

**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 TWO-DAY EXTENSION OF TIME TO FILE REPLY BRIEF

Plaintiffs respectfully move the Court for a short extension of two business days to file their reply brief in support of their Motion to Strike the Declaration and Exclude Testimony of Michelle Ostrander, Ph.D. [ECF No. 192] (“Motion to Strike”), from Monday, July 1, 2019 to Wednesday, July 3, 2019. In support of this motion, Plaintiffs state the following:

1. Plaintiffs filed the Motion to Strike concurrently with their reply brief in support of their Motion for Summary Judgment on June 4, 2019. The Court originally gave Defendants 14 days to file a brief in opposition, until June 18, 2019, and Plaintiffs seven days to file a reply, until June 25, 2019.

2. Defendants requested Plaintiffs’ consent to a 10-day extension of time to file an opposition brief, until June 28, 2019. Plaintiffs agreed to this extension provided Defendants would agree to an extension of their reply brief deadline until July 12, 2019 to avoid conflicts with the Independence Day holiday and briefing deadlines in other cases in early July.

Defendants agreed, and the Parties filed a joint motion for extension of time [ECF No. 198] seeking those extensions on June 13, 2019.

3. By text order, dated June 14, 2019, the Court partially granted the joint motion, giving Defendants a six-day extension of time on their opposition brief deadline, to June 24, 2019. The Court did not expand the length of time for Plaintiffs to file a reply brief, setting Plaintiffs' reply brief deadline for seven days after Defendants' opposition brief, until July 1, 2019.

4. In opposition to the Motion to Strike, Defendants filed a lengthy 35-page brief on June 24, 2019. Given the arguments raised in that brief, and other preexisting case deadlines, Plaintiffs will be unable to adequately reply within the seven-day window. Among other things, Plaintiffs' lead attorney, Joseph Wardenski, is counsel for *amici curiae* in three related Title VII cases before the Supreme Court—*Altitude Express, Inc. v. Zarda*, *Bostock v. Clayton County, Ga.*, and *R.G. & G.R. Harris Funeral Homes v. EEOC*—and is working on an amicus brief due to be filed with the Supreme Court in those cases on July 3, 2019. In addition, several of Plaintiffs' other attorneys have longstanding personal travel plans before the current July 1 deadline.

5. Based on the foregoing, and recognizing the Court's scheduling limitations described in the June 14 text order, Plaintiffs request a short extension of two days, until Wednesday, July 3, 2019, to file their reply brief.

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 July 1, 2019 to July 3, 2019.

Dated: June 26, 2019

Respectfully submitted,

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