

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

KRISTY DUMONT; DANA DUMONT;  
ERIN BUSK-SUTTON; and REBECCA  
BUSK-SUTTON,

Plaintiffs,

v.

NICK LYON, in his official capacity as  
the Director of the Michigan Department  
of Health and Human Services; and  
HERMAN MCCALL, in his official  
capacity as the Executive Director of the  
Michigan Children’s Services Agency,

Defendants,

and

ST. VINCENT CATHOLIC CHARITIES;  
MELISSA BUCK; CHAD BUCK; and  
SHAMBER FLORE,

Intervenor Defendants.

No. 2:17-cv-13080-PDB-EAS

HON. PAUL D. BORMAN

MAG. ELIZABETH A. STAFFORD

**JOINT MOTION OF  
ALL PARTIES TO  
MODIFY THE SEPTEMBER 17  
SCHEDULING ORDER**

On September 14, 2018, this Court denied in substantial part the motions to dismiss filed by Defendants Nick Lyon and Herman McCall (“State Defendants”) and Defendants Intervenor St. Vincent Catholic Charities, Melissa and Chad Buck, and Shamber Flore (“Intervenor Defendants” and together with State Defendants, “Defendants”). (ECF. No. 49 at 93.) On September 17, 2018,

the Court entered a schedule for discovery and briefing to “manage the progress of the case” (“September 17 Scheduling Order”). (ECF No. 51 at 1.) Promptly thereafter, on September 28, 2018, Plaintiffs served on Defendants their initial discovery requests and on October 17, 2018, October 18, 2018 and October 19, 2018 discovery requests were also served by Defendants. All parties have been conferring in good faith concerning the discovery requests.

On October 25, this Court denied Defendant Intervenors’ motion for leave to file an interlocutory appeal and recognized that “discovery is necessary here before further analysis can fully address the issues in dispute” and emphasized that the Court will require the parties to adhere “strict[ly]” to the deadlines established by the Court’s September 17 Scheduling Order and “will move this case along expeditiously.” (ECF No. 60 at 8.)

Although the parties make this motion with reluctance in light of the Court’s September 17 Scheduling Order and October 25 Opinion and Order, and appreciate the Court’s management of the action to bring it to a resolution, all parties have concluded that under the circumstances the current schedule will not allow for a fair resolution of the parties’ claims and defenses, and respectfully request, pursuant to Fed. R. Civ. P. 6(b)(1), an adjustment of the case schedule by approximately 45 days. As the Court recognized, discovery “will have significant bearing on the resolution of the important issues in dispute in this case,” (ECF No.

60 at 8), and the parties' efforts to meet and confer have revealed that an orderly and efficient presentation of the issues would be served by this modest adjustment of the Court's previously imposed schedule.

Specifically, since the Court's September 17 Scheduling Order, the parties have met and conferred multiple times to develop a narrowly tailored document discovery plan with documents produced on a rolling basis. However, even with agreed upon limitations to relevant custodians, search terms for electronic discovery and date ranges, the parties' meet and confer discussions have made clear that the State Defendants will produce a significant volume of documents, which the State Defendants represent will take an estimated 1,700 hours to review, and that the overwhelming majority of the State Defendants' documents cannot be produced before December 21, 2018.

In addition to the practical difficulties of identifying, producing and analyzing document discovery, the parties respectfully request that the Court adjust the September 17 Scheduling Order so that the parties may substantially complete fact discovery prior to expert discovery. Fact discovery will inform and streamline the expert analysis that may be necessary and allowing the factual record to be developed first may serve the ends of judicial and party efficiency if it obviates the need for certain expert analysis.

Accordingly, after conferring in good faith, the parties jointly propose an amended scheduling order, which is attached as Exhibit A to this motion, and which affords an additional 72 days for fact discovery and serves the ends of maximizing efficient use of judicial and party resources to address the factual issues in dispute by developing the record prior to deadlines for expert work. The parties represent that they believe that this adjustment to the schedule will enhance their ability to present contested issues to the Court in an orderly and more-efficient fashion. The parties are all available to appear before the Court to explain this request for an adjustment of the schedule if the Court would find it helpful.

**Exhibit A: Proposed Amended Discovery and Briefing Schedule**

Deadline to Serve Interrogatories, Requests For Admission:	December 19, 2018
Electronic Document Production Substantially Complete (i.e., Complete Except for Privilege Review):	December 28, 2018
Fact Deponents Identified:	February 8, 2019
Document Discovery Deadline (i.e., Deadline to Respond to Interrogatories and Requests for Admission and Production of Logs of Withheld Documents):	February 15, 2019
Fact Discovery Deadline:	March 15, 2019
Opening Expert Disclosures and Reports:	March 25, 2019
Rebuttal Expert Disclosures and Reports:	April 19, 2019
Expert Discovery Deadline:	May 10, 2019
<i>Daubert</i> (If Necessary) and Dispositive Motions:	May 30, 2019
Responses to <i>Daubert</i> (If Necessary) and Dispositive Motions:	June 19, 2019
Replies to <i>Daubert</i> (If Necessary) and Dispositive Motions:	June 28, 2019
<i>Daubert</i> Motion Hearing (If Necessary):	At the Court's Convenience Following the Close of Briefing

Dispositive Motion Hearing:

At the Court's

Convenience

Following the Close

of Briefing

Dated: October 31, 2018

/s/ Ann-Elizabeth Ostrager

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## **CERTIFICATE OF SERVICE**

I hereby certify that, on October 31, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

Dated: October 31, 2018

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