

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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 BRUCE SMITH, PAUL JOSEPH, )  
 MARTIN JOSEPH, KIM GADDY, )  
 BRIAN KEITH LATSON, MARWAN )  
 MOSS, LEIGHTON FACEY, and )  
 LATEISHA ADAMS, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 CITY OF BOSTON, MASSACHUSETTS )  
 )  
 Defendant. )  
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Civil Action No.: 12-10291-WGY

Young, D.J.

~~PROPOSED~~ **AMENDED ORDER**

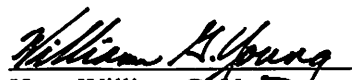
The plaintiffs in this case alleged that the 2008 Boston police promotional examination for lieutenants had a disparate impact racial discrimination on them and violated Title VII of the Civil Rights Act of 1964 and M.G.L. c. 151B. In December 2014 and January 2015, the parties engaged in a ten-day bench trial and submitted exhaustive post-trial briefs on the issue of liability under Title VII. On November 16, 2015, this Court ruled that the 2008 lieutenants' examination had a racially disparate impact and was not sufficiently job-related to survive Title VII scrutiny and issued an order of liability against the City of Boston. ECF No. 199.

Prior to a trial on damages, this Court administratively closed this case without prejudice on February 1, 2016, so that the parties could engage in Alternative Dispute Resolution proceedings before the magistrate. ECF No. 212. The parties met for mediation on April 26, 2016 and were set to meet again on June 8, 2016. ECF No. 217.

Meanwhile, on May 18, 2016, the First Circuit Court of Appeals issued its opinion in the related case of Lopez v. City of Lawrence, et al., Appeal No. 14-1952 and upheld the district court's findings that the 2005 and 2008 police promotional examinations for sergeants did not violate Title VII. As a result of the First Circuit's opinion, the parties were unable to make any progress on a mediated settlement and Magistrate Collings, who was overseeing the mediation, suggested that the parties seek interlocutory review of this Court's decision, in Smith, and notified this Court that he had terminated the mediation to facilitate interlocutory review of this Court's November 16, 2015 ruling on liability in the First Circuit. ECF No. 223.

On June 21, 2016, the parties filed a joint motion to permit interlocutory review of the Court's November 16, 2015 order and decision under 28 U.S.C. § 1292(b). ECF No. 224. On June 22, 2016, this Court granted the parties joint motion to permit interlocutory review. ECF No. 225.

Accordingly, the Court now amends its November 16, 2015 order and decision by certifying this matter for interlocutory review before the First Circuit pursuant to 28 U.S.C. § 1292(b). For the reasons stated in the parties' joint motion to permit interlocutory review, I am of the opinion that the issue for which interlocutory review is sought involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from this order as authorized by 28 U.S.C. § 1292(b) may materially advance the ultimate termination of the litigation. Proceedings in this case shall be stayed until the interlocutory appeal issue is resolved.

  
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Hon. William G. Young  
United States District Judge

*July 7, 2016*  
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