

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

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ELAINE BLANCHARD, KEEDRAN	)	
FRANKLIN, PAUL GARNER, and	)	
BRADLEY WATKINS,	)	
	)	
Plaintiffs (dismissed),	)	
	)	
and	)	Case No. 2:17-cv-2120-JPM-egb
	)	
ACLU OF TENNESSEE, INC.,	)	
	)	
Intervening Plaintiff,	)	
	)	
v.	)	
	)	
CITY OF MEMPHIS, TENNESSEE,	)	
	)	
Defendant.	)	

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**ORDER GRANTING JOINT MOTION,  
MODIFYING DISCOVERY SCHEDULE, AND  
MAINTAINING SANCTIONS COMPLIANCE SCHEDULE**

Before the Court is the Joint Motion to Stay Proceedings, filed on December 20, 2018. (ECF No. 175.) On August 15, 2018, the Defendant City of Memphis (the “City”) filed a Motion for Relief from Judgment, in which it sought to modify or vacate the 1978 Consent Decree at issue in this litigation. (ECF Nos. 124, 124-1.) The Sixth Circuit has held that a court cannot modify a consent decree without the agreement of all parties unless the court first holds an evidentiary hearing. United States v. Wayne Cty., Michigan, 369 F.3d 508, 511 (6th Cir. 2004). After a conference with the City and the ACLU of Tennessee Inc. (“ACLU-TN”), the Court set a discovery schedule in preparation for such a hearing. (See ECF No. 159.)

In anticipation of the Court's appointment of an independent monitor, the ACLU-TN. and the City filed a Joint Motion to Stay the discovery proceedings associated with the City's Motion for Relief from Judgment. (ECF No. 175.) "The Parties believe that, with the assistance of the Monitor's guidance, they will be able to significantly narrow, and possibly even eliminate, many of the disputed issues before the Court through mutual agreement." (Id. at PageID 6527.) To the degree that the parties suggest in their joint motion that the monitor, as opposed to the parties, is responsible to achieve compliance, that would be incorrect. (See id.) The legal duty to comply at all times remains with the City.

"The power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." Landis v. North American Co., 299 U.S. 248, 254–255 (1936). Given the mutual agreement of the ACLU-TN and the City, the Motion is GRANTED. The Court ORDERS as follows:

1. The Scheduling Order, (ECF No. 159), will be suspended until Thursday, January 2, 2020. The parties shall appear for a telephonic status conference to discuss the Motion for Relief from Judgment and the Scheduling Order on Thursday, January 2, 2020 at 9:30 a.m.
2. Discovery will be stayed until Friday, January 3, 2020.
3. The Stay will not have any effect on the City's compliance with the Court's Order dated October 26, 2018 and the sanctions proscribed therein. (ECF No. 151.)
4. The Parties, with the input of the Monitor, will continue to work together towards a workable approach to complying with the Consent Decree over the course of the year.

5. The Parties will withdraw the pending discovery requests without prejudice to refiling of those or new requests.

The Court may, however, order that discovery and modification proceedings resume if “either party in good faith believes that the collaborative attempt to suggest Consent Decree modifications has reached an impasse.” (ECF No. 174 at PageID 6527.)

To the extent the ACLU-TN requires access to certain documents and information as part of the collaborative modification effort, the City shall provide documents and information to ACLU-TN as needed through an informal discovery process that will be subject to the Protective Order (ECF No. 52) in this case. Any disputes related to the limited discovery required during this process shall be mediated by the Monitor.

The contempt sanctions set out in the Court’s previous Orders remain unaffected by this Order. (See ECF No. 152.) The City shall submit its first set of materials related to the Court’s sanctions no later than January 14, 2019. (See id.) The requirement to file social media search terms every quarter is similarly unaffected by this Order. (Id.)

**IT IS SO ORDERED**, this 31st day of December, 2018.

/s/ Jon McCalla  
JON P. McCALLA  
UNITED STATES DISTRICT JUDGE