

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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CODY FLACK, et al.,

Plaintiffs,

v.

Case No. 18-CV-0309

WISCONSIN DEPARTMENT OF  
HEALTH SERVICES et al.,

Defendants.

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**DEFENDANTS' MOTION FOR AN EXTENSION OF TIME TO FILE  
RESPONSE TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

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Defendants Wisconsin Department of Health Services and its Secretary, in her official capacity, hereby move for an order extending the time by which they must file their response to Plaintiffs' Motion for Summary Judgment (Dkt. 151). Defendants' current deadline to file its response brief and materials is May 14, 2019.

On this date, Defendants filed a Motion to Stay Proceedings due to the Department's commencement of preliminary steps to promulgate emergency and permanent rules removing Wis. Admin. Code §§ DHS 107.03(23)–(24) and 107.10(4)(p). The stay motion included suspending the current summary judgment briefing and striking the September 16–20, 2019 trial, among other things. Because Defendants do not expect Plaintiffs to respond to that stay

motion, or the Court to issue a decision as to that motion, before Defendants' summary judgment response deadline of May 14, Defendants seek this separate extension of time.

In the event this Court grants Defendants' Motion to Stay Proceedings, this instant motion will be moot. In the event this Court denies Defendants' Motion to Stay Proceedings, Defendants' respectfully seek an extension of time of seven days after such denial date, or a time this Court deems reasonable, to file its response to Plaintiffs' summary judgment motion.

While Plaintiffs' have filed seven- and one-day unopposed motions for extensions of time to file their summary judgment motion (*see* Dkt. 139 and 148), this is Defendants' first request for an extension of time on summary judgment.

Dated this 9th day of May, 2019.

Respectfully submitted,

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