

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

-----X
TREVLYN HEADLEY,

Index No. 155228/2025

Plaintiff,

-against-

THE CITY OF NEW YORK; SHATORRA FOSTER, Individually,
And TANIA KINSELLA, Individually

Defendants'

-----X
**DEFENDANT/COUNTERCLAIM-PLAINTIFF SHATORRA FOSTER'S
MEMORANDUM OF LAW IN SUPPORT OF HER ORDER TO SHOW CAUSE FOR A
TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION,
PRESERVATION RELIEF, AND EXPEDITED DISCLOSURE**

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PRELIMINARY STATEMENT

This application presents an uncommon circumstance in which the governmental entity prosecuting an employee is already a party before the Court, has received repeated written notice that the disciplinary prosecution itself forms part of the alleged retaliation, and nevertheless continues advancing an overlapping administrative adjudication capable of producing credibility findings and employment consequences before this Court determines the claims already pending before it.

Defendant/Counterclaim-Plaintiff SHATORRA FOSTER seeks narrowly tailored provisional relief staying NYPD Disciplinary Case No. C-030622 while the Court determines her pending default motion against Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY and adjudicates counterclaims arising from HEADLEY'S alleged sexual harassment, coercion, sexual assault, misuse of Department authority, and retaliation. FOSTER does not ask the Court to dismiss the disciplinary charges, determine guilt or innocence, or assume supervision over the NYPD disciplinary system. She asks only that the City temporarily refrain from completing this prosecution before the Court can determine whether its continuation threatens her rights and the effectiveness of judicial relief.

The disciplinary matter is inseparable from the claims before this Court. The charges substantially derive from accusations made or influenced by HEADLEY. FOSTER'S counterclaims survived dismissal, HEADLEY failed to reply after service of notice of entry, and FOSTER'S default motion is pending. Department records also reflect a substantiated finding that HEADLEY improperly queried FOSTER through an NYPD database and show that the Department possessed FOSTER'S sexual-assault allegation but apparently disposed of it without first interviewing her.

The present application concerns more than alleged defects in the original investigation. On May 29, 2026, FOSTER through counsel directly warned the Trial Commissioner and Department Advocate and requested reassessment before motion practice. Counsel then submitted formal complaints to IAB and OEI. IAB created Log No. 2026-18936, yet neither agency contacted FOSTER or her counsel. After the commencement of related retaliation litigation, the Department continued the prosecution and sought to restrict evidence bearing upon HEADLEY'S motive, credibility, conduct, system access, and retaliatory interest.

This is therefore not an ordinary attempt to avoid a disciplinary hearing or obtain interlocutory review of routine evidentiary rulings. FOSTER alleges that the continued prosecution itself constitutes retaliation and that the Department is positioned to adjudicate overlapping credibility and intent issues before this Court resolves the surviving counterclaims and pending default application.

A temporary stay preserves the status quo. The City may preserve evidence and prepare its case. Without relief, however, FOSTER faces potentially irreversible disciplinary findings, credibility determinations, reputational injury, employment consequences, and the creation of an administrative record that may impair the Court's ability to provide meaningful relief. Under these circumstances, narrowly tailored provisional relief is warranted.

STATEMENT OF RELEVANT FACTS

Defendant/Counterclaim-Plaintiff SHATORRA FOSTER is the respondent in NYPD Disciplinary Case No. C-030622. The Charges and Specifications accuse her of stalking, harassment, aggravated harassment, false reporting, improper database inquiries, and improper use of Department resources. The prosecution substantially derives from accusations made or influenced by Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY.

On June 27, 2025, FOSTER filed a Verified Answer with Counterclaims alleging that HEADLEY sexually harassed, sexually coerced, sexually assaulted, abused her authority over, and retaliated against FOSTER, including through the misuse of Department processes. By Decision and Order entered March 20, 2026, this Court denied HEADLEY'S motion to dismiss those counterclaims. After service of notice of entry, HEADLEY failed to reply, sought no extension, and moved for no relief from her default. FOSTER'S motion for a default judgment is pending.

