

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

BEN BAKER and CLARISSA)	
GLENN,)	Case No. 16-cv-8940
)	
Plaintiffs)	
)	Judge Franklin U. Valderrama
v.)	
)	Magistrate Judge Sheila Finnegan
CITY OF CHICAGO, <i>et al.</i>)	
)	JURY TRIAL DEMANDED
Defendants.)	

JOINT MOTION TO STAY
BRIEFING ON PLAINTIFFS' MOTION TO RECONSIDER

All Parties jointly move this Honorable Court to stay further briefing on Plaintiffs' motion to reconsider until the Court rules on the Parties' joint proposed plan for responsive pleadings in *In re Watts Coordinated Pretrial Proceedings*, Case No. 19 C 1717 ("Coordinated Proceedings"). A copy of the Parties' proposed joint plan for responsive pleadings in the Coordinated Proceedings (the "Updated Plan") is attached hereto as Exhibit A.

In short, this case is one of the approximately 75 cases that are part of the Coordinated Proceedings. In an effort to streamline the litigation and conserve the Court's and the Parties' resources, the Parties' Updated Plan for responsive pleadings in the Coordinated Proceedings includes an agreement that Plaintiffs in this case may file an amended complaint that would moot the pending motion for reconsideration. *See* Ex. A, ¶ 5. Therefore, the Parties respectfully request that the Court stay briefing on the pending motion to reconsider until it rules on the Parties' proposed Updated Plan in the Coordinated Proceedings. If the Court is not inclined to stay briefing on the pending motion to reconsider while it considers the proposed plan in the Coordinated Proceedings, Plaintiffs respectfully request the Court grant their alternative request for leave to amend (which Defendants do not oppose).

In further support of this motion, the Parties state as follows:

BACKGROUND

1. By way of background, Plaintiffs Ben Baker and Clarissa Glenn allege they were the victims of a group of corrupt current and former Chicago Police Officers who violated their constitutional rights by framing them for drug crimes they did not commit, and Plaintiffs assert various claims against a number of individual police officer defendants, supervisory officials, and the City of Chicago based on these allegations. Defendants deny liability to Plaintiffs.

2. Plaintiffs' case was the first-filed case that ultimately became part of the coordinated pretrial proceedings captioned as *In re Watts Coordinated Pretrial Proceedings* ("Coordinated Proceedings") (Case No. 19 C 1717), which were originally assigned to Judge Wood and Magistrate Judge Finnegan for pretrial proceedings, and which were reassigned to this Court on October 14, 2020. *See* Dkt. 156 in Case No. 19-cv-1917. There are approximately 75 cases that are now part of the Coordinated Proceedings.

DISCUSSION

3. On August 31, 2020, Judge Wood entered an order on Defendants' motion to dismiss in this case, denying the motion in large part and granting it with prejudice with respect to Count II, which the Court construed as solely a federal malicious prosecution claim. Dkt. 230 at 2 ("For reasons stated below, the motion is granted with respect to the federal malicious prosecution claim only.").

4. On September 10, 2020, Plaintiffs filed a motion to reconsider the Court's dismissal of Count II and in the alternative asked for leave to amend that Count in light of the fact that the law has significantly evolved while this case has been pending. *See* Dkt. 231. Among other things, Plaintiffs' motion to reconsider argues that Count II was not limited to a

federal malicious prosecution claim and instead was a broader claim for allegedly unlawful pretrial detention and seizure. *See id.*

5. Judge Wood subsequently set a briefing schedule on the motion to reconsider and also explained that “[t]he Court will proceed with setting a joint responsive pleading schedule for all of the cases in the Coordinated Proceedings.” Dkt. 232.¹

6. After entering the above-referenced briefing schedule on Plaintiffs’ motion to reconsider in this case, Judge Wood entered Case Management Order No. 3 (“CMO #3”) in the Coordinated Proceedings to address the responsive pleadings in the remainder of coordinated cases. A copy of CMO #3 is attached as Exhibit B.

7. CMO #3 indicated responsive pleadings and/or motions to dismiss would be due in all pending cases in the Coordinated Proceedings by the October 15, 2020 date, a date that was based on a Joint Plan that had been filed by the parties in April 2019. *See* Ex. B, ¶ 1.

8. CMO #3 also directed the parties to meet and confer regarding a detailed, updated plan for responsive pleadings with the goal of streamlining matters to avoid successive, duplicative briefing. Ex. B, ¶ 3. In particular, the Court ordered the parties to make “a determination of what issues can be addressed in the consolidated submission as opposed to case-specific briefs.” *Id.*

9. CMO #3 further directed the parties to file an “Updated Joint Plan Regarding Responsive Pleadings” by September 30, 2020. *Id.*

10. The Parties filed the Updated Plan in the Coordinated Proceedings on September 30, 2020. Ex. A.

¹ This Court reset the briefing schedule on Plaintiffs’ motion to reconsider before the Coordinated Proceedings were reassigned, setting deadlines of October 29, 2020 for Defendants’ response and November 5, 2020 for Plaintiffs’ reply. Dkt. 234.

11. The Updated Plan included various proposals to streamline the pleadings and the resolution of common legal issues. Relevant for this motion, the Updated Plan recognizes that plaintiffs in the other consolidated cases pled Count II somewhat differently than the Plaintiffs in this case pled that claim, given how the law in the area of pretrial seizure and detention has evolved in recent years. Ex. A, ¶¶ 2, 5.

12. To accomplish the goal of handling the Coordinated Proceedings as efficiently as possible and to avoid duplicative briefing, the Updated Plan contemplates that: (1) Plaintiffs in this case will file an Amended Complaint that modifies Count II to make it consistent with how that claim is pled in the other coordinated cases; and (2) Defendants will file two representative partial motions to dismiss addressing common legal issues in lieu of separate motions filed in each of the cases in the Coordinated Proceedings, including addressing whether Count II as pled in the various consolidated cases states a valid claim for relief. *See* Ex. A, ¶ 3.² The proposed Updated Plan also contemplates a joint Stipulation that would operate to preserve in each of the other consolidated cases all arguments raised in the representative motions, where applicable, and would deem Count II in all Loevy & Loevy complaints to be labeled the same way to allow for the consistent presentation of that count in the Coordinated Proceedings.³ *Id.* at ¶¶ 3, 6.

CONCLUSION

13. In light of Plaintiffs' proposed alternative relief of filing an Amended Complaint and because the relevant legal issues will be briefed in the Coordinated Proceedings if the Court accepts the Parties' proposed Updated Plan, the Parties respectfully request that the Court stay further briefing on the pending motion for reconsideration until it has the opportunity to review

² Defendants proposed filing two briefs rather than one because there are two separate law firms representing plaintiffs in the Coordinated Proceedings, and the pleadings those law firms filed on behalf of their clients raise issues that Defendants believe will be more effectively addressed in separate briefs.

³ As set forth in the Updated Plan, the parties believe it would be beneficial for the Court to schedule at the Court's convenience a conference with the parties in the Coordinated Proceedings. *See* Ex. A, ¶ 9.

and consider the Updated Plan. In the alternative, Plaintiffs request, and Defendants do not oppose, that the Court grant Plaintiffs' request for leave amend.

WHEREFORE, the Parties respectfully request that this Court grant their joint motion to stay or, in the alternative, grant Plaintiffs' unopposed request for leave to amend.

Respectfully submitted by:

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