

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

CODY FLACK and
SARA ANN MAKENZIE,

Plaintiffs,

v.

WISCONSIN DEPARTMENT OF
HEALTH SERVICES and
LINDA SEEMEYER, in her official capacity
as Secretary of the Wisconsin Department of
Health Services,

Defendants.

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

JOINT MOTION TO AMEND DEADLINES

Plaintiffs Cody Flack and Sara Ann Makenzie (“Plaintiffs”) and Defendants Wisconsin Department of Health Services and Linda Seemeyer (“Defendants”) (collectively, the “Parties”), jointly move this Court to amend the deadlines set in this Court’s July 25, 2018 Opinion and Order [Dkt. No. 70] for Defendants “to provide any evidence they may have as to the likely, realistic cost of enjoining the Challenged Exclusion during the remainder of this lawsuit,” Op. & Order 39, and Plaintiffs’ response to that submission. In the Opinion and Order, the Court ordered Defendants to file their submission within 21 days, *i.e.*, by August 15, 2018, and gave Plaintiffs five days to respond, *i.e.*, by August 20, 2018.

The Parties request that the Court re-set Defendants’ deadline to August 22, 2018 and Plaintiffs’ deadline to August 29, 2018. The Parties seek these deadlines because the expert witness Plaintiffs anticipate using to review Defendants’ submission will be on vacation from August 11 to August 19, and because Plaintiffs’ lead counsel, Joseph Wardenski, will also be on

vacation from August 13 to August 24, during which time Plaintiffs' response is currently due.

The Parties agree that the requested deadlines will resolve these scheduling concerns.

Therefore, the parties respectfully request this Court to amend the deadlines set in the July 25, 2018 Opinion and Order as follows:

1. Defendants' deadline "to provide any evidence they may have as to the likely, realistic cost of enjoining the Challenged Exclusion during the remainder of this lawsuit" will be extended to August 22, 2018.

2. Plaintiffs' deadline to respond will be extended to August 29, 2018.

Dated: August 10, 2018

/s/ Joseph J. Wardenski
Joseph J. Wardenski
Jennifer I. Klar
Orly May
RELMAN, DANE & COLFAX PLLC
1223 19th Street, NW, Suite 600
Washington, DC 20036
Telephone: (202) 728-1888
Facsimile: (202) 728-0848
jwardenski@relmanlaw.com
jklar@relmanlaw.com
omay@relmanlaw.com

Robert Theine Pledl
Mark A. Peterson
Daniel A. Peterson
MCNALLY PETERSON, S.C.
1233 North Mayfair Road, Suite 200
Milwaukee, WI 53226-3255
Telephone: (414) 257-3399
Facsimile: (414) 257-3223
rpled@mcpetelaw.com
mpeterson@mcpetelaw.com
dpeterson@mcpetelaw.com

Abigail Coursolle
Catherine McKee
NATIONAL HEALTH LAW PROGRAM

Respectfully submitted,

BRAD D. SCHIMEL
Attorney General of Wisconsin

s/ Steven C. Kilpatrick
Steven C. Kilpatrick
Assistant Attorney General
State Bar #1025452

Jody J. Schmelzer
Assistant Attorney General
State Bar #1027796

Colin T. Roth
Assistant Attorney General
State Bar #1103985

Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
(608) 266-1792 (SCK)
(608) 266-3094 (JJS)
(608) 264-6219 (CTR)
(608) 267-2223 (Fax)
kilpatricksc@doj.state.wi.us
schmelzerjj@doj.state.wi.us
rothct@doj.state.wi.us

Attorneys for Defendants

200 N. Greensboro Street, Suite D-13
Carrboro, NC 27510
Telephone: (919) 968-6308
Facsimile: (919) 968-8855
coursolle@healthlaw.org
mckee@healthlaw.org

Attorneys for Plaintiffs