The Department's own records identify HEADLEY as more than a neutral complainant. Those records reflect a substantiated finding that HEADLEY improperly queried FOSTER through an NYPD database. They also contain information bearing upon HEADLEY'S motive, credibility, Department-system access, and treatment of FOSTER.

The investigative materials further referenced FOSTER'S allegation that HEADLEY sexually assaulted her inside an NYPD Headquarters dormitory room on March 14, 2024. Nevertheless, the Department apparently closed, classified, or otherwise disposed of that allegation without first interviewing FOSTER, obtaining her complete account, requesting supporting evidence, or examining the relationship between the alleged assault and the accusations later used to prosecute her.

On May 27, 2026, the Department disclosed additional Special Investigations Unit and Prosecutorial Wall materials. Those records heightened concern that the investigation had been structured around HEADLEY as the victim and FOSTER as the subject without meaningfully addressing evidence concerning HEADLEY'S alleged misconduct, motive, credibility, and retaliatory interest.

On May 29, 2026, at approximately 11:45 a.m., FOSTER through counsel wrote directly to Trial Commissioner Jeff Adler and copied Agency Attorney David Green. Counsel attached the Charges and Specifications, the Verified Answer with Counterclaims, and the Notice of Entry. The communication requested Department review before motion practice and identified the central issue: the individual whose accusations materially contributed to the disciplinary charges was also accused of having sexually assaulted FOSTER before initiating the complaints underlying the prosecution.

Later that day, counsel submitted formal complaints to the Internal Affairs Bureau and the Office of Equity and Inclusion concerning HEADLEY'S alleged misconduct, the handling of FOSTER'S sexual-assault allegation, the integrity of the disciplinary investigation, and the continued prosecution of FOSTER. Counsel also submitted a supplemental complaint concerning the Prosecutorial Wall.

On May 30, 2026, IAB acknowledged receipt and created Log No. 2026-18936. IAB stated that the assigned unit or group would contact counsel. Additional information was thereafter submitted and associated with the log.

Neither IAB nor OEI contacted FOSTER or her counsel. Neither requested an interview, statement, documents, witnesses, or other evidence. Neither identified an assigned investigator or explained whether any substantive investigation was occurring.

On May 31, 2026, FOSTER commenced a Bronx County retaliation action concerning the Department's continued reliance upon what she alleges was a contaminated and retaliatory disciplinary process. The City and related defendants were served on June 2, 2026.

On June 3, 2026, FOSTER received a telephone directive instructing her to report "ASAP" for a purportedly random hair drug test. She was not informed who selected her, who

authorized the directive, or how her name was generated. She thereafter commenced a second Bronx County retaliation action addressing that additional conduct.

The Department nevertheless continued advancing the disciplinary prosecution. It also filed a Motion in Limine seeking prospective restrictions upon evidence broadly characterized as “collateral.” FOSTER opposed that request because the Charges and Specifications place intent, motive, credibility, bias, complainant conduct, legitimate purpose, prior communications, and investigative selectivity directly at issue.

The Department’s continued prosecution therefore occurred after repeated institutional notice to the Trial Commissioner, Department Advocate, IAB, and OEI; after IAB formally acknowledged the complaints and created a log; and after the commencement of related retaliation litigation. FOSTER now seeks a temporary stay to preserve the status quo while this Court determines the pending default motion and the claims already before it.

ARGUMENTS

POINT I

THE COURT MAY ENJOIN CONDUCT THAT THREATENS TO RENDER ITS JUDGMENT INEFFECTUAL

CPLR 6301 authorizes preliminary injunctive relief where a party is performing or threatens to perform an act affecting the subject of the action that would tend to render the Court’s judgment ineffectual. A movant must demonstrate a likelihood of success on the merits, irreparable injury absent relief, and a balance of the equities in her favor. *Aetna Ins. Co. v. Capasso*, 75 N.Y.2d 860, 862 (1990); *Doe v. Axelrod*, 73 N.Y.2d 748, 750 (1988); *W.T. Grant Co. v. Srogi*, 52 N.Y.2d 496, 517 (1981).

