

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

Atheris Mann, Jessie Patrick and Deanda Wilson,)	
)	
Plaintiffs,)	
)	
vs.)	No. 15-cv-9197
)	
Chicago Police Sergeant Frank Ramaglia, Star # 1775;)	
Chicago Police Sergeant Brian Kane, Star # 5538;)	Magistrate Judge Geraldine Brown
Chicago Police Officer Kathleen McCann, Star # 3636;)	
Chicago Police Officer Kevin Connolly, Star # 13184;)	
Chicago Police Officer Alejandro Miranda, Star #8300;)	
Chicago Police Officer John Doe; and the CITY OF)	
CHICAGO,)	
)	
Defendants)	

**PLAINTIFFS’ MOTION FOR INTERVENTION, REASSIGNMENT OR
CONSOLIDATION OF RELATED CASES**

Pursuant to Federal Rules of Civil Procedure 24, 42(a) and Local Rule 40.4, Plaintiffs, by their undersigned counsel, move this Court to (1) grant Plaintiffs’ Motion to Intervene in *Perez et. al. v. City of Chicago, et. al.*, No 13 C 4531 for purposes of seeking reassignment or consolidation; (2) find that the above entitled case is related to *Perez* and should be reassigned to this Court; or, alternatively, (3) find that these cases should be consolidated before this Court and Magistrate for purposes of pre-trial proceedings.

Introduction

1. As alleged in Plaintiffs’ complaint, Homan Square is a Chicago Police Department facility in which numerous individuals, including Plaintiffs, claim they have been unconstitutionally detained, searched, and interrogated without probable cause or access to family or a lawyer. Many of the untold thousands of predominantly black and brown persons who have been taken to Homan Square over the last decade further allege that Chicago Police

officers working out of Homan Square have subjected them to physically and psychologically coercive and torturous interrogation tactics and have brought false criminal charges against them when they fail to provide information to the police.

2. On October 19, 2015, Plaintiffs filed this lawsuit alleging they were illegally arrested and held at Homan Square, and subjected to unconstitutional detention, searches, excessive force and wrongful prosecution for a crime they did not commit. See generally Exhibit A, *Mann* Complaint. They allege that the moving force behind of these constitutional violations is one or more interrelated *de facto* policies, practices and/or customs of the City of Chicago. See Exhibit A, ¶¶86-89.

3. Plaintiffs allege that these *defacto* policies include:

Maintaining an “off the books” police detention, interrogation, and intelligence gathering center at Homan Square where the CPD unconstitutionally detained many thousands of predominantly, and disproportionately, African American and Hispanic citizens without probable cause and without access to lawyers and family;

Using unconstitutionally coercive and torturous tactics while interrogating detainees at Homan Square including, but not limited to, handcuffing them to the wall in dark, Spartan-like cells without food, water, or access to bathroom facilities; using physical threats, beatings, assaults with a knife, and other forms of physical brutality; conducting illegal strip and violently invasive body cavity searches; subjecting detainees to verbal racial abuse; and using the threat of charging the detainee with bogus criminal offenses if he or she did not provide information.

See Exhibit A, ¶86

4. This case is closely related to *Perez*, which is currently pending before this Court. The *Perez* Plaintiffs, on behalf of a class of detainees, also bring allegations that they were held at Homan Square and subjected to illegal detention, overly invasive searches, and excessive

force resulting from *de facto* City of Chicago policies and practices. See Exhibit B, *Perez* Complaint, ¶¶ 124-135.

5. The Plaintiffs in *Perez* allege *inter alia*, that:

Chicago police officers for years have arrested civilians without warrants and frequently without any probable cause and brought them to police sites other than police stations for the purpose of privately interrogating, threatening and beating them in order to coerce confessions or insider information. Many times the civilians held at facilities like Homan Square are never booked, processed or charged with any crimes.

Those taken to “off the books” locations are detained for long periods of time without food, water, or access to lavatories.

Plaintiffs and the class members are denied contact with their attorneys and their family.

See Exhibit B, ¶¶ 128-130.

6. Additionally, the Plaintiffs in this case and in *Perez* allege that these Constitutional violations were proximately caused by the City of Chicago’s policies and practices of failing to train, supervise, discipline, counsel and otherwise control their police officers at Homan Square. See Exhibit A, ¶ 89; Exhibit B, ¶¶ 128, 132.

