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By Appointment Only

Hon. James C. Francis, IV
Magistrate Judge, Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
Courtroom 18D
New York, New York 10007

March 7, 2017

VIA ECF

Re: Stewart v. City of New York, et. al., 15 Civ. 7652 (AT) (JCF)
Defendants' Request for Yet Another Discovery Extension

Dear Judge Francis:

I am *pro bono* counsel for the Plaintiff in the above-captioned matter. In furtherance of my letter earlier this morning, I have just discovered two medical releases signed by my client for discovery in his criminal case. The Releases are attached hereto as Exhibit 11. In neither instance did my client waive his psychotherapist-patient privilege. As I detailed in my first letter, a patient must initial the lines in box "9(a)" to allow disclosure of Alcohol/Drug Treatment, Mental Health Information and/or HIV-related Information. I request that the Court order Defendants' counsel to produce the entire release (including the HIPAA authorization), purportedly signed by my client which allowed the release of his privileged mental health documents. As I explained, I was sent only the affidavit form filled out to release the medical records of Dr. Landis Barnes at the Tombs for July 25, 2014 and not the attached HIPAA release. The fact that Defendants' counsel did not send me the entire release to prove my client waived his privilege concerns me greatly – especially as Defendants' counsel is now claiming Plaintiff waived his privilege by signing the release. The attached releases demonstrate that Plaintiff

would not even know to affirmatively initial the necessary lines. Plaintiff should be entitled to know whether DOCS released his privileged documents with apparent permission and in the very least have a copy of such waiver.

Very truly yours,

/s/ Amy Jane Agnew

Amy Jane Agnew, Esq.

cc: John L. Garcia, Assistant Corporation Counsel (VIA ECF)