

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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**ALINA BOYDEN and  
SHANNON ANDREWS,**

Plaintiffs,

Case No. 17-cv-264

vs.

**STATE OF WISCONSIN DEPARTMENT  
OF EMPLOYEE TRUST FUNDS, et al.,**

Defendants.

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**UNOPPOSED MOTION TO AMEND SCHEDULING ORDER**

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Pursuant to Fed. R. Civ. P. 16(b), Plaintiffs, Alina Boyden and Shannon Andrews, respectfully request that this Court amend the Scheduling Order of August 3, 2017 (Dkt. # 37), as amended by stipulation dated March 19, 2017 (Dkt. # 50), to: (1) extend the parties' respective deadlines for serving expert witness disclosures, so that Plaintiff's rebuttal disclosures, if any would be due May 31, 2018; (2) extend the dispositive motion deadline to June 8, 2018, from the original deadline of May 11, 2018; (3) extend the discovery completion date to September 30, 2018, from the original date of August 31, 2018; and (4) reschedule the trial now scheduled for October 9-12, 2018, to November 6-9, 2018, or as soon thereafter as the Court's calendar permits. In support thereof, Plaintiffs state as follows:

1. Plaintiffs filed this action on April 7, 2017 (Dkt. # 1), and filed an amended complaint on June 16, 2017 (Dkt. # 27). In lieu of answering, State

Defendants moved to dismiss on June 22, 2016 (Dkt. # 28), and Defendant, Dean Health Plan, moved to dismiss on June 28, 2017 (Dkt. # 30). After a preliminary pretrial conference on July 27, 2017, the Court issued a pretrial scheduling order that stayed discovery until October 20, 2017, or until the Court ruled on the motions to dismiss, with initial disclosures due October 31, 2017 (Dkt. # 37, ¶5). On November 20, 2017, the Court granted Dean Health Plan's motion to dismiss. (Dkt. # 44.) State Defendants' motion to dismiss remains pending.

2. The parties exchanged initial disclosures on October 31, 2017, and have been working diligently and cooperatively in discovery in this action. Plaintiffs made discovery requests, including requests to admit, interrogatories and requests for production of documents and things, on November 14, 2017. On December 7, 2017, Defendants requested an extension of 30 days to respond to the Plaintiffs' discovery requests. Plaintiffs consented to this extension, on the condition the parties' expert disclosure deadlines were adjusted a commensurate 30 days.

3. Defendants responded to Plaintiffs' requests to admit and interrogatories on January 16, 2018, and made a partial response to the requests for documents. This initial disclosure included approximately 634 documents, most of which contained multiple pages. Due to limitations in the Defendants' counsel's document management capabilities, the documents were provided in multiple native formats, including emails with multiple attached documents. As a result, it is difficult to estimate the number of pages produced, but the number certainly ran into the thousands.

4. Defendants produced another 1,012 documents (many with multiple pages and in multiple native formats and with attachments) responsive to Plaintiffs' first production requests on January 26, 2017, another 54 pages of documents on February 13, 2018, another 150 documents (of multiple pages) on February 20, 2018, another 68 documents (of multiple pages) on February 23, 2018, another 114 documents (of multiple pages) on March 19, 2018, another 60 documents (of multiple pages) on March 26, 2018, and another 16 documents (of multiple pages) on May 1, 2018. The total number of documents produced exceeds 2,100, many of them with multiple pages and many with attachments, which also have multiple pages.

5. Plaintiffs' counsel reviewed these documents as expeditiously as possible and scheduled depositions of fact witnesses based on the information in the documents.

6. Plaintiffs deposed 7 fact witnesses in April 2018. During those depositions, and as a result of Defendants' request to claw back several documents they had produced, a dispute arose over attorney-client privilege and work-product protection. On April 27, 2018, Plaintiffs filed a motion to compel regarding a subset of these matters, and this Court set a briefing schedule that concludes on May 14, 2018.

7. Witnesses deposed by plaintiffs were unable to answer several questions relevant to plaintiffs' claims. Some of those questions have been

answered through supplemental requests to admit and a stipulation, to which the parties agreed only on May 2, 2018.

8. Plaintiffs disclosed an expert witness on February 19, 2018, and Defendants disclosed 2 experts on April 19, 2019, 60 days from the date of Plaintiffs' disclosure. Plaintiffs' current deadline for filing any rebuttal reports is May 18, 2018, 30 days from the date of Defendants' disclosure. Plaintiffs have worked diligently on rebuttal, but need additional time for the preparation of rebuttal reports.

9. In order to fully present facts and argument in support of a motion for partial summary judgment, Plaintiffs need to take additional deposition testimony, the scope of which will be determined by this Court's resolution of their motion to compel. Given that the current briefing schedule on the motion does not conclude until after the summary judgment deadline, it would be impossible to obtain the needed testimony prior to the current summary judgment deadline.

10. Counsel for Plaintiffs conferred with Defendants' counsel and are authorized to state that Defendants do not oppose the extension of deadlines requested in this motion.

WHEREFORE, Plaintiffs request that the Court amend the Scheduling Order to: (1) extend the parties' respective deadlines for serving expert witness disclosures, so that Plaintiff's rebuttal disclosures, if any, would be due May 31, 2018; (2) extend the dispositive motion deadline to June 8, 2018, from the original deadline of May 11, 2018; (3) extend the discovery completion date to September 30,

2018, from the original date of August 31, 2018; and (4) reschedule the trial now scheduled for October 9-12, 2018, to November 6-9, 2018, or as soon thereafter as the Court's calendar permits and grant such further relief as the Court deems equitable and just.

Dated this 3rd day of May, 2018.

**HAWKS QUINDEL, S.C.**

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