The purpose of a preliminary injunction is to preserve the status quo pending adjudication, not to determine the ultimate merits. *Uniformed Firefighters Ass’n of Greater N.Y.*

v. City of New York, 79 N.Y.2d 236, 241 (1992); *Nobu Next Door, LLC v. Fine Arts Hous., Inc.*, 4 N.Y.3d 839, 840 (2005).

FOSTER seeks relief within that limited function. She does not ask the Court to dismiss NYPD Disciplinary Case No. C-030622, decide the charges, or supervise the Department's disciplinary process. She asks only that the City temporarily refrain from completing an overlapping adjudication before this Court determines her surviving counterclaims and pending default motion.

The disciplinary proceeding materially overlaps with this action because it arises from accusations made or influenced by HEADLEY and may require findings concerning the same conduct, motives, communications, credibility disputes, and alleged retaliation. If the Department proceeds first, it may create an administrative record and credibility findings concerning matters already before this Court.

A temporary stay would preserve the present positions of the parties without extinguishing the Department's authority. The City may preserve evidence, maintain the charges, and prepare its case. CPLR 6301 therefore authorizes the Court to restrain completion of the disciplinary adjudication where necessary to prevent the pending judicial claims from being overtaken and the Court's eventual relief from becoming practically ineffectual.

POINT II
THE EXHAUSTION DOCTRINE DOES NOT FORECLOSE NARROW PROVISIONAL RELIEF AGAINST THE CITY'S ALLEGEDLY RETALIATORY CONTINUATION OF THE DISCIPLINARY PROSECUTION

Ordinarily, a party challenging administrative action must exhaust available administrative remedies before seeking judicial intervention. The rule is not absolute. Exhaustion is unnecessary where the challenged action is unconstitutional or wholly beyond the agency's

authority, resort to the administrative process would be futile, or pursuit of that process would cause irreparable injury. *Watergate II Apts. v. Buffalo Sewer Auth.*, 46 N.Y.2d 52, 57 (1978).

Courts are particularly reluctant to interrupt an ongoing disciplinary proceeding merely because the respondent disputes the charges, objects to an interlocutory ruling, or may later suffer an adverse determination. *Matter of Cameron v. Shah*, 140 A.D.3d 439, 439–40 (1st Dep’t 2016); *Matter of DiBlasio v. Novello*, 28 A.D.3d 339, 341–42 (1st Dep’t 2006); *Galin v. Chassin*, 217 A.D.2d 446, 447 (1st Dep’t 1995). The ordinary burden of defending a disciplinary proceeding, standing alone, does not establish irreparable injury. *Cameron*, 140 A.D.3d at 439–40.

FOSTER does not seek interlocutory review of an evidentiary ruling or judicial adjudication of the disciplinary charges. Nor does she contend merely that the Department’s original investigation contained remediable procedural errors. She alleges that the City’s decision to continue prosecuting her—after receiving repeated notice that the complainant allegedly sexually assaulted her, misused Department systems, and employed internal processes to retaliate—constitutes additional retaliatory conduct forming part of the claims already pending before the courts.

The administrative proceeding cannot provide complete relief for that alleged injury. The disciplinary tribunal may decide whether FOSTER committed the charged misconduct, but it cannot adjudicate her statutory counterclaims against HEADLEY, determine the pending default motion, award the relief sought in the related retaliation actions, or fully remedy the City’s allegedly retaliatory decision to continue the prosecution after notice. Requiring FOSTER to await a final disciplinary determination would permit the challenged continuation to occur before any court determines whether that continuation itself violates her rights.

