

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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In the Matter of the Application of Benjamin Chevat,
Director of 9/11 Health Watch,

**STIPULATION AND
ORDER OF
SETTLEMENT**

Petitioner, Index No. 155678/2024

For a Judgment Pursuant to Article 78 of the Civil Practice
Law and Rules

-against-

New York City Department of Environmental Protection,

Respondent.

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WHEREAS, Petitioner, 911 Health Watch, filed two article 78 proceedings against
the City of New York (the “City”); and

WHEREAS, the first, *Chevat v. DEP*, Index No. 155678/2024, challenged the
Department of Environmental Protection’s (“DEP”) response to a September 8, 2023 Freedom of
Information request (“FOIL request”) for records concerning the City’s response to the September
11 attacks; and

WHEREAS, following the commencement of the first action, on July 14, 2025,
the New York City Council passed Resolution 560-A (“Resolution 560-A”), directing the
Department of Investigation (DOI) to “*conduct an investigation to ascertain the knowledge
possessed by mayoral administrations on environmental toxins produced by the September 11,
2001 terrorist attacks on the World Trade Center and to submit a report to the Council thereon.*”;
and

WHEREAS, by Decision and Order dated May 28, 2026, the Supreme Court of New York County (Hon. James G. Clynnes) in *Chevat v. DEP*, Index No. 155678/2024 determined that DEP arbitrarily and capriciously denied Petitioner's FOIL request; and

WHEREAS, by that same Decision and Order, the Supreme Court of New York County granted Petitioner's application to take written discovery and take sworn testimony of DEP officials involved in the handling and administrative denial and appeal of the FOIL request; and

WHEREAS, Petitioner, by his counsel, served discovery notices in June 2026 as to DEP, and took sworn testimony of the DEP's FOIL Appeals Officer on July 1, 2026; and

WHEREAS, Petitioner has not yet entered judgment against DEP in connection with the May 28, 2026 Decision and Order as the proceeding is not yet complete; and

WHEREAS, in 2026, Petitioner filed a second proceeding, *Chevat v. CNY*, Index No. 153916/2026, against the City's Law Department, Office of the Mayor, and Department of Design and Construction ("DDC"), challenging their responses to similar FOIL requests (collectively the "Proceedings"); and

WHEREAS, the Proceedings are currently stayed through September 8, 2026, while the parties engage in settlement discussion aimed at resolving both actions; and

WHEREAS, a central component of the parties' efforts to resolve the Proceedings is the launch of the City's online records portal, which will provide public access to documents concerning 9/11 air quality and health risks ("September 11th Public Records Portal"); and

WHEREAS, the parties have worked together and will continue to work together to generate a list of search terms and parameters which will enable the City to search for documents for inclusion on the September 11th Public Records Portal; and

WHEREAS, the City intends to launch the September 11th Public Records Portal with the goal of making publicly available: (1) as many of the records Petitioner sought in his FOIL requests and (2) as many other records of public interest and importance, in each case as may be identified on an ongoing basis with input from Petitioner and his counsel; and (3) information about various relevant September 11th programs; and

WHEREAS, the City intends to take additional actions that demonstrate its commitment to addressing 9/11-related issues, including:

- a. honoring the independence of the DOI's inquiry under Resolution 560-A, cooperating with it fully and transparently, and refraining from any action to impede it;
- b. designating personnel at the Department of Citywide Administrative Services ("DCAS") and the Department of Education ("DOE") to coordinate the gathering of documents from City agencies, as needed, to assist City employees and individuals who attended the New York City Public Schools ("NYCPS") obtain proof of presence in the New York City Exposure Zone for the purpose of establishing eligibility for benefits under the World Trade Center ("WTC") Health Program and the September 11th Victims Compensation Fund ("VCF"); and
- c. utilizing its social media accounts to promote awareness of and participation in the World Trade Center Health Program's Youth Research Cohort once the program launches and the program portal opens for participant enrollment.

WHEREAS, the parties wish to resolve any remaining issues without further proceedings.

