

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

DYLAN BRANDT, et al.,

PLAINTIFFS

v.

CASE NO. 4:21-CV-00450-JM

LESLIE RUTLEDGE, et al.,

DEFENDANTS

DEFENDANTS' MOTION FOR REVISED DISCOVERY DEADLINE

The Defendants, Leslie Rutledge, et al., by and through their attorneys, Leslie Rutledge, Attorney General of the State of Arkansas, and Senior Assistant Attorney General Kat Hodge, submit this Motion for a Revised Discovery Deadline:

1. This Court granted Plaintiffs' Motion for Preliminary Injunction on July 21, 2021 (DE 59), supplementing that Order on August 2, 2021. (DE 64) Thereafter, Defendants filed a Notice of Appeal, on August 20, 2021. (DE 67)

2. After Defendants filed their Notice of Appeal, Plaintiff sought a final scheduling order, progressing this case during the pendency of the appeal.

3. In that motion, Plaintiffs recommended until December 17, 2021 for the parties to finalize fact (non-expert) discovery in this matter, while

recommending March 31, 2022 as the deadline to complete expert discovery.

Id.

4. On September 30, 2021, the Court granted Plaintiffs' Motion for Scheduling Order, setting the discovery deadline at December 17, 2021. (DE 76 &77)

5. The Court' final scheduling order was entered without an initial scheduling order and prior to the parties conferring and holding a Rule 26(f) conference, pursuant to the Federal Rules of Civil Procedure.

6. During the parties' Rule 26(f) conference, Plaintiffs agreed to extend the initial discovery deadline to February 25, 2022. Defendants requested that both the fact and expert discovery deadlines be set to March 31, 2022—consistent with the expert discovery deadline. (DE 78)

7. In preparation for filing this Motion, the undersigned conferred with counsel for the Plaintiffs, who authorizes the undersigned to represent that Plaintiffs do not oppose a revised discovery deadline of February 25, 2022, in this matter.

8. Accordingly, Defendants respectfully request that this court enter an order, revising discovery deadline, up to and including February 25, 2022.

9. Defendants' counsel's professional obligations necessitate an extension in this matter. Until last Friday, counsel were preparing the

opening Eighth Circuit brief in their interlocutory appeal in this case and expert reports are due December 10, 2021. The undersigned has had several briefing deadlines, including two cases filed in the Arkansas Supreme Court and Eighth Circuit Court of Appeals. The Eighth Circuit brief was filed on yesterday, and the case has been designated for oral argument. The undersigned has an additional brief due to the Arkansas Supreme Court, on November 22, 2021; anticipates having an oral argument before the Eighth Circuit Court of Appeals in January 2022; and is scheduled for a weeklong jury trial before the Honorable Timothy Brooks, sometime during the week of February 14-28, 2022.

10. Upcoming travel and holiday plans for witnesses and counsel may also factor into discovery matters.

11. In light of the undersigned's other deadlines, it may be necessary to confer again on the fact discovery deadline. If it appears by February 12, 2022, that additional time to finalize fact discovery is needed, the undersigned will confer with counsel for the Plaintiffs concerning extending the deadline to March 31, 2022—consistent with the expert discovery deadline. If no agreement can be reached, the undersigned reserves the right to request intervention from the court.

12. The undersigned notes that, at this time, Plaintiffs object to the March 31, 2022 proposed date.

13. Lastly, this motion is not meant to waive Defendants' right to seek extensions for reasons not outlined here, and the undersigned commits to continuing to confer with Plaintiffs' counsel.

WHEREFORE, Defendants respectfully request that this Court enter an order, granting this motion and revising the discovery deadline to up to and including February 25, 2022.

Respectfully submitted,

LESLIE RUTLEDGE
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By:



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