

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

Susan Doxtator, Arlie Doxtator, and
Sarah Wunderlich, as Special
Administrators of the Estate of Jonathon
C. Tubby,

Plaintiffs,

Case No. 19-CV-00137

v.

Erik O'Brien, Andrew Smith, Todd J.
Delain, Heidi Michel, City of Green
Bay, Brown County, Joseph P. Mleziva,
Nathan K. Winisterfer, Thomas Zeigle,
Bradley A. Dernbach, and John Does 1-
5,

Defendants.

JOINT PROPOSED STIPULATION TO EXTEND SCHEDULING ORDER

Pursuant Fed. R. Civ. P. 16(b), the parties, by their undersigned counsel, jointly stipulate and move this Court to extend the deadlines for conducting discovery, disclosