
No. 18-3408

**In the United States Court of Appeals
FOR THE SEVENTH CIRCUIT**

ALINA BOYDEN AND SHANNON ANDREWS,
PLAINTIFFS-APPELLEES,

v.

WISCONSIN DEPARTMENT OF EMPLOYEE TRUST FUNDS; ROBERT J. CONLIN, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY AS SECRETARY OF THE WISCONSIN DEPARTMENT OF EMPLOYEE TRUST FUNDS; WISCONSIN GROUP INSURANCE BOARD; AND MICHAEL S. FARRELL, STACEY ROLSTON, CHARLES GRAPENTINE, WAYLON HURLBURT, THEODORE NEITZKE, J.P. WIESKE, BOB ZIEGELBAUER, JENNIFER STEGALL, ROBERT WIMMER, HERSCHEL DAY, AND NANCY THOMPSON, IN THEIR INDIVIDUAL AND OFFICIAL CAPACITIES AS MEMBERS OF THE WISCONSIN GROUP INSURANCE BOARD,
DEFENDANTS-APPELLANTS

On Appeal From The United States District Court
For The Western District Of Wisconsin, Case No. 3:17-cv-264,
The Honorable William M. Conley, District Judge, Presiding

MOTION FOR ORDER EXTENDING THE BRIEFING SCHEDULE

Defendants-Appellants¹, by their counsel, hereby move this Court under Circuit Rule 26 for an order extending the briefing schedule by 40 days, as follows:

1. Defendants-Appellants' opening brief shall be due on January 28, 2019.

(The current deadline for this brief is December 19, 2018.)

¹ Wisconsin Department of Employee Trust Funds; Robert J. Conlin, in his individual and official capacity as Secretary of the Wisconsin Department of Employee Trust Funds; Wisconsin Group Insurance Board; and Michael S. Farrell, Stacey Rolston, Charles Grapentine, Waylon Hurlburt, Theodore Neitzke, J.P. Wieske, Bob Ziegelbauer, Jennifer Stegall, Robert Wimmer, Herschel Day, and Nancy Thompson, in their individual and official capacities as members of the Wisconsin Group Insurance Board.

2. Plaintiffs-Appellees' response brief shall be due on February 27, 2019.
(The current deadline for this brief is January 18, 2019.)

3. Defendants-Appellants' reply brief (if any) shall be due on March 13, 2019. (The current deadline for this brief is February 1, 2019.)

This motion is supported by the accompanying Declaration of Luke N. Berg.

Dated: November 20, 2018

BRAD D. SCHIMEL
Attorney General of Wisconsin

/s/ Luke N. Berg

LUKE N. BERG
Deputy Solicitor General
Counsel of Record

Attorneys for Defendants-Appellants

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CERTIFICATE OF SERVICE

I hereby certify that on November 20, 2018, I filed the foregoing with the Clerk of the Court using the CM/ECF System, which will send notice of such filing to all registered CM/ECF users.

Dated: November 20, 2018

/s/ Luke N. Berg

LUKE N. BERG

Deputy Solicitor General

No. 18-3408

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**DECLARATION OF LUKE N. BERG IN SUPPORT OF MOTION
FOR ORDER EXTENDING THE BRIEFING SCHEDULE**

1. I am a Deputy Solicitor General for the Wisconsin Department of Justice (DOJ), and counsel of record for Defendants-Appellants¹ in the above-captioned matter.
2. Under the current briefing schedule, Defendants-Appellants' opening brief is due December 19, 2018. Accordingly, Plaintiffs-Appellees' response brief will

¹ Wisconsin Department of Employee Trust Funds; Robert J. Conlin, in his individual and official capacity as Secretary of the Wisconsin Department of Employee Trust Funds; Wisconsin Group Insurance Board; and Michael S. Farrell, Stacey Rolston, Charles Grapentine, Waylon Hurlburt, Theodore Neitzke, J.P. Wieske, Bob Ziegelbauer, Jennifer Stegall, Robert Wimmer, Herschel Day, and Nancy Thompson, in their individual and official capacities as members of the Wisconsin Group Insurance Board.

be due January 18, 2019, and Defendants-Appellants' reply brief (if any) will be due February 1, 2019.

3. This motion is being filed more than seven days before Defendants-Appellants' brief is due as required by Circuit Rule 26.

4. Defendants-Appellants will be unable to file their opening brief in this Court by December 19, 2018.

5. This case was recently transferred within the DOJ from the Special Litigation and Appeals unit, which has handled this case since September 2017, to the Office of the Solicitor General. Therefore, Defendants-Appellants seek additional time so that, as newly-assigned counsel, I may familiarize myself with the history of this case and research the legal arguments in order to provide this Court with a thorough and responsive brief.

6. I am also assigned to other matters with briefing deadlines or arguments scheduled over the next several weeks, including Plaintiff-Respondent's response brief in *State of Wisconsin v. Fugere*, No. 16AP2258, due December 3, 2018, in the Wisconsin Supreme Court; Defendants-Appellants' opening brief in *Flack v. Wisconsin Dept. of Health Services*, No. 18-2861, due December 20, 2018, in this Court; and oral argument, also in *Fugere*, taking place on January 22, 2019, in the Wisconsin Supreme Court.

7. Furthermore, I will be out of the office for the Christmas holiday from December 21, 2018 through January 2, 2019.

8. This extension of time is not requested for purposes of delay, but rather so that I may meet my professional responsibilities, properly represent my clients in each case to which I am assigned, and provide this Court with a thorough and responsive brief in this appeal.

9. I conferred with counsel for Plaintiffs-Appellees, who does not object to this motion.

I certify under penalty of perjury that the foregoing is true and correct.

Executed: November 20, 2018

BRAD D. SCHIMEL
Attorney General of Wisconsin

/s/ Luke N. Berg

LUKE N. BERG
Deputy Solicitor General
Counsel of Record

Attorneys for Defendants-Appellants

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Dated: November 20, 2018

/s/ Luke N. Berg

LUKE N. BERG

Deputy Solicitor General