

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

MADELINE MENDOZA, )  
 )  
 Plaintiff, )  
 ) No. 23-cv-2441  
 )  
 -vs- )  
 ) (Judge Durkin)  
 )  
 REYNALDO GUEVARA, et al., )  
 ) (Magistrate Judge Kim)  
 )  
 Defendants. )  
 )  
 MARILYN MULERO, )  
 )  
 )  
 Plaintiff, )  
 ) No. 23-cv-4795  
 )  
 -vs- )  
 ) (Judge Durkin)  
 )  
 REYNALDO GUEVARA, et al., )  
 ) (Magistrate Judge Kim)  
 )  
 Defendants. )

## JOINT STATUS REPORT

The parties submit this joint status report proposing a schedule for completing phase II discovery and explaining the issues to be addressed during this phase.

## A. Background

Plaintiffs filed separate complaints arising out of their reversed convictions for the murders of Hector Reyes and Jimmy Cruz. On June 28, 2023, Plaintiff Madeline Mendoza and Defendants agreed to a three-phase discovery plan for non-*Monell* fact discovery, *Monell* discovery, and expert discovery. (Dkt. 032).<sup>1</sup> The parties' phased discovery plan was adopted by the Court, and the current deadline to complete phase I discovery is April 18, 2025. (Dkt. Nos. 032, 107).

<sup>1</sup> Plaintiff Marilyn Mulero's case was subsequently consolidated with Ms. Mendoza's case for discovery purposes and is proceeding along the same phased discovery track. (Dkt. 050).

The parties propose the following relating to phase II discovery:

## **B. Plaintiffs Phase II Proposal**

Phase II discovery should consist of *Monell* and 404(b) discovery to proceed simultaneously

### **1. *Monell* discovery**

Plaintiffs allege that the City of Chicago had *de facto* policies and practices that included: (a) coercing confessions; (b) procuring false witness statements from detainees and jailhouse informants; (c) concealing exculpatory evidence, (d) manipulating witnesses to obtain false identifications from suspects and witnesses, (e) manipulating witnesses to influence their testimony, and (f) using these tactics to secure the arrest, prosecution, and conviction of people without regard to their actual guilt or innocence. Plaintiffs allege that these *de facto* policies or practices caused the wrongful convictions of Plaintiffs. (Dkt. No.001, *Mulero v. Guevara* (case no. 23-cv-4795), at Count VI).

Plaintiffs further allege that the City of Chicago maintained *de facto* polices and customs of failing to discipline, supervise, and control its officers, causing its officers to believe they could engage in the above referenced misconduct with impunity. Further, the Chicago Police Department maintained a “code of silence” that required police officers to remain silent about police misconduct, and that this “code of silence” facilitated, encouraged, and enabled the defendant officers here to engage in the misconduct that caused the wrongful convictions of Plaintiffs. (*Id*; Dkt. No.001, *Mendoza v. Guevara* (case no. 23-cv-2441), at § IV).

Plaintiffs also intend to present evidence on the City of Chicago’s polices and practices related to documentation and notetaking, including the creation, preservation, and disclosure of investigative materials in homicide cases.

Plaintiffs propose the following discovery plan to address these allegations:

- i. **60-days for Written Discovery**: Plaintiffs intend on issuing written discovery related to the City’s written and *de facto* policies on interrogating suspects / witnesses, conducting

suspect identifications, disclosing evidence, notetaking, and reporting, supervising and disciplining officers accused of related misconduct. Plaintiff further intends on requesting related documents such as complaints (both public and internal), answers to written discovery, and deposition transcripts.

- ii. 60-days for Oral Discovery: Plaintiffs anticipate *Monell* depositions being limited to a Rule 30(b)(6) deposition on the *de facto* policies set forth above during the timeframe around the Plaintiffs' convictions.

## 2. 404(b) discovery

Plaintiffs allege that Defendants Reynaldo Guevara and Ernest Halvorsen are responsible for dozens of wrongful convictions, and that the details of the misconduct associated with these convictions reveal a clear *modus operandi*, involving coercing false confessions through psychological and physical abuse, manipulating and fabricating witness statements, falsifying reports, suppressing evidence, committing perjury, and ultimately causing innocent people to spend decades in prison for crimes they did not commit. Plaintiffs have identified more than two dozen cases of similar misconduct. (Dkt. No.001, *Mendoza v. Guevara* (case no. 23-cv-2441), at ¶ 48; Dkt. No.001, *Mulero v. Guevara* (case no. 23-cv-4795), at ¶ 126).