Argument

7. These Homan Square cases are related and should be handled by a single judge in order to promote judicial efficiency. Because this Court has the earlier-numbered case, the Plaintiffs’ case should be reassigned to this Court. Alternatively, these cases should be consolidated for pre-trial proceedings in order to avoid unnecessary duplication and potentially inconsistent judicial determinations.

8. Local Rule 40.4(a) states that civil cases may be found to be related if they “involve some of the same issues of fact or law” or if they “grow out of the same occurrence or transaction.” L.R. 40.4(a)(2) and (3). Two cases pending in the Northern District may be

reassigned to the judge handling the earlier-numbered case if the following conditions are met: (1) the handling of both cases by the same judge is likely to result in substantial saving of judicial time and effort, (2) the earlier case has not progressed to the point where designating a later filed case as related would be likely to delay the proceedings in the earlier case substantially; and (3) the cases are susceptible of disposition in a single proceeding.

9. The *Mann* and *Perez* cases are related within the meaning and intent of Local Rule 40.4(a). “Local Rule 40.4(a) does not require exact congruence in facts and issues between two cases in order for them to be related; rather, it simply requires that the two cases share “*some of the same* issues of facts or law.” L.R. 40.4(a)(2)(emphasis added).” *Helperich Patent Licensing, LLC v. N.Y. Times Co.*, No. 10-cv-04387, 2012 WL 1368193, at * 2; *Global Patent Holdings, LLC v. Green Bay Packers, Inc.*, 06 c 4623, 2008 WL 1848142, at *3 (N.D. Ill. Apr. 23, 2008) (“Two cases need not be absolutely identical to be suitable for reassignment under Rule 40.4.”). *Mann* and *Perez* involve many of the same issues of fact and law and both arise from the Plaintiffs’ detention at Homan Square. Much of the litigation in both cases will center around Homan Square, the officers who work there and the treatment of the individuals held there, particularly the *Mann* Plaintiffs, the *Perez* plaintiffs, and the *Perez* class members.

10. Furthermore, all conditions for reassignment are satisfied. Reassignment will save substantial judicial time and effort and will also save the parties significant litigation costs as both cases include substantially the same witnesses and evidence. The cases both require substantial discovery regarding Homan Square. Necessary depositions of detainees and Chicago Police Department employees will overlap. Not only will the discovery of the *Monell* claims be nearly identical, the *Perez* class members are potential, and likely, 404b witnesses for Plaintiffs, while the *Mann* Plaintiffs are likely to be witnesses in the *Perez* case. Additionally, the

supervisory and command officers responsible for the activities at Homan Square and the custody and treatment of the Plaintiffs in both cases will also no doubt overlap if not be essentially identical. Moreover, since the named defendants in *Mann* are identified as officers working out of Homan Square, it is likely that they will also be among those many yet to be identified defendants and witnesses in the *Perez* class case. Finally, the City and the individual police defendants are represented by the same private law firm in both cases. Without consolidation of these cases, at least for pre-trial purposes, these witness depositions and related discovery would have to take place in both cases, requiring the witnesses, parties, defense lawyers, and judges to duplicate their efforts.

11. Additionally, the corpus of documents - particularly records of arrests and detentions at Homan Square, the relevant police training manuals, general orders and directives, the physical layout of the facilities, and the disciplinary backgrounds of the police operatives - are relevant to both cases, and it is likely that the same or similar police experts will be utilized in both cases.

12. Hence, it would be a waste of judicial resources for two judges and two magistrates to learn about and manage the overlapping legal and factual issues in these cases.¹ See *Helferich* 2012 WL 1368193, at * 3; see, e.g., *Pochert v. Blatt, Hasenmiller, Leibsker & Moore, LLC*, No. 11 c 440, 2011 WL 4007731, at *3 (N.D. Ill. Sept. 9, 2011) (in a case with common legal issues and overlapping discovery reassignment avoids “wasteful duplication” and

1. Furthermore, it has been publicly announced that Magistrate Judge Soat Brown, who is currently assigned to the *Mann* case, plans to retire in the summer of 2016. At that time the parties should be deeply entrenched in discovery. For the sake of continuity and judicial economy, it would be prudent, as a practical matter, to assign this case to a magistrate who is already familiar with the issues in the Homan Square cases and will be able to see it to its end. Otherwise a new magistrate will have to learn the expansive discovery and potentially re-visit rulings made by her predecessor, (and by Magistrate Rowland, who is assigned to the *Perez* case) which would result in a delay for the parties and a waste of judicial resources.

results in “substantial savings in judicial time and effort.”). Furthermore, reassignment to the same judge will prevent potentially inconsistent discovery rulings on common issues in both cases. See *Helperich*, 2012 WL 1368193, at * 3.

