

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

ASHTON WHITAKER, a minor, by his  
mother and next friend, MELISSA  
WHITAKER,

Plaintiff,

v.

KENOSHA UNIFIED SCHOOL DISTRICT  
NO. 1 BOARD OF EDUCATION, *et al.*,

Defendants.

Civ. Action No. 2:16-cv-00943-PP  
Judge Pamela Pepper

**JOINT MOTION TO MODIFY SCHEDULING ORDER**

Plaintiff Ashton Whitaker, by his mother and next friend, Melissa Whitaker (“Plaintiff”), and Defendants Kenosha Unified School District Board of Education No. 1, *et al.* (“Defendants”) (collectively, the “Parties”), jointly move this Court to enter a modified scheduling order in this case. In support of this motion, the Parties state the following:

1. Under the Order Granting Joint Motion to Stay Discovery [Dkt. No. 64] (“Stay Order”), discovery in this case was stayed until June 27, 2017. The Stay Order directed the Parties to confer and propose a modified scheduling order to govern the remainder of discovery and pretrial deadlines by June 27, 2017.

2. Prior to the Stay Order, the Parties had engaged in discovery, including (a) exchanging initial disclosures; (b) propounding initial written discovery requests; (c) responding to initial discovery requests, including making initial document productions; and (d) exchanging expert witness disclosures.

3. On April 28, 2017, Defendants filed a Motion for Independent Medical Examination of Plaintiff [Dkt. No. 61] (“Rule 35 Motion”) pursuant to Fed. R. Civ. P. 35, briefing on which this Court held in abeyance during the stay of discovery.

4. To complete discovery, the Parties anticipate that: (a) the Parties will complete briefing on Defendants’ Rule 35 Motion or stipulate to the terms of a Rule 35 independent medical examination; (b) Defendants’ proposed expert, Dr. David Phelps, will conduct the request independent psychological examination of Plaintiff if the Court grants the pending Rule 35 Motion or if the Parties stipulate to the examination; (c) the Parties will complete written discovery; and (d) the Parties will conduct fact and expert witness depositions.

5. At this time, Plaintiff does not anticipate using rebuttal expert witnesses.

6. Plaintiff proposes the following schedule for the remainder of discovery and pretrial deadlines:

<b>Deadline</b>	<b>Date</b>
Plaintiff’s Response to Defendants’ Rule 35 Motion	July 10, 2017
Defendants’ Reply Brief on Rule 35 Motion	July 17, 2017
Deadline for Defendants to Complete Rule 35 Independent Medical Examination of Plaintiff (if Rule 35 Motion is granted)	30 days after Court’s decision on Rule 35 Motion
Defendants’ Disclosure of Expert Report of Dr. David Phelps (if Rule 35 Motion is granted)	55 days after Court’s decision on Rule 35 Motion
Discovery Cutoff (fact and expert)	November 3, 2017
Dispositive Motions	December 18, 2017
Responses to Dispositive Motions	January 19, 2018
Reply Briefs on Dispositive Motions	February 2, 2018
Pretrial Conference	30 days before trial
Trial	On or after June 11, 2018

Based on the foregoing, the Parties respectfully request that the Court grant this motion and enter the proposed modified scheduling order, which will be submitted via email to the Court’s proposed orders email box.

Dated: June 27, 2017

Respectfully submitted,

/s Joseph J. Wardenski

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