Plaintiffs propose the following discovery plan to address these allegations:

- i. 60-days for Written Discovery: Plaintiffs intend on issuing written discovery related to other instances in which Defendants Reynaldo Guevara and Ernest Halvorsen were accused of coercing confessions, manipulating / fabricating statements, falsifying reports, suppressing evidence, and committing perjury. Specifically, Plaintiffs anticipate requesting documents such as related complaints (both public and internal), answers to written discovery, and deposition transcripts.
- ii. 60-days for Oral Discovery: Plaintiffs suggest that the parties meet-and-confer on the need for any 404(b) depositions and the extent to which the parties can agree to the use of testimony from other Guevara / Halvorsen cases here. Absent agreement, Plaintiffs propose a 60-day schedule to conduct any necessary related depositions.

In response to Defendants' position on this discovery below, Plaintiffs state that Defendants are incorrect about the status of Rule 404(b) evidence. As explained above, Plaintiff have disclosed witnesses who will testify about this evidence. Plaintiffs proposed additional discovery on 404(b) evidence because it will overlap with *Monell* discovery. For example, evidence that other individuals

were subjected to the alleged policies and practices is relevant under 404(b) and to Plaintiffs' *Monell* claims.

### **C. Defense Phase II Proposal**

Per Order of this Court and the parties' numerous status reports in this matter, Phase II discovery is to consist of *Monell* discovery only. *See* Dckt. Nos. 32, 34, 51, 73, 83, 84, 99. Discovery relating to evidence purportedly admissible under Fed. R. Evid. 404(b) is not *Monell* discovery concerning practices of the City but rather fact discovery relating to the alleged conduct of the individual officers. *See Rossi v. City of Chicago*, 790 F.3d 729, 737 (7th Cir. 2015) ("[T]he gravamen is not individual misconduct by police officers (that is covered elsewhere under § 1983), but a widespread practice that permeates a critical mass of an institutional body. In other words, *Monell* claims focus on institutional behavior; for this reason, misbehavior by one or a group of officials is only relevant where it can be tied to the policy, customs, or practices of the institution as a whole."). With the exception of several outstanding distinct issues set forth to this Court, fact discovery is closed in this case. *See* Dckt. No. 107. If Plaintiffs intended to pursue discovery into Fed. R. Evid. 404(b) issues, it was incumbent upon them to disclose any and all witnesses and other evidence they intended to use on these issues during the fact discovery period. Plaintiffs elected not to disclose any such evidence or pursue such discovery during the fact discovery period. It is far too late in this case for Plaintiffs to begin the process of litigating "more than two dozen cases of similar misconduct" which consist essentially of two dozen mini-trials. And even were this allowed to proceed now, discovery on these putative "two dozen" other cases would span much more time than suggested by Plaintiffs insofar as this would require the disclosure of likely hundreds of additional witnesses (i.e. non-defendant police officers, third party witnesses, assistant states attorneys, defense attorneys, etc.), tens of thousands of pages of written discovery, and innumerable depositions.

As for *Monell*, the City requested Plaintiffs provide more information as to the type and scope of the discovery they anticipate undertaking to prove their various theories, and the parties had a preliminary conferral on the issue. Based on that conversation, the City anticipates 90 days for written *Monell* discovery is more realistic. While Plaintiffs have indicated their willingness to narrow *Monell* discovery so as to be less burdensome than in other cases, at this point, it remains unclear what discovery Plaintiffs will seek to prove “*de facto* policy” allegations (that the City denies), such as the City had an unconstitutional policy to “procure false witness statements,” or an unconstitutional policy to “manipulate witnesses to provide false identifications” or that an alleged “code of silence” caused them to be convicted of the underlying murders to which they pleaded guilty other than Plaintiffs’ counsels’ representations that they intend to request documents from the City related to other pending Guevara related cases, as well as potentially documents related to other incidents that Plaintiffs’ counsel are aware of. In addition, not only is time necessary for Plaintiffs to obtain discovery from the City, but the City will also pursue discovery in its defense. For instance, the City plans to issue contention interrogatories to Plaintiffs to understand what evidence Plaintiffs contend support each of their *Monell* theories. The City may also produce additional documents and/or identify additional witnesses depending on the discovery Plaintiffs seek. As for oral *Monell* discovery, the City is an agreement that 60 days following written discovery should be sufficient to complete Rule 30(b)(6) testimony.

Dated: March 7, 2025

Respectfully submitted,

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