SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. LYLE E. FRANK** **PART** **11M**

Justice

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N. C., A. T., T. G.

Plaintiff,

- v -

THE CITY OF NEW YORK, JESSICA S. TISCH,

Defendant.

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INDEX NO. 156188/2024

MOTION DATE 06/30/2025

MOTION SEQ. NO. 002

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 002) 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, 42, 45

were read on this motion to/for MISCELLANEOUS.

Upon the foregoing documents, the motion is granted.[1]

Introduction

This action arises out of Plaintiffs' allegation that the New York City Police Department ("NYPD") has policies regarding access to sealed records that are in violation of the New York State Family Court Act ("FCA") sections 375.1 and 375.2 (the "Youth Sealing Statutes"). Section 375.1 of the Family Court Act provides for the automatic sealing of all records and papers related to an arrest that results in a termination in favor of the respondent. Section 375.2 of the Family Court Act states that when a juvenile has been adjudicated delinquent, the court may, in its discretion and upon motion, order the records to be sealed pursuant to Section 375.1. The three named plaintiffs allege to have been aggrieved by these policies and are asking this Court to certify this action as a class action pursuant to Article 9 of the New York Civil Practice Law and Rules; issue a declaration that the NYPD's policy and/or practice of accessing, using,

[1] The Court would like to thank Bree Calvert and Geoffrey Shamah for their assistance in this matter.

and disclosing Sealed Youth Records violates FCA Sections 375.1 and 375.2; issue an injunction prohibiting the NYPD from unlawfully accessing, using, and disclosing Sealed Youth Records in violation of FCA Sections 375.1 and 375.2, including accessing Sealed Youth Records for law enforcement purposes; issue an injunction prohibiting the NYPD from utilizing protocols, training, and practices that allow improper access, use, or disclosure of Sealed Youth Records; and award attorneys' fees and costs. According to the plaintiffs, between 2019 through 2022, there were at least 2,500 arrests that are required to be sealed that the NYPD maintains access to.

Plaintiff argues that class certification is appropriate under CPLR § 901(a) because; the class is sufficiently numerous, including thousands of people; there are common questions of law and fact in this action; the named plaintiffs' claims are typical to those of all class members; the named plaintiffs will be adequately represented in this case with no conflicts of interest between Plaintiffs and the putative class; and that a class action is a superior vehicle for adjudicating all class members' claims.

Defendants, City of New York ("City") and Jessica Tisch in her official capacity, opposes such certification, arguing mainly that maintaining this as a class action is an inferior method for the fair and efficient adjudication of this action, the proposed class action is unnecessary and barred by the governmental operations rule, and that public policy weighs against class certification.

Discussion

CPLR § 901(a) states that a class may be certified if the following statutory prerequisites are met: (1), the class is so numerous that joinder of all members, whether otherwise required or permitted, is impracticable; (2), there are questions of law or fact common to the class which predominate over any questions affecting only individual members; (3), the

claims or defenses of the representative parties are typical of the claims or defenses of the class; (4), the representative parties will fairly and adequately protect the interests of the class; and (5), a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

Plaintiffs assert, and the Court agrees, that there are likely thousands of members of the class that would be impacted by this case; based on the undisputed 2,500 arrests that are required to be sealed between the years of 2019 through 2022 alone. Plaintiffs contend that there are narrow issues thus creating common questions of law and fact, Also, due to the narrowness of the issues in this case, the allegations of the named plaintiffs appear to be typical of those of other potential class members. *See, e.g., Friar v. Vanguard Holding Corp.*, 78 A.D.2d 83, 96 [2nd Dept. 1980]. The representation of class members would be without conflict of any two class members, and the named plaintiffs would be motivated to win the case on behalf of themselves and others. Judging from oral argument and the papers submitted in this case, attorneys for the proposed class would adequately represent the subject class. Finally, judicial economy would be served by resolving this issue in one case as opposed to the possibility of many cases. The Court agrees with the arguments set forth by the Plaintiffs as to why class certification is appropriate. All the factors required for class certification pursuant to CPLR § 901(a) are met.

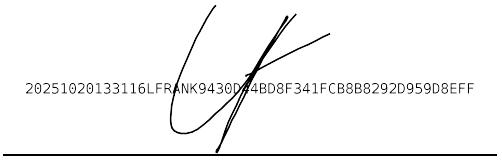
As noted, in addition to challenging the Plaintiffs' contentions regarding the sufficiency of the plaintiffs meeting the CPLR requirements for class certification, the City argues that the proposed class action is unnecessary and barred by the governmental operations rule, and that public policy weighs against class certification. This Court respectfully rejects the claim that the governmental operations rule bars class certification of this action. The Government Operations

rule is discretionary, not absolute. The rule does not bar class certification; it permits denial only where class treatment adds nothing of value. *Hurrell-Harring v. State of N.Y.*, 81 A.D.3d 69, 74 - 76 [3d Dept. 2011]; *Jones v. Berman*, 37 N.Y.2d 42, 57 [1975]. Courts retain the authority to certify a class when doing so promotes fairness, efficiency, or enforceability, which is clearly the case in this action. Additionally, a certified class allows the court to retain jurisdiction to enforce compliance on behalf of all affected individuals, preventing repetitive individual actions. In addressing the argument that class certification goes against public policy, this court respectfully rejects this claim as this argument conflicts with the legislative intent of CPLR Article 9, which expressly authorizes class actions against government entities. *See Friar*, at 94-95. Class actions serve as an important role in vindicating the rights of those who might otherwise lack the means or incentive to seek relief. Courts consistently approve of the use of class actions of injunctive and declaratory relief from systemic deficiencies in similar cases. *See, e.g., City of N.Y. v. Maul*, 14 N.Y.3d 499 [2010]. Accordingly, it is hereby

ADJUDGED that the Plaintiffs' motion for class certification is granted; and it is further

ORDERED and ADJUDGED that Plaintiffs' claims are certified as a CPLR § 901 class action on behalf of a class defined as: all persons whose youth arrest-related records are or will be in the possession of the NYPD and are or will be subject to sealing under the Youth Sealing Statutes (the "Class"); and it is further

ORDERED that the Plaintiffs N.C., A.T., and J.P. are appointed as representatives for the Class and The Legal Aid Society and Milbank LLP are appointed as Class co-counsel.



10/20/2025
DATE

LYLE E. FRANK, J.S.C.

CHECK ONE:		**CASE DISPOSED**			X	**NON-FINAL DISPOSITION**	
	X	**GRANTED**		**DENIED**		**GRANTED IN PART**	**OTHER**
APPLICATION:		**SETTLE ORDER**				**SUBMIT ORDER**	
CHECK IF APPROPRIATE:		**INCLUDES TRANSFER/REASSIGN**				**FIDUCIARY APPOINTMENT**	**REFERENCE**