

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

WILLIAM WHITFORD, ROGER ANCLAM,
EMILY BUNTING, MARY LYNNE
DONOHUE, HELEN HARRIS, WAYNE
JENSEN, WENDY SUE JOHNSON, JANET
MITCHELL, ALLISON SEATON, JAMES
SEATON, JEROME WALLACE, and
DONALD WINTER,

Plaintiffs,

v.

15-cv-421-jdp

BEVERLY R. GILL, JULIE M. GLANCEY,
ANN S. JACOBS, STEVE KING, DON
MILLIS, and MARK L. THOMSEN,

Defendants.

**JOINT MEMORANDUM STATING THE PARTIES'
POSTIONS ON FURTHER PROCEEDINGS**

On July 31, the Court issued an order stating: “Now that the United States Supreme Court has certified the judgment in this case, the court will provide the parties an opportunity to submit memoranda stating their position on further proceedings consistent with the opinion of the Court. Accordingly, IT IS ORDERED that the parties may have until August 17, 2018 in which to file and serve such memoranda. They may have until August 31, 2018 in which to file and serve reply memoranda.” Dkt. #196.

In an effort to streamline these proceedings on remand, and consistent with the practice in this District for parties to cooperate in scheduling matters, counsel for the parties met and conferred in the wake of the Court’s July 31 order. Counsel are substantially in agreement that the further proceedings require the Plaintiffs to file an amended complaint and that the case should proceed from there. Counsel are also in agreement as to deadlines for some of the initial

events for the further proceedings, and, respectfully, rather than submit separate initial and reply briefs, counsel jointly request the opportunity to propose a schedule for the orderly resolution of this matter on remand, consistent with the opinion of the United States Supreme Court and Rule 1. (*See* Fed. R. Civ. P. 1 (requiring the rules of civil procedure to be “construed, administered and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding”).)

Counsel agree that Plaintiffs should file an amended complaint no later than September 14, 2018; that any further initial disclosures should be exchanged no later than September 28; and that Plaintiffs will tender any new expert reports no later than October 15, 2108. Defendants’ counsel is not prepared at this point to agree to additional dates for further proceedings until they have had an opportunity to evaluate Plaintiffs’ amended complaint.

Accordingly, the parties respectfully suggest that the Court proceed with further proceedings as it would in the ordinary course of a case filed in this District, *i.e.*, that the Court set a date for a telephone preliminary pretrial conference after the amended complaint is filed and served, and that the parties meet and confer and submit a proposed discovery plan pursuant to Fed. R. Civ. P. 26(f) and the Court’s Standing Order Governing Preliminary Pretrial Conferences. The parties are not currently in a position to provide the Court with the type of report required by the Standing Order.

Therefore, the parties respectfully suggest that the Court strike the August 17 and 27 memoranda filing deadlines, and instead, subject to the Court’s availability, set a preliminary pretrial conference for the week of October 1. The parties will be prepared to address any procedural or substantive issues in the preliminary pretrial conference, or, if the Court would prefer, in such written submissions as the Court may order.

Dated August 15, 2018

Respectfully submitted,

RATHJE WOODWARD LLC

By: /s/ Douglas. M. Poland

Douglas M. Poland
State Bar No. 1055189
10 Easy Doty Street, Suite 507
Madison, WI 53703
(608) 960-7430
dpoland@rathjewoodward.com

One of the Attorneys for Plaintiffs

BRAD D. SCHIMEL
Wisconsin Attorney General

By: /s/ Brian P. Keenan

Assistant Attorney General
State Bar No. 1056525
Wisconsin Department of Justice
Post Office Box 7857
Madison WI 53707
(608) 266-0020
keenanbp@doj.state.wi.us

One of the Attorney for Defendants