

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN**

CODY FLACK, *et al.*,  
*individually and on behalf of all others  
similarly situated,*

Plaintiffs,

v.

WISCONSIN DEPARTMENT OF  
HEALTH SERVICES, *et al.*,

Defendants.

Case No. 3:18-cv-00309-wmc  
Judge William Conley

**CONSENT MOTION FOR EXTENSION OF TIME TO FILE REPLY BRIEF**

Plaintiffs respectfully move the Court for a short extension of two business days to file a reply brief in support of their Motion for Summary Judgment and Permanent Injunction [ECF No. 151] (“Motion for Summary Judgment”), from Friday, May 31, 2019, to Tuesday, June 4, 2019. In support of this motion, Plaintiffs state the following:

1. Plaintiffs filed their Motion for Summary Judgment on April 23, 2019. Defendants’ response in opposition was originally due on May 14, 2019. On May 9, 2019, Defendants asked the Court to extend their response deadline until seven days following the Court’s denial, if any, of the motion to stay proceedings Defendants had filed that day. Defs.’ Mot. for Ext. [ECF No. 177]. Plaintiffs consented, in part, to Defendants’ request and notified the Court that they would not oppose a seven-day extension of time for Defendants to file a response brief from May 14, 2019 to May 21, 2019. Pls.’ Resp. to Defs’ Mot. for Ext. [ECF No. 178]. The Court granted Defendants a seven-day extension, until May 21, 2019, to file their response. Text Order [ECF No. 179].

2. Defendants filed their brief in opposition to the Motion for Summary Judgment on May 21, 2019. Under the current schedule, Plaintiffs have ten days to file a reply brief, until May 31, 2019.

3. In their opposition and response to Plaintiffs' proposed findings of fact, Defendants rely heavily on the expert report of Michelle Ostrander, PhD. Due to deficiencies in Dr. Ostrander's written report and her lack of relevant qualifications to offer expert testimony on the issues in this case, Plaintiffs have determined that, concurrently with their reply brief, they must file a motion to strike Dr. Ostrander's report and exclude her testimony in this case.

4. The ten-day period for Plaintiffs to reply included the Memorial Day holiday weekend. The offices of Plaintiffs' attorneys were closed during this three-day weekend for the holiday. In addition, due to longstanding pre-existing personal and case-related travel schedules, several members of Plaintiffs' case team have had limited availability to work on the reply brief during this window.

5. Plaintiffs seek a short two business day extension until June 4 to file their reply. They expect to file the motion to strike Dr. Ostrander's report and testimony on that same date.

6. Defendants, through counsel, have consented to the requested extension.

Based on the foregoing, Plaintiffs ask the Court to extend their reply brief deadline from May 31, 2019 to June 4, 2019.

Dated: May 28, 2019

Respectfully submitted,

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