

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ORLEANS

AB 511 DOE,

Plaintiff,

v.

LYNDONVILLE CENTRAL SCHOOL
DISTRICT AND LYNDONVILLE
ELEMENTARY SCHOOL,

Defendants.

**PLAINTIFF'S REPLY TO MOTION
RESPONSE OF ORLEANS COUNTY
DISTRICT ATTORNEY'S OFFICE**

Index No. 20-46602

Hon. Deborah Chimes, J.S.C.

The undersigned, Leah Costanzo, Esq., an attorney at law, affirms that the following statements are true, under penalty of perjury:

1. I am an attorney licensed to practice law in the State of New York and am the attorney for AB 511 Doe, plaintiff in the above referenced matter. As such, I am fully familiar with the facts and circumstances arising in this case.

2. This Affirmation is respectfully submitted in further support of plaintiff's motion requesting judicial subpoenas on the Orleans County Sheriff's Department and Orleans County District Attorney's Office for the complete, unredacted investigation, files and trial record of perpetrator Terry Houseman in approximately 1990-1991, and in reply to non-party Orleans County District Attorney's Office's response to plaintiff's motion for judicial subpoenas.

3. The District Attorney is in possession of plaintiff's motion which clearly states that subpoenas were being sought for the files of both the Orleans County District Attorneys Office and the Orleans County Sheriff's Office ([NYSCEF Doc. No. 47](#)), and copies of both requested subpoenas were attached as exhibits ([NYSCEF Doc. No. 65](#), [NYSCEF Doc. No. 66](#)).

4. Copies of plaintiff's motion were mailed to the Orleans County Sheriff's Department and Orleans County District Attorney's Office on August 3, 2022 ([NYSCEF Doc. No. 69](#)), and also personally served prior to the one-day notice requirement set forth in CPLR § 2307 ([NYSCEF Doc. No. 68](#) and [NYSCEF Doc. 70](#)).

5. Additionally, while the District Attorney's indicates that the records from the criminal investigation and prosecution involve a "completely different" abused child, it is unclear how this information would have been obtained or confirmed as plaintiff is proceeding under a pseudonym and his name has not been disclosed by your affirmants office. Regardless, whether plaintiff's name appears in the records is not a basis for denying plaintiff's motion.

6. The records are relevant in that they involve the same perpetrator, allegations of sexual abuse of a child during his employment with defendants, and likely contain discoverable information such as the identity of and testimony of unknown and/or unavailable witnesses, defendants' interaction with and supervision of the perpetrator, and testimony given regarding the perpetrator's activities during the relevant time frame.

7. Finally, while it is plaintiff's position that the unredacted records should be fully discoverable, the plaintiff's request is for judicial subpoenas returnable directly to the Judge's chambers so that this Court can properly determine what extent the contents must be redacted prior to examination by counsel.

8. Based on the foregoing, plaintiff's motion for the issuance of judicial subpoenas on nonparties Orleans County Sheriff's Department and Orleans County District Attorney's Office pursuant to CPLR § 2307 should be granted.

DATED: Buffalo, New York
September 21, 2022

/s/ Leah Costanzo, Esq.
Leah Costanzo, Esq.
STEVE BOYD, P.C.
Attorneys for plaintiff
2969 Main Street, Suite 100
Buffalo, NY 14214
(716) 600-0000
lcostanzo@steveboyd.com

TO: Hon. Joseph V. Cardone, District Attorney
Orleans County District Attorney
13925 State Route 31, Suite 300
Albion, NY 14411
(585) 590-4130
VIA HAND DELIVERY

Katherine Bogan, Esq.
Orleans County Attorney
517 Main Street
Medina, NY 14103
(585) 798-1615
VIA HAND DELIVERY

Sheriff Christopher Bourke
Orleans County Sheriff's Department
13925 State Route 31, Suite 400
Albion, NY 14411
(585) 589-5527
VIA HAND DELIVERY

Shannon O' Neill, Esq.
Webster Szanyi, LLP
Attorneys for Defendants
1400 Liberty Building
Buffalo, New York 14202
(716) 843-2800

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ORLEANS

AB 511 DOE,

Plaintiff,

**CERTIFICATION PURSUANT TO 22
N.Y.C.R.R. 202.8-b(c)**

v.

LYNDONVILLE CENTRAL SCHOOL
DISTRICT AND LYNDONVILLE
ELEMENTARY SCHOOL,

Index No.: 20-46602

Defendants.

I hereby certify pursuant to 22 N.Y.C.R.R. 202.8-b(c) that the word count of the attached attorney reply affirmation is 441 words exclusive of the caption and signature block in compliance with the word count limit set forth in 22 N.Y.C.R.R. 202.8-b(a).

DATED: September 21, 2022

/s/ Leah Costanzo, Esq.
Leah Costanzo, Esq.