UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

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JACOB TEITELBAUM, individually and as father to CHILD A and CHILD B,

Plaintiff,

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v.

JUDA KATZ; CHAYA KATZ; JOEL :

TENNENBAUM; BLUMA TENNENBAUM; DAVID RUBENSTEIN; KIRYAS JOEL

COMM. AMBULANCE CRP; ATTY. MARIA

PETRIZIO; CHILDREN'S RIGHTS SOCIETY
OF ORANGE COUNTY; ATTY. KIM
PAYLONIC: ATTY, JOHN EPANCIE Y

PAVLOVIC; ATTY. JOHN FRANCIS X. BURKE; CHILD PROTECTIVE SERVICES

OF ORANGE COUNTY; CHRISTINE BRUNET; ATTY. STEPHANIE BAZILEOR; JOHN DOES 1 THROUGH 95; JANE DOES 1

THROUGH 20, Defendants.

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**ORDER** 

12 CV 2858 (VB)

## Briccetti, J.:

On February 11, 2013, the Court issued a Memorandum Decision dismissing plaintiff's claims against several of the defendants in this case (Doc. #138). In that decision, the Court stated, "[a]ccording to the docket, [defendants] Chaya and Judah Katz have not been served with the amended complaint, and they are not parties to any of the pending motions to dismiss." However, that statement was inadvertently made in error; the Katzes were served with the amended complaint on September 14, 2012 (Doc. ##86, 88).

Following a conference on February 20, 2013, the Court issued an Order acknowledging that the Katzes had been served – as had defendants Joel and Bluma Tennenbaum (Doc. ##87, 90) – and directing plaintiff "to inform the Court, in writing, whether he intends to (1) move for a default judgment with respect to those defendants, or (2) voluntarily dismiss his claims against them" by March 22, 2013. (Doc. #142). In so directing plaintiff, the Court overlooked its memorandum endorsement of a letter dated September 28, 2012, from defendants Juda Katz,

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Chaya Katz, Joel Tennenbaum, and Bluma Tennenbaum (all proceeding pro se), requesting to

join in the motion to dismiss previously filed by defendants Children's Rights Society and Kim

Pavlovic. By memorandum endorsement dated October 5, 2012, the Court granted that request

(Doc. #70).

Having now carefully reviewed the allegations in the amended complaint with respect to

the Katzes and the Tennenbaums, the Court finds plaintiff has failed to set forth facts sufficient

to show that the Katzes and Tennenbaums were state actors for purposes of Section 1983, for

substantially the same reasons the Court made the same finding with respect to defendants

Kiryas Joel EMS and Rubenstein. (See 2/11/13 Mem. Dec. at 12). Further, plaintiff has failed to

allege any facts giving rise to a plausible claim that the Katzes or Tennenbaums conspired with

others to deprive plaintiff of his constitutional rights in violation of Sections 1983 or 1985.

In its February 11, 2013, decision, in consideration of the fact that plaintiff is proceeding

pro se, the Court granted plaintiff leave to further amend his complaint with respect to his claims

against Kiryas Joel EMS and Rubenstein, and directed plaintiff to file any amended pleading by

March 11, 2013. The Court similarly grants plaintiff leave to further amend his complaint with

respect to his claims against the Katzes and Tennenbaums; specifically, to allege facts

demonstrating that the Katzes and Tennenbaums were state actors for purposes of Section 1983,

and that they conspired to deprive plaintiff of his constitutional rights. Plaintiff's time to file a

second amended complaint is extended to April 12, 2013.

Dated: February 22, 2013

White Plains, NY

SO ORDERED:

Vincent L. Briccetti

United States District Judge

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