

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

STATE OF ILLINOIS,

Plaintiff,

v.

CITY OF CHICAGO,

Defendant.

Case No. 17-cv-6260

Hon. Robert M. Dow, Jr.

**PLAINTIFF’S MOTION
TO PARTIALLY LIFT THE STAY OF THESE PROCEEDINGS**

The State of Illinois (“State”), by its attorneys, respectfully requests that the Court partially lift the stay in this case for the limited purpose of adjudicating an issue the parties have been unable to resolve through settlement: whether the Chicago Police Department (“CPD”) should require officers to record instances in which an officer points a firearm at a person. In support of this motion, the State states as follows:

1. The State filed a Complaint against the City on August 29, 2017 alleging that, through acts and omissions, the City and its agents maintain policies, practices, or customs that result in widespread violations of the Fourth Amendment of the U.S. Constitution and Article I, Section 6 of the Illinois Constitution. The Complaint further alleges that these policies, practices, or customs are reflected in the City’s failure to effectively train, supervise, and support law enforcement officers, and the City’s failure to establish reliable programs to detect officer misconduct and administer effective discipline.

2. The parties have been conferring both before and after the filing of the Complaint and have expressed a mutual interest in resolving the State’s claims through settlement in the form of a consent decree.

3. Given the breadth and complexity of the reforms negotiated to address the State's claims, the parties requested on August 31, 2017 that the Court stay all proceedings and toll all pending deadlines, including the responsive pleading date and mandatory initial discovery, to allow the parties sufficient time to focus their efforts on negotiating and drafting a proposed consent decree.

4. The Court granted the parties' joint motion to stay proceedings on September 5, 2017, staying all deadlines until further order of the Court.

5. Since entry of the stay, the parties have continued to negotiate and draft the terms of a consent decree and have reached agreement on nearly all provisions of a draft consent decree. On July 27, 2018, the parties jointly released for public review a draft consent decree that contains significant reforms set forth in 775 paragraphs over 222 pages.

6. The parties solicited and received public comments on the draft consent decree through August 17, 2018. Presently, the parties are negotiating potential revisions to the draft consent decree to incorporate public comments. The parties anticipate submitting a proposed consent decree to the Court for approval after the conclusion of negotiations regarding the public comments received.

7. The parties have not reached a resolution on whether CPD officers should be required to record instances in which they point a firearm at a person. The draft consent decree specifically carves out this issue, and the State has reserved its claims related to it.

8. The State requests that the Court partially lift the stay of these proceedings for the limited purpose of allowing the parties to litigate this issue while the approval process of the proposed consent decree ultimately filed with the Court proceeds in parallel.

9. Courts have the authority to partially lift a stay for limited purposes. *See, e.g., GEA Group AG v. Flex-N-Gate Corp.*, 740 F.3d 411, 415 (7th Cir. 2014) (affirming district court's partial lifting of stay for limited purpose of allowing discovery aimed at preserving evidence); *In re Pabst Licensing GmbH Patent Litig.*, No. 99-md-1298, 2006 WL 1004990, at *2 (E.D. La. Apr. 10, 2006) (partially lifting stay for limited purpose of conducting focused discovery and amending pleadings); *In re FirstEnergy Corp. Secs. Litig.*, 229 F.R.D. 541, 545 (N.D. Oh. 2004) (partially lifting stay to allow production of documents previously produced in government investigations); *Singer v. Nicor, Inc.*, No. 02 C 5168, 2003 WL 22013905, at *1-2 (N.D. Ill. Apr. 23, 2003) (partially lifting stay to allow production of certain documents).

10. Moreover, courts have the authority to approve partial consent decrees that resolve a subset of the disputed issues while allowing the remaining unresolved issues to proceed in litigation. *See, e.g., Webb v. Ada County*, No. 97-35008, 1998 WL 246521, at *1-4 (9th Cir. May 15, 1998) (affirming district court's resolution of six specific issues through an evidentiary hearing following entry of partial consent decree resolving other issues); *EEOC v. M.D. Pneumatics, Inc.*, 779 F.2d 21, 22 (8th Cir. 1985) (remanding for adjudication appropriateness of contested remedial provision following entry of a partial consent decree); *Sierra Club v. United States E.P.A.*, No. 10-cgv-01541, 2016 WL 3281244, at *2-3 (D.D.C. June 14, 2016) (noting prior entry of partial consent decree and denying motion to dismiss regarding sole unresolved claim); *Dorsey v. Solomon*, 435 F. Supp. 725, 731-32 (D. Md. 1977) (adjudicating summary judgment motion on specific issues reserved for subsequent adjudication by previously entered partial consent decree).

11. The State therefore requests that the stay be partially lifted for the sole purpose of litigating the dispute regarding whether CPD officers should be required to record instances in which they point a firearm at a person. Partially lifting the stay for this limited purpose while the

approval process of the draft consent decree proceeds in parallel will help secure the just and efficient resolution of this case. The approval process and fairness hearing for the draft consent decree addressing the significant reforms already negotiated and agreed upon by the parties will be allowed to proceed without delay, while at the same time, the parties may conduct focused litigation on a single, limited issue which can be presented to the Court for timely resolution.

WHEREFORE, the State respectfully requests that this Court grant this motion to partially lift the stay of these proceedings for the limited purpose described herein.

Dated: August 29, 2018

Respectfully submitted,

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