

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

ACLU OF TENNESSEE, Inc.)	
)	
Intervening Plaintiff,)	
v.)	No. 2:17-cv-02120-jpm-DKV
)	
THE CITY OF MEMPHIS,)	
)	
Defendant.)	

REPORT ON PROGRESS OF ESI PROTOCOL

The Defendant, the City of Memphis (“the City”) submits this report on the parties’ progress towards finalizing an ESI protocol in the modification proceeding.

The Court ordered the parties to appear before the Court for a November 21, 2019 hearing, and to be prepared to discuss possible dates relating to the Consent Decree Modification Schedule. (ECF No. 254, PageID 8490).

At the November 21, 2019 hearing, the parties submitted a draft of the Proposed Schedule for the modification proceedings. A copy of the Proposed Schedule is attached as **Exhibit A**. The Proposed Schedule contains a deadline for the ESI Protocol Agreement of December 6, 2019.

While the Court has not entered an order on the schedule for the modification proceedings, nor has it ordered that the parties file the ESI Protocol Agreement with the Court on a date certain, the City is mindful of meeting the deadlines the parties proposed to the Court in the Proposed Schedule. Accordingly, the City is filing this Report to update the Court on the status of the ESI Protocol Agreement.

The parties have been working diligently and amicably towards finalizing an ESI Protocol Agreement. The ACLU-TN submitted a proposed ESI protocol to the City, and the City then submitted a counterproposal to the ACLU-TN. The parties are in the process of negotiating the items on which they disagree, and the City anticipates that the parties will be able to resolve the issue of the ESI Protocol Agreement within 7 to 10 days without the Court's assistance.

Should an impasse occur, the City will file an appropriate motion at that time.

Respectfully submitted,

s/ Mark Glover

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CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of December 2019, a copy of the attached pleading was filed electronically. Notice of this filing will be served by operation of the Court's electronic filing system to all counsel of record.

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s/ Mark Glover

EXHIBIT A

COMPLETING ALL DISCOVERY:

- (a) **ESI PROTOCOL AGREEMENT:** December 6, 2019
 - a. Exchange of first draft of ESI Protocol by December 4, 2019
- (b) **WRITTEN DISCOVERY:** January 31, 2020
 - a. Includes service of written answers to interrogatories, production of all responsive documents, and production of privilege logs.
- (c) **DEPOSITIONS:** February 28, 2020

EXPERT WITNESS DISCLOSURES:

- (a) **DISCLOSURE OF CITY'S RULE 26(a)(2) EXPERT INFORMATION:** March 6, 2020
- (b) **DISCLOSURE OF ACLU-TN'S RULE 26(a)(2) EXPERT INFORMATION:** April 13, 2020
- (c) **DISCLOSURE OF CITY'S RULE 26(a)(2) REBUTTAL EXPERT INFORMATION:** May 8, 2020
- (d) **DEADLINE FOR ACLU-TN DEPOSITION OF CITY'S REBUTTAL EXPERT:** May 27, 2020

FILING ALL JOINTLY-PROPOSED MODIFICATIONS: April 17, 2020

PUBLIC WRITTEN COMMENT PERIOD:

1. The Court will accept written comments on this matter from **Friday, April 3, 2020** through **Monday, May 4, 2020**.
2. The procedure for written public comments will be set out in a separate order. The Parties shall submit proposals for the public comment procedure by no later than **January 17, 2020**.

TRIAL:

1. The **non-jury trial** in this matter, which is anticipated to last 2 days, is set to begin on **June 17, 2020 at 9:30 a.m.** in a courtroom to be designated by the District Court courtroom sharing plan.
2. **Trial briefs** are due by no later than 4:30 p.m. on **June 3, 2020**