

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

CODY FLACK, *et al.*,

Plaintiffs,

v.

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

Defendants.

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

JOINT MOTION TO MODIFY PRETRIAL SCHEDULE

Plaintiffs Cody Flack, *et al.*, and Defendants Wisconsin Department of Health Services, *et al.* (collectively, the “Parties”) jointly move the Court to modify the pretrial schedule in this case. In support of this motion, the Parties state the following:

1. The Preliminary Pretrial Conference Order entered by the Court on October 31, 2018 [ECF No. 114] (“Pretrial Order”) contemplated a five-day bifurcated jury trial on liability and damages to commence on September 16, 2019. Pretrial Order ¶ 7. Accordingly, the pretrial deadlines set in the Pretrial Order were based on this Court’s jury trial procedures.

2. Defendants now waive their right to a jury trial. If a trial remains necessary following this Court’s decision on Plaintiffs’ pending Motion for Summary Judgment [ECF No. 151], the Parties consent to a bench trial on any remaining triable issues. The Parties have conferred and now estimate that a bench trial would not exceed two days in length (not including a hearing on the scope of the requested remedial relief, if any, which the Parties anticipate would take no more than one day).

3. In light of the above, and the Parties’ shared desire to minimize the time and expense associated with preparing the various pretrial submissions currently due just over two

weeks from now on August 9, 2019, the Parties respectfully request that the Court vacate the current pretrial schedule and reset the pretrial deadlines for the anticipated bench trial. The Parties agree that a telephonic scheduling conference to discuss appropriate deadlines may be helpful to the Court and the Parties.

Dated: July 25, 2019

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