The application therefore rests upon more than the possibility of an adverse disciplinary outcome. FOSTER seeks to prevent overlapping credibility and retaliatory-intent findings from being made while HEADLEY remains in default upon surviving counterclaims and while the Department has neither interviewed FOSTER concerning the alleged assault nor disclosed meaningful action upon IAB Log No. 2026-18936. Under those circumstances, later review of a final disciplinary determination may not restore the parties to their present positions or prevent the administrative record from affecting the pending litigation.

Murray v. Town of North Castle, 203 A.D.3d 150 (2d Dep’t 2022), does not compel a different result. There, a police officer sought permanently to prevent his employer from pursuing disciplinary charges based principally upon an asserted lack of authority under the governing employment arrangements. The Second Department concluded that the employer possessed lawful disciplinary authority and that equitable relief could not be used to avoid the established review process. *Id.* at 156–78.

Here, FOSTER does not dispute that the NYPD possesses general authority to discipline its employees. She challenges the City’s particular post-notice decision to continue this prosecution as allegedly retaliatory and seeks only temporary, preservative relief—not permanent immunity from discipline. The requested order would leave the Charges and Specifications intact, preserve the Department’s ultimate authority, and permit the proceeding to resume if the injunction is dissolved.

Accordingly, this application does not present the routine disciplinary dispute governed by *Cameron*, *DiBlasio*, *Galin*, or *Murray*. It presents an asserted exception grounded in ongoing retaliation, the inadequacy of the administrative forum to determine the pending statutory claims, and the risk that awaiting final administrative review will permit the challenged conduct to be

completed and the resulting injury to become irreversible. The exhaustion doctrine therefore does not foreclose the narrowly tailored provisional relief requested here.

POINT III

FOSTER HAS DEMONSTRATED A LIKELIHOOD OF SUCCESS ON THE MERITS

A preliminary injunction does not require certainty of ultimate success. The movant must demonstrate a clear right to relief based upon the law and the undisputed facts, while factual disputes do not necessarily preclude provisional relief where the record otherwise establishes a probability of success. *Nobu Next Door, LLC v. Fine Arts Hous., Inc.*, 4 N.Y.3d 839, 840 (2005); *Ma v. Lien*, 198 A.D.2d 186, 187 (1st Dep't 1993).

FOSTER has satisfied that burden. This Court already denied HEADLEY'S motion to dismiss and determined that the counterclaims sufficiently pleaded claims arising from alleged sexual harassment, coercion, unwanted sexual contact, retaliation, and gender-motivated violence. Although that determination did not resolve liability, it establishes that the claims are legally viable and supported by sufficiently pleaded facts.

HEADLEY thereafter failed to reply following service of notice of entry. She sought no extension, tendered no proposed pleading, and moved for no relief from her default. FOSTER'S motion for a default judgment is now pending.

The Department's own records provide additional support for FOSTER'S claims. They reflect a substantiated finding that HEADLEY improperly queried FOSTER through an NYPD database and contain information bearing upon HEADLEY'S motive, credibility, system access, and conduct toward FOSTER. The investigative materials also referenced FOSTER'S allegation that HEADLEY sexually assaulted her before making or influencing the complaints underlying the disciplinary prosecution.

Despite possessing that allegation, the Department apparently disposed of it without interviewing FOSTER or requesting her evidence. The Department then continued prosecuting her after the Trial Commissioner, Department Advocate, IAB, and OEI received written notice of the alleged assault, investigative deficiencies, retaliatory context, and overlapping litigation.

The relevant conduct therefore extends beyond the original charging decision. FOSTER alleges that the Department's repeated decisions to continue the prosecution after actual notice constitute additional retaliation. That theory is supported by the May 29 communications, IAB's creation of Log No. 2026-18936, the absence of any subsequent interview or substantive contact, the continued prosecution, and the Department's effort to restrict evidence bearing upon HEADLEY'S motive, credibility, and retaliatory interest.

