

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

ELAINE BLANCHARD, et al.,)	
)	
Plaintiffs (dismissed),)	
)	
ACLU OF TENNESSEE, INC.,)	
)	
Intervening-Plaintiff,)	No. 2:17-cv-02120-JPM-dkv
)	
v.)	
)	
CITY OF MEMPHIS)	
)	
Defendant.)	

AMENDED SCHEDULING ORDER

This Cause was before the Court on November 2, 2017, for a Telephonic Scheduling Conference pursuant to Rule 16 of the Federal Rules of Civil Procedure and Local Rules 16.1 and 16.2 (differentiated case management). Counsel present for Intervening-Plaintiff ACLU of Tennessee, Inc. (“ACLU-TN”) was Thomas H. Castelli. Counsel present for Defendant City of Memphis (the “City”) were Buckner Wellford, Thomas L. Parker, and Jennie V. Silk.

This is an action for enforcement of a 1978 Consent Order entered in the case of Kendrick, et al. v. Chandler, et al., No. C76-449 (W.D. Tenn. 1978). ACLU-TN contends that the City violated the 1978 Consent Order by (1) creating a list of people who must be escorted by police when visiting City Hall, including individuals who had participated in protected First Amendment activities and had no criminal records or history of causing disturbances at City Hall; (2) video recording protest participants for purposes unrelated to any criminal investigation; and (3) surveilling social media postings using specialized software. (See ECF No. 16 at PageID 225-27.) ACLU-TN seeks a declaratory judgment or an order of contempt, as well as injunctive relief to ensure compliance with the 1978 Consent Order. (Id. at PageID 228.)

The City denies that it violated the 1978 Consent Order. (ECF No. 44 at PageID 540.) Moreover, the City argues that the 1978 Consent Order does not provide a jurisdictional basis for this suit and that ACLU-TN lacks standing to pursue this action. (See id. at PageID 540-41.)

At the Telephonic Scheduling Conference, the following dates were established as the final deadlines for:

JOINING PARTIES: **June 5, 2017**

INITIAL MOTIONS TO DISMISS: **July 10, 2017**

AMENDING PLEADINGS: **June 19, 2017**

COMPLETING ALL DISCOVERY: **April 28, 2018**

(a) WRITTEN DISCOVERY: **January 31, 2018**

(b) DEPOSITIONS: **April 28, 2018**

(c) EXPERT DISCLOSURE (Rule 26):

(1) DISCLOSURE OF PLAINTIFF'S RULE 26 EXPERT INFORMATION: **January 29, 2018**

(2) DISCLOSURE OF DEFENDANT'S RULE 26 EXPERT INFORMATION: **February 28, 2018**

(3) EXPERT DEPOSITIONS: **April 28, 2018**

(d) RULE 26(e) SUPPLEMENTATION DUE: **April 28, 2018**

MOTIONS TO EXCLUDE EXPERTS UNDER F.R.E. 702/DAUBERT MOTIONS: **May 30, 2018**

(e) WITNESSES AND EXHIBITS UNDER RULE 26(a)(3):

(1) PLAINTIFF'S FINAL LISTS OF WITNESSES AND EXHIBITS UNDER RULE 26(a)(3) DUE: **July 27, 2018**

(2) DEFENDANT'S FINAL LISTS OF WITNESSES AND EXHIBITS UNDER RULE 26(a)(3) DUE: **July 27, 2018**

(f) PARTIES HAVE 14 DAYS AFTER SERVICE OF FINAL LISTS OF WITNESSES AND EXHIBITS TO LIST OBJECTIONS UNDER RULE 26(a)(3).

FILING DISPOSITIVE MOTIONS: **May 30, 2018**

TRIAL:

1. The **non-jury trial** in this matter, which is anticipated to last 4-5 days, is set to begin on **August 13, 2018** at 9:30 a.m. in Courtroom 1.

2. A **pretrial conference** is set for **August 3, 2018** at 10:30 a.m.
3. The **joint pretrial order** is due by no later than 4:30 p.m. on **July 27, 2018**.

OTHER RELEVANT MATTERS:

Settlement cannot be evaluated prior to completion of written discovery and may be enhanced by use of the following alternative dispute resolution procedure: **mediation**.

As required by Local Rule 26.1(e), the parties have conferred as to whether they will seek discovery of electronically stored information (“e-discovery”) and have reached an agreement regarding an e-discovery protocol which has been submitted with the Rule 26(f) Planning Report for the Court’s consideration and approval.

Pursuant to agreement of the parties, if privileged or protected information is inadvertently produced, the producing party may, by timely notice, assert the privilege or protection and obtain the return of the materials without waiver.

No depositions may be scheduled to occur after the discovery deadline. All motions, discovery requests, or other filings that require a response must be filed sufficiently in advance of the discovery deadline to enable the opposing party to respond by the time permitted by the Rules prior to that date.

Motions to compel discovery are to be filed and served by the discovery deadline or within 30 days of the default or the service of the response, answer, or objection that is the subject of the motion, if the default or the service of the response, answer, or objection occurs within 30 days of the discovery deadline, unless the time for filing of such motion is extended for good cause shown, or the objection to the default, response, answer, or objection is waived. This case is set for a non-jury trial. The pretrial order deadline, pretrial conference date, and trial date will be set by separate Order.

Pursuant to Local Rule 7.2(a)(1)(A), all motions, except motions pursuant to Fed. R. Civ. P. 12, 56, 59, and 60, shall be accompanied by a proposed order in a word processing format sent to the ECF mailbox of the presiding judge.

Pursuant to Local Rule 7.2(a)(1)(B), the parties are required to consult prior to filing any motion (except motions filed pursuant to Fed. R. Civ. P. 12, 56, 59, and 60). The opposing party must file a response to any opposed motion. Pursuant to Local Rule 7.2(a)(2), a party’s failure to respond timely to any motion, other than one requesting dismissal of a claim or action, may be deemed good grounds for granting the motion. Neither party may file an additional reply to any motion, other than a motion filed pursuant to Fed. R. Civ. P. 12(b) or 56. As provided by Local Rule 7.2(c), if a party believes that a reply is necessary, it shall file a motion for leave to file a reply accompanied by a memorandum setting forth the reasons for which a reply is required within seven days of service of the response. Pursuant to Local Rules 12.1(c) and 56.1(c), a

party moving for summary judgment or to dismiss may file a reply within 14 days after being served with the response in opposition to the motion.

Under Rule 30 and Rule 31 of the Federal Rules of Civil Procedure, no deposition shall exceed one (1) day of seven (7) hours in length, unless authorized by the Court. It is proposed that each side will be limited to fifteen (15) depositions unless additional depositions are authorized by the Court after a showing of good cause.

Under Rule 33 of the Federal Rules of Civil Procedure, no more than twenty-five (25) written interrogatories shall be served on a party unless authorized by the Court.

The parties **do not consent** to all matters being conducted by the Magistrate Judge including the conducting of discovery disputes, pretrial issues, and the trial, pursuant to 28 U.S.C. § 636(c).

Absent good cause shown, the scheduling dates set by this order will not be modified or extended.

IT IS SO ORDERED, this 2nd day of November, 2017.

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