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January 17, 2019

VIA ECF & REGULAR MAIL

Honorable Madeline Cox Arleo, U.S.M.J.
M.L. King, Jr. Federal Building & Courthouse
50 Walnut Street, Room 2060
Newark, New Jersey 07102

Re: Lee Kenworthy v. Lyndhurst Police Department, et als.;
Civil Action No. 2:18-cv-12822 (MCA)(JAD)

Dear Judge Cox Arleo:

This firm represents defendant Housing Authority of Bergen County (“HABC”) in connection with the above-referenced matter. As the Court is aware, on December 4, 2018, HABC filed a Notice of Motion To Dismiss Plaintiff’s Complaint Pursuant To Fed. R. Civ. Proc. 12(b)(1) and 12(b)(6) (see ECF No. 14), which is currently pending before this Court along with four other such motions filed by the various defendants in this case.

I write now on behalf of HABC to join in the objections filed by other defendants (see ECF Nos. 24, 26 and 28) to Plaintiff’s pending Motion For Continuance (returnable February 4, 2019). Plaintiff’s “motion” is nothing more than a frivolous stall tactic with no realistic prospect of any attorney actually entering an appearance on Plaintiff’s behalf. Plaintiff’s Complaint has been pending for approximately five months now (see ECF No. 1, filed August 14, 2018), and it is only long after the deadlines for filing opposition to the many motions to dismiss have passed that Plaintiff now seeks to retain counsel. Simply put, if this case had any merit and Plaintiff had any realistic intention of prosecuting the same, Plaintiff would have retained counsel either before filing his Complaint or at any time within the last six months. That Plaintiff is now scrambling to delay decisions on the motions and retain counsel at the eleventh hour bespeaks his actions constituting nothing more than a transparent attempt to stall decisions on the motions and salvage his lawsuit (which he cannot).



Notwithstanding the foregoing, even assuming arguendo Plaintiff did actually encounter an attorney willing to take on his meritless case, this Court should still deny Plaintiff's Motion For Continuance because there is no conceivable basis for jurisdiction before this Court. And as pointed out by counsel for defendant Adapt Pharma, Inc., a party cannot amend a pleading by the brief in opposition to a motion to dismiss. See Com. Of Pa. ex rel Zimmerman v. PepsiCo., Inc., 836 F.2d 173, 181 (3d Cir. 1988).

Accordingly, HABC respectfully requests that Plaintiff's Motion For Continuance be denied, and that all defendants' motions to dismiss Plaintiff's Complaint be decided as unopposed. Should the Court have any questions, or require anything further, please do not hesitate to ask and I will be happy to provide the same.

Respectfully submitted,

DeCOTIIS, FITZPATRICK, COLE & GIBLIN, LLP

By: /s/ Christopher J. Turano, Esq.
CHRISTOPHER J. TURANO, ESQ.

CJT/jp

cc: Lee Kenworthy – Plaintiff *Pro Se* (via ECF filing, regular mail & certified mail, RRR)
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