

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ASHLEE and RUBY HENDERSON, a married)	
couple and L.W.C.H., by his parent and next)	
friend Ruby Henderson, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
vs.)	No. 1:15-cv-220-TWP-MJD
)	
DR. JEROME M. ADAMS, in his official capacity)	
as Indiana State Health Commissioner, <i>et al.</i> ,)	
)	
Defendants.)	

**STATE DEFENDANT’S UNOPPOSED MOTION
FOR EXTENSION OF DISCOVERY DEADLINES**

Defendant Dr. Jerome M. Adams, in his official capacity as Indiana State Health Commissioner (“State Defendant”), by counsel, respectfully requests an extension of time pursuant to S.D. Ind. L.R. 6-1(a) to meet certain discovery deadlines imposed in Sections III.F. and IV.B. of the Case Management Plan (Dkt. 31):

1. September 28, 2015 – Deadline for Defendants to disclose the name, address, and vita of any expert witness, and shall serve the report required by Fed. R. Civ. P. 26(a)(2). State Defendant requests this deadline be extended up to and including **October 12, 2015**.
2. October 19, 2015 – Deadline for Plaintiffs to disclose the name, address, and vita of any rebuttal expert witness, and shall serve the

report required by Fed. R. Civ. P. 26(a)(2).¹ State Defendant requests this deadline be extended up to and including **November 2, 2015**.

3. November 6, 2015 – Deadline for all discovery to be completed. State Defendant requests this deadline be extended up to and including **November 20, 2015**.

In support of these requests, State Defendant states:

1. These deadlines have not previously been extended and parties have been proceeding amicably with discovery.

2. Counsel for State Defendant, Solicitor General Thomas M. Fisher, and his colleagues, have been engaged in a number of litigation matters that have interfered with the preparation and service of discovery in this case, including:

- a. *Commissioner of the Indiana Bureau of Motor Vehicles v. Vawter*, No. 49S00-1407-PL-494 (Ind. appeal filed July 7, 2014): Mr. Fisher presented oral argument before the Indiana Supreme Court on August 27, 2015, in this constitutional challenge to the BMV's personalized license plate program.

- b. *Virgin Mobile USA, L.P. v. Indiana*, No. 1:15-cv-01105-SEB-DKL (S.D. Ind. filed July 15, 2015): On July 15, 2015, Plaintiffs filed a motion for temporary restraining order and preliminary injunction in this lawsuit challenging the constitutionality of

¹ State Defendants also note that Section III.J. of the Case Management Plan imposes a deadline of **October 19, 2015** for all parties to "file and serve their final witness and exhibit lists." State Defendants respectfully believe that deadline may be a scrivener's error in light of the proposed trial date of **September 2016** listed in Section VI. State Defendants respectfully request that the Court clarify this deadline in its order disposing of this Motion.

Indiana's 911 Fee as applied to Eligible Telecommunications Carriers, which helps fund Indiana's essential statewide 911 system. These proceedings have moved quickly and will require significant attention from Mr. Fisher over the coming weeks. The State submitted its discovery responses on August 26, conducted a deposition on September 2, and filed its answer on September 3 and its preliminary injunction brief on September 11.

c. *Federal Energy Regulatory Comm'n v. Electric Power Supply Ass'n, et al.*, Nos. 14-840 and 14-841 (U.S. certiorari granted May 4, 2015): Indiana and Oklahoma filed an amicus brief on September 8, 2015 in support of the Respondents in this case, which presents the question whether the Federal Energy Regulatory Commission reasonably concluded that it has authority under the Federal Power Act to regulate how operators of wholesale electricity markets pay for reductions in electricity consumption.

3. State Defendant served third-party discovery requests on September 23, 2015 and requires additional time to obtain responses.

4. The Plaintiffs are not prejudiced by these extensions of time and the extensions shall not affect any other deadlines in the case management plan, including but not limited to the dispositive motion deadlines.

5. Plaintiff's counsel has been contacted and does not object to the extensions being sought.

Wherefore, State Defendant respectfully requests the Court to order the above-listed extensions of time, and all other just and proper relief.

Respectfully submitted,

GREGORY F. ZOELLER
Indiana Attorney General

By: /s/ Thomas M. Fisher
Thomas M. Fisher
Solicitor General

Lara Langeneckert
Deputy Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of September, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

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Defendant Dr. Jerome M. Adams, in his official capacity as Indiana State Health Commissioner (“State Defendant”), by counsel, having filed his Unopposed Motion for Extension of Discovery Deadlines, and the Court having reviewed same and being duly advised, now GRANTS said motion.

IT IS THEREFORE ORDERED that (1) the deadline for Defendants to disclose the name, address, and vita of any expert witness and to serve the report required by Fed. R. Civ. P. 26(a)(2) is extended to October 12, 2015; (2) the deadline for Plaintiffs to disclose the name, address, and vita of any rebuttal expert witness and to serve the report required by Fed. R. Civ. P. 26(a)(2) is extended to November 2, 2015; and (3) the deadline for all discovery to be completed is extended to November 20, 2015.

ALL OF WHICH IS ORDERED this ___ day of _____, 2015.

Magistrate Judge, U.S. District Court

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