13. Reassignment will not result in a significant delay in the *Perez* case. In *Perez*, a motion to dismiss is pending and waiting response, and the parties only recently issued written discovery requests. They have not progressed in discovery to the point that any significant delay in the proceedings would result from the reassignment of this case. Similarly, the defendants in *Mann* have filed a motion to dismiss that has not yet been responded to or ruled upon.

14. Finally, the common underlying facts and legal claims in both cases can be addressed in one dispositive motion, trial or global settlement because some “issues of both law and fact are the same in both cases.” See *Pactiv Corp. v. Multisorb Tech., Inc.*, No 10 c 461, 2011 WL 686813, at *5 (N.D. Ill. Feb. 15, 2011). This is true even if some additional issues regarding the individual plaintiffs do not overlap. See *Freeman v. Bogusiewicz*, 2004 WL 1879045 (N.D. Ill. Aug. 11, 2004) (police misconduct cases could be handled in one single proceeding even where some allegations of misconduct were unique to each case and one suit brought additional claims); *Anderson v. Cornejo*, 199 F.R.D. 228, 262 (N.D. Ill. 2000) (Reassignment is appropriate where allegations against supervisory defendants and common issues can be resolved in a single proceeding even if additional facts as to the individual plaintiffs have to be determined.); see also, *Ashford et. al. v. City of Milwaukee, et. al.*, No 13 c 0771 (E.D. Wisc.) (Adleman, J.) (Plaintiffs raising claims with common questions of law and fact are permitted to intervene, even when additional plaintiffs raise new claims against defendants.). Here the overlapping issues include claims of illegal detention, illegal searches, excessive force, and very similar *Monell* policies and practices.

15. Alternatively, the cases, at the least, should be consolidated for pre-trial proceedings. Federal Rule of Civil Procedure 42 permits a district court to order the consolidation of “actions involving a common question of law or fact” that are “pending before the court.” Fed. R. Civ. P. 42(a); *Blair v. Equifax Check Serv.*, 181 F.3d 832, 839 (7th Cir. 1999); *United States use of Owens-Corning Fiberglass Corp. v. Brandt Constr. Co.*, 826 F.2d 643, 647 (7th Cir. 1987). The purpose of joining actions is to promote convenience and judicial economy. *Johnson v. Manhattan Railway Co.*, 289 U.S. 479, 496-97 (1933). Courts in this district routinely consolidate cases. See, e.g., *Pochert*, 2011 WL 4007731, at *3; *Blocker v. City of Chicago*, No. 09 cv 7052, 2011 WL 1004137, at *2, 4 (N.D. Ill. Mar. 16, 2011); *Pactive Corp.*, 2011 WL 686813, at *1, 5; *Palomares v. Second Fed. Sav. & Loan Ass’n of Chicago*, No. 10 cv 6124, 2010 WL 4672295, at *2-3; *Ladenberger v. Nat’l Tech. Transer, Inc.*, No. 99 cv 5348, 2000 WL 1349247, at *2 (N.D. Ill. Sept. 10, 2000). Even where reassignment is not granted, the Executive Committee may assign a single judge (and magistrate) to preside over consolidated pre-trial proceedings. See IOP 13(e); *Garner v. Country Club Hills*, 11 C 5164, 2012 WL 1900020, at *3 (N.D. Ill. May 23, 2012); *Dicam, Inc. vs. U.S. Cellular Corp.*, 07 c 5472, 2007 WL 2903059, at *1 (N.D. Ill. Sept. 28, 2007).

WHEREFORE, pursuant to Fed. R. Civ. P. 24, 42(a) and Local Rule 40.4, Plaintiffs respectfully request that this Court (1) grant Plaintiffs’ Motion to Intervene, (2) find that the *Mann* and *Perez* cases are related and that reassignment to this Court is appropriate; or alternatively, (3) find that the *Mann* and *Perez* cases should be consolidated before this Court and Magistrate for pre-trial proceedings.

Dated: February 15, 2016

Respectfully submitted,

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