldmacher, *Arrest Records Leaks for a Top Candidate in Tuesday's Public Advocate Election*, N.Y. Times, Feb. 25, 2019, <https://www.nytimes.com/2019/02/25/nyregion/jumaane-williams-girlfriend-arrest.html>.

5. A City Councilmember reportedly called for an investigation into the leak. *See id.*

6. On February 24, 2019, Mr. Williams was a candidate for the citywide office of the Public Advocate. The election for that office was held on February 26, 2019. Mr. Williams was elected to the position.

7. On March 22, 2019, I spoke with Thomas Roberts, counsel to Defendants, and, advised of Plaintiffs' intention to move the Court to lift the discovery stay and schedule a preliminary conference. He indicated that Defendants consent to the request for a conference, but otherwise object.

Dated: Bronx, New York  
March 28, 2019

Respectfully submitted,



Jenn Rolnick Borchetta  
**THE BRONX DEFENDERS**  
360 E. 161st Street  
Bronx, New York 10451  
(718) 838-7878