

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SUNG CHO, NAGLE WASHWRITE LLC, DAVID DIAZ,
and JAMEELAH EL-SHABAZZ, on behalf of themselves
and all others similarly situated,

Plaintiffs,

-against-

**NOTICE OF MOTION
TO DISMISS THE COMPLAINT
PURSUANT TO FED. R. CIV.
PROC. 12(B)(6)**

16-CV-7961 (ALC)

CITY OF NEW YORK, BILL DE BLASIO, in his official
capacity as Mayor of the City of New York, NEW YORK
CITY POLICE DEPARTMENT, JAMES P. O'NEILL, in
his official capacity as New York City Police
Commissioner, NEW YORK CITY LAW
DEPARTMENT, and ZACHARY W. CARTER, in his
official capacity as Corporation Counsel of the City of New
York,

Defendants..

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PLEASE TAKE NOTICE, that upon the Memorandum of Law in Support of their Motion to Dismiss the Complaint, dated April 3, 2017; the Declaration of Lesley Berson Mbaye, dated April 3, 2017 and all exhibits attached thereto, and upon all the papers and proceedings had herein, Defendants City of New York, Bill De Blasio, New York City Police Department, James P. O'Neill, New York City Law Department, and Zachary W. Carter (collectively, "Defendants") will move this Court, before the Honorable Andrew L. Carter, at the United States Courthouse for the Southern District of New York located at 40 Foley Square, New York, New York, 10007 on a date and at a time to be designated by the Court, for an Order pursuant to Federal Rule of Civil Procedure 12(b)(6) dismissing the Complaint on grounds including that (1) the claims of Plaintiffs El-Shabazz and Diaz are barred by the statute of

limitations; (2) the claims of Plaintiff El-Shabazz are barred by the terms of a General Release she executed in a related matter; (3) neither Plaintiff El-Shabazz, Diaz or Cho state a claim upon which relief can be granted under 42 U.S.C. § 1983; and (4) all Plaintiffs lack standing to seek prospective injunctive relief.

PLEASE TAKE FURTHER NOTICE that pursuant to the Court's Order dated March 21, 2017 (dkt. no. 44), Plaintiffs' opposition papers must be filed by May 1, 2017, and Defendants' reply must be filed by May 8, 2017.

Dated: New York, New York
April 3, 2017

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By: _____ /s/
Lesley Berson Mbaye
Assistant Corporation Counsel

_____/s/
Evan Schnittman
Assistant Corporation Counsel