At this stage, FOSTER need not conclusively prove every underlying allegation. The surviving counterclaims, HEADLEY'S default, the Department's substantiated database-access finding, the acknowledged internal complaints, and the Department's deliberate continuation of the prosecution after notice collectively establish a sufficient probability of success to justify preserving the status quo.

POINT IV

FOSTER WILL SUFFER IRREPARABLE HARM IF THE DISCIPLINARY PROCEEDING CONTINUES

Irreparable injury requires harm that cannot be adequately remedied by money damages or fully corrected after final judgment. *Aetna Ins. Co. v. Capasso*, 75 N.Y.2d 860, 862 (1990). The ordinary burden of defending a disciplinary proceeding, without more, is insufficient. *Matter of Cameron v. Shah*, 140 A.D.3d 439, 439–40 (1st Dep't 2016).

FOSTER alleges substantially more than the expense, inconvenience, or anxiety associated with a disciplinary hearing. The proceeding may adjudicate the same motives,

communications, credibility disputes, Department-system use, and retaliatory conduct implicated by the counterclaims and related litigation. It may also produce findings that FOSTER engaged in stalking, harassment, dishonesty, false reporting, or conduct undertaken without legitimate purpose.

Those determinations could result in discipline, loss of assignments, promotional consequences, reputational injury, damage to FOSTER'S professional credibility, or termination. More importantly, they would create an administrative record that the City or HEADLEY may attempt to use in this action and the related Bronx County cases.

The harm cannot be fully repaired through later administrative or Article 78 review. Even if an adverse determination were eventually annulled, subsequent review may not eliminate the practical consequences of completed credibility findings, restore lost professional opportunities, erase the effect of a disciplinary record, or return the parties to their present litigation positions.

Nor can the disciplinary tribunal provide complete relief. It cannot determine FOSTER'S statutory counterclaims, decide the pending default motion, adjudicate the related retaliation claims, or remedy the Department's allegedly retaliatory decision to continue the prosecution after repeated notice.

The risk is immediate because the Department continues to advance the case while the allegations concerning HEADLEY'S misconduct, the handling of FOSTER'S sexual-assault allegation, and IAB Log No. 2026-18936 remain unresolved. Once testimony is taken and findings are issued, the harm to FOSTER and the integrity of the pending judicial proceedings may no longer be capable of effective correction.

A temporary restraint is therefore necessary to prevent the disciplinary process from overtaking the Court's adjudication and causing professional, evidentiary, reputational, and employment injuries that cannot be adequately compensated or fully undone after the fact.

POINT V

THE BALANCE OF THE EQUITIES FAVORS PRESERVING THE STATUS QUO

The balance of the equities favors a temporary stay because the prejudice to the City from a limited delay is minimal, while the prejudice to FOSTER from allowing the disciplinary proceeding to continue may be substantial and irreversible.

The requested relief would not dismiss the Charges and Specifications, prevent the City from preserving evidence, or extinguish the Department's disciplinary authority. The City may maintain its files, prepare witnesses, review the record, and resume the proceeding if the injunction is dissolved. Its principal burden is delay.

FOSTER faces materially greater harm. If the disciplinary matter proceeds first, the Department may receive testimony, make credibility findings, determine whether she acted dishonestly or without legitimate purpose, and impose professional or employment consequences before this Court resolves the surviving counterclaims and pending default motion. Those findings may also affect the related Bronx County litigation.

The equities also favor restraint because the Department continued the prosecution after repeated written notice to the Trial Commissioner, Department Advocate, IAB, and OEI. IAB acknowledged the complaints and created Log No. 2026-18936, yet neither IAB nor OEI interviewed FOSTER or disclosed any substantive investigation before the disciplinary matter continued.

A temporary stay therefore imposes only a limited procedural delay upon the City while protecting FOSTER from potentially irreversible professional, reputational, evidentiary, and

employment consequences. The less prejudicial course is to preserve the status quo until the Court determines the pending matters before it.

