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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

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# NY Atty Grievance Committee Procedures To Be Released

By **Andrea Keckley**

Law360 (March 28, 2023, 4:49 PM EDT) -- A New York federal judge has ordered the state to release documents about attorney grievance committee procedures after a group of law professors and a nonprofit argued the public should have the right to access the committee's ultimate resolution of complaints alleging prosecutorial misconduct.

U.S. Magistrate Judge Valerie Figueredo's Friday **order** followed a March 21 telephone conference involving the parties in the lawsuit over the grievance process. The plaintiffs, which include several law professors and the nonprofit Civil Rights Corps, agreed to drop their claims against all state defendants for alleged violations of First Amendment rights and the equal protection clause, as well as their bid to allow plaintiffs access to disciplinary records and proceedings for good cause shown.

They also agreed to drop claims against Diana Kearse, chief counsel of the grievance committee, and Andrea Bonina, chair of the state of New York grievance committee for the Second, Eleventh and Thirteenth judicial districts.

"We are pleased that the claims against Diana Kearse are being dismissed," her lawyer, Mark Elliott of Elliott Kwok Levine & Jaroslaw LLP, told Law360 Pulse on Tuesday. "It is the right thing to do for a host of reasons"

The remaining defendants now have until April 24 to produce documents about the attorney grievance committee procedures.

Friday's order limits discovery to documents about the attorney grievance committee procedures that relate to the plaintiffs' fourth count, which alleges their First Amendment right to access government proceedings and records was violated. That discovery must be produced by May 22.

The plaintiffs and state defendants must also identify any declarant they intend to rely on to support or oppose any motion for summary judgment on that count. They may depose any one of them on issues related to attorney grievance committee procedures.

The decision comes after the plaintiffs **encouraged** the court to issue a summary judgment on the fourth count earlier this month.

In their complaint, the plaintiffs allege that the grievance committee "largely ignores the rules of conduct for prosecutors and focuses its attention instead on civil attorneys."

"The attorney grievance process in NYC is hopelessly broken, both because it does so little and because so much of it occurs in secret," Gregory L. Diskant of Patterson Belknap Webb & Tyler LLP, who represents the plaintiffs, told Law360 Pulse on Tuesday. "This is particularly disturbing when it comes to sanctioning rogue prosecutors — which almost never happens. Our lawsuit is aimed at bringing some of this problem into the light."

Attorneys for Georgia Pestana, corporation counsel for New York City; Steven Stein Cushman, acting corporation counsel For New York City; Queens County District Attorney Melinda Katz and Justice Hector D. LaSalle, the presiding justice of the Second Judicial Department of the Appellate Division of the Supreme Court of the State of New York, did not immediately respond to Law360 Pulse's requests for comment.

The professors and the Civil Rights Corps are represented by Gregory Diskant and Shelley Attadgie of Patterson Belknap Webb & Tyler LLP.

Katz and Pestana are represented by Eric Jay Eichenholtz and Krista Ann Friedrich of the New York City Law Department.

Justice LaSalle is represented by Elizabeth A. Figueira and Joya C. Sonnenfeldt of the New York State Office of the Attorney General.

The case is Civil Rights Corps et al. v. Pestana et al., case number 1:21-cv-09128, in the U.S. District Court for the Southern District of New York.

--Additional reporting by Kevin Penton. Editing by Linda Voorhis.

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