NOW, THEREFORE, IT IS STIPULATED AND AGREED, by and between the undersigned, as attorneys of record for the respective parties, as follows:

1. For the twelve (12) month period commencing in September 2026 through August 2027, the City's Law Department agrees to meet monthly with Petitioner and his attorneys, in person or via Zoom or Microsoft Teams video conferencing, to provide updates and address matters related to the City's posting of documents on the online portal. Topics to be addressed will include the total number of documents produced, the total number of pages produced, the sources of the documents (department) and the subject matter. Additional search terms and subject matters for searches may be raised at any time by Petitioner and his counsel, and the City will consider them, in good faith, with a view to locating other responsive records and posting them on the September 11th Public Records Portal if possible.
2. The City agrees to pay Petitioner's reasonable attorneys' fees and costs incurred in connection with the Proceedings (155678/2024 and 153916/2026), in accordance with applicable law and subject to approval by the New York City Comptroller. To facilitate resolution of Petitioner's request for attorneys' fees and costs, Petitioner's attorneys agree to provide the Law Department with their billing records on or before September 1, 2026. The parties will endeavor to resolve the amount of attorneys' fees and costs without further litigation. If the parties are unable to reach an agreement, Petitioner's attorneys may file an application with this Court for reimbursement of their reasonable attorneys' fees and costs incurred in the Proceedings, and the City reserves all rights to oppose such application, in whole or in part. Once the amount of fees and costs is agreed upon by the parties or determined by the Court, the City will remit payment within 90 days provided that

Petitioner has submitted all requisite information and documentation, including a release and Tax Identification Number.

3. The City will provide a link to the “Harding Memo” on the September 11th Public Records Portal under a tab entitled “Documents of Interest” and the portal section entitled “FAQs” will provide an explanation as to how the document was identified and made available.
4. The City will use diligent and good faith efforts to determine whether the following documents exist, can be located and identified: any documents shared with its lobbyists or government liaisons to Congress and the Executive Branch in September, October, and November 2001 for the purpose of seeking immunity or liability caps in federal legislation related to claims arising from the September 11th attacks. If any documents are found, they will be posted on the September 11th Public Records Portal with prior notice to Petitioner.
5. Petitioner agrees to take no further discovery in this action (*Chevat v. DEP*, Index No. 155678/2024).
6. As described in Paragraphs 7 and 8, and in further consideration of the relief and commitments set forth above, the Proceedings will be voluntarily dismissed with prejudice pursuant to separate stipulations filed in each of the respective actions. Upon the So Ordering of this Stipulation and pending the filing of the stipulations of voluntary dismissal, the Proceedings shall be marked off of the respective court calendars, subject to reinstatement if necessary, as set forth in paragraph 8, below.
7. The Proceedings will be voluntarily dismissed with prejudice twelve (12) months after the portal is launched on September 8, 2026 and is fully operational during that twelve (12) month period, including using the agreed upon search terms to identify and post documents responsive to Petitioner’s FOIL requests, provided that during that twelve-month period

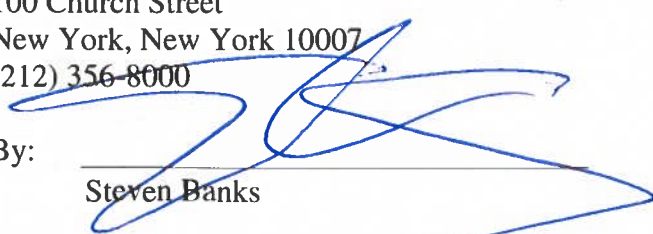
the City has, in good faith, made significant progress in addressing the commitments set forth in subparagraphs (a), (b), and (c) and has provided a privilege log to Petitioner's counsel identifying any responsive documents the City has located but chosen not to release, including documents responsive to Petitioner's FOIL requests and other documents considered for release on the portal, which log shall also be posted on the portal.

8. In the event that the City fails to substantially fulfill the obligations as outlined in paragraph 7 during this twelve-month period, Petitioner may, upon 30 days' written notice to the City, which shall include an opportunity to meet and confer and resolve Petitioner's concerns, move to restore the proceedings to the Court's calendar.
9. This stipulation, and the settlement it represents, shall not be admissible or otherwise used as evidence in any other action, proceeding or in connection with any other settlement negotiations.
10. This stipulation constitutes the entire agreement between the parties with respect to these Proceedings.
11. This stipulation may be amended or modified or supplemented, but only by written agreement executed by the parties through their respective counsel.
12. This stipulation may be executed in separate counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same agreement.
13. This stipulation shall be so-ordered by the Court in the Proceedings.

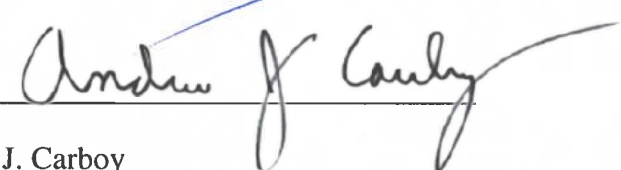
Dated: New York, New York
September 2, 2026

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