

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

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CODY FLACK,  
SARA ANN MAKENZIE,  
MARIE KELLY, and  
COURTNEY SHERWIN,

Plaintiffs,

v.

Case No. 18-CV-0309

WISCONSIN DEPARTMENT OF  
HEALTH SERVICES and  
LINDA SEEMEYER, in her official  
capacity as Secretary of the Wisconsin  
Department of Health Services,

Defendants.

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**DEFENDANTS' UNOPPOSED COMBINED MOTION FOR AN  
EXTENSION OF TIME TO FILE ANSWER TO PLAINTIFFS'  
AMENDED COMPLAINT AND MOTION TO RESCHEDULE THE  
PRELIMINARY PRETRIAL CONFERENCE**

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Defendants Wisconsin Department of Health Services and Linda Seemeyer, in her official capacity as Secretary of the Wisconsin Department of Health Services (collectively DHS), hereby move this Court for an order (1) extending the amount of time DHS has to file its responsive pleading to Plaintiffs' Amended Complaint with Class Action Allegations (Dkt. 85) by one week—to October 16, 2018, and (2) rescheduling the preliminary pretrial

conference to a date no earlier than October 19, 2018. The grounds for this motion are as follows.

1. On September 25, 2018, Plaintiffs Cody Flack, Sara Ann Makenzie, Marie Kelly, and Courtney Sherwin, filed an amended complaint with class action allegations. (Dkt. 85.)

2. This amended complaint differs from the original complaint in that it adds allegations of two new plaintiffs as well as class action allegations.

3. Under Rule 15(a)(3) of the Rules of Civil Procedure, DHS has only fourteen (14) days to file its responsive pleading, which makes the filing deadline no later than October 9, 2018.

4. Also, per this Court's August 31, 2018 text-only order, the telephonic preliminary pretrial conference is scheduled for October 11, 2018, at 1 p.m. Per the Court's standing order, the parties must engage in a Rule 26(f) conference no later than one week prior.

5. As this Court is aware, DHS is represented by the same attorneys who make up the defense team in *Boyd v. ETF*, No. 17-cv-00254-wmc. And a damages trial is set to run from October 9—11, 2018.

6. Because of the pre-trial work counsel must do in *Boyd*, the trial itself, the new allegations contained in the amended complaint, and the relatively short time DHS has to file a responsive pleading, it will be very difficult for DHS to engage with opposing counsel for the Rule 26(f) conference

by October 4, meet the October 9 responsive pleading filing deadline, and participate in the telephonic preliminary pretrial conference on October 11.

7. DHS does not believe that extensions of time will prejudice any party or impede the administration of justice. DHS is permitted to represent to the Court that counsel for Plaintiffs do not oppose this motion.

8. As a result, DHS respectfully asks the Court for an order granting it until October 16, 2018, to file a responsive pleading and rescheduling the telephonic preliminary pretrial conference to a date no earlier than October 19, 2018.

Dated this 4th day of October, 2018.

Respectfully submitted,

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Electronically signed by:

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