POINT VI

LIMITED PRESERVATION RELIEF AND EXPEDITED DISCLOSURE ARE NECESSARY

The records relevant to this application are almost entirely within the City's possession. They include materials concerning IAB Log No. 2026-18936, the Office of Equity and Inclusion submissions, the prior handling of FOSTER'S sexual-assault allegation, the continuation of NYPD Disciplinary Case No. C-030622, database-access records, and the June 3, 2026 hair-testing directive.

Preservation relief is necessary because the application turns upon what the Department received, what it reviewed, what action it took, and who authorized the disciplinary prosecution to continue after repeated notice. The relevant evidence includes investigative files, supervisory endorsements, audit trails, emails, text messages, Teams communications, and other electronically stored information. Loss or alteration of those materials would impair FOSTER'S ability to prove her claims and prevent the Court from evaluating the Department's post-notice conduct on a complete record.

The requested relief is narrow. FOSTER does not seek plenary discovery through this application. She seeks preservation of records directly related to the allegations, internal complaints, disciplinary prosecution, and alleged retaliatory conduct already before the Court.

Limited expedited disclosure is also warranted because the most basic facts concerning the Department's response remain unknown. Neither IAB nor OEI has identified an investigator, requested an interview, explained whether an investigation was opened, or disclosed whether FOSTER'S prior allegation was closed without obtaining her account. The City has likewise not

explained whether the Trial Commissioner or Department Advocate formally reassessed the prosecution after receiving counsel's May 29, 2026 submission.

A concise sworn disclosure addressing the status of IAB Log No. 2026-18936, any OEI investigation, the handling of FOSTER'S sexual-assault allegation, and the decision to continue the disciplinary prosecution would impose little burden upon the City. It would provide the Court with information uniquely within the Department's control and necessary to determine the provisional-relief application accurately.

Preservation and limited expedited disclosure are therefore appropriate to protect relevant evidence and permit meaningful judicial review.

POINT VII

THE COURT SHOULD FIX A NOMINAL UNDERTAKING

CPLR 6312(b) requires the movant to provide an undertaking in an amount fixed by the Court sufficient to compensate the enjoined party for damages sustained if it is ultimately determined that the injunction was unwarranted. The amount rests within the Court's discretion and should bear a rational relationship to the potential damages attributable to the restraint. See *Chao-Yu C. Huang v. Shih*, 164 A.D.3d 1298, 1299 (2d Dep't 2018).

The requested injunction would not require the City to pay money, transfer property, suspend revenue-producing activity, or relinquish its disciplinary authority. It would only delay further proceedings in NYPD Disciplinary Case No. C-030622 while preserving the Charges and Specifications and permitting the Department to maintain its files, preserve evidence, and prepare its case.

Because the City faces no identifiable monetary loss beyond a temporary delay, any recoverable damages would be minimal and speculative. A nominal undertaking of \$500.00, or

such other modest amount as the Court deems appropriate, would therefore satisfy CPLR 6312(b).

CONCLUSION

For the foregoing reasons, Defendant/Counterclaim-Plaintiff SHATORRA FOSTER respectfully requests that the Court sign the proposed Order to Show Cause; temporarily restrain and preliminarily enjoin the City and its agents from proceeding further in NYPD Disciplinary Case No. C-030622 pending determination of this application; direct preservation of relevant records and electronically stored information; require the limited expedited disclosure described herein; fix a nominal undertaking pursuant to CPLR 6312(b); and grant such other and further relief as the Court deems just and proper.

Dated: July 27, 2026
New York, N.Y.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify under Rule 202.8-b of the Uniform Civil Rules for the Supreme Court and County Court of the State of New York that the total number of words in the foregoing document, exclusive of the caption, table of contents, table of authorities, and signature block is approximately 4,143 according to the “Word Count” function in Microsoft Word 2021, the word processing software used to prepare this document, and thus the document complies with the word count limit set-forth in Rule 202.8-b.

Dated: July 27, 2026
New York, N.Y.

Respectfully submitted,

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