

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

ISLAMIC CENTER OF CULPEPER,

Plaintiff,

v.

COUNTY OF CULPEPER, VIRGINIA,

Defendant.

Civil Action No. 3:17-cv-00019-NKM

**ISLAMIC CENTER OF CULPEPER’S REPLY IN SUPPORT OF
MOTION TO CONSOLIDATE FOR DISCOVERY PURPOSES**

There is little disagreement between the parties, Plaintiff Islamic Center of Culpeper (“ICC”) and the County of Culpeper (the “County”), as to ICC’s Motion to Consolidate for Purposes of Discovery Only (ECF 16), with *United States v. County of Culpeper*, Case No. 16-cv-83 (the “United States Action”). The County “is not opposed to consolidation of this case with the related case . . . for the purposes of discovery.” ECF 29, at 1. And neither the County nor ICC asks at this time that the cases be consolidated “for purposes of dispositive motions and trial,” but rather, reserve their rights in the future to move for such relief. *See* ECF 29, at 1; ECF 16-1, at 4 (ICC’s motion “does not prejudice any party’s decision to take different approaches to dispositive motions or trial in each case” after discovery).

However, the Court should not countenance the County’s attempt to use this opportunity to relieve itself of discovery obligations that the Federal Rules of Civil Procedure place on any defendant in a multi-party dispute. The County takes issue with its responsibility to “respond[] to two sets of interrogatories, two sets of requests for production of documents, etc., within the

same timeframe.” ECF 29, at 2. That is not improper “double duty.” *Id.* The Federal Rules allow each party to propound discovery requests. Fed. R. Civ. P. 33(a)(1) (“a party may serve on any other party” written interrogatories); Fed. R. Civ. P. 34(a) (“a party may serve on any other party” requests to produce documents); Fed. R. Civ. P. 36(a)(1) (“a party may serve on any other party” requests for admission). ICC and the United States thus may serve their own discovery requests on the County, and that would be the true irrespective whether the United States and ICC jointly filed a single action, the two actions against the County proceed separately, or the two actions are consolidated. In any event, the County identifies no prejudice it faces responding to two sets of discovery requests, and it offers no precedent to support its position.

Finally, ICC reiterates that it “will consent to the discovery schedule set out by the Court for the United States Action, subject to any adjustments that the parties in this Action and the Court may determine as discovery goes forward.” ECF 16-1, at 1–2. ICC and the County have conferred in relation to the parties’ forthcoming Rule 26(f) Joint Report; the principal change to the discovery schedule that ICC anticipates requesting therein is that expert discovery occur after the conclusion of fact discovery. Such a change will allow the parties’ experts to have the benefit of all the information that is gathered during fact discovery when rendering their opinions.

For these reasons, ICC respectfully requests that this Court grant ICC’s Motion to Consolidate for Purposes of Discovery Only, and enter ICC’s proposed order.

Dated: March 31, 2017

Johnathan Smith
Madihha Ahussain
MUSLIM ADVOCATES
P.O. Box 71080
Oakland, CA 94612
Tel: (415) 692-1484

Respectfully submitted,

/s/ Robert A. DeRise

James W. Cooper
David P. Gersch
Murad Hussain
Elliott C. Mogul
Robert A. DeRise (VA Bar. 78431)
Sina Mansouri
ARNOLD & PORTER
KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Tel: (202) 942-5000
robert.derise@apks.com

Counsel for Islamic Center of Culpeper

CERTIFICATE OF SERVICE

I hereby certify that on March 31, 2017, I caused the foregoing document to be electronically filed with the United States District Court for the Western District of Virginia by using the Court's CM/ECF system. I further certify that on this date, counsel for the County of Culpeper was served electronically with this document using the Court's CM/ECF system.

Dated: March 31, 2017

/s/ Robert A. DeRise
Robert A. DeRise

Counsel for Islamic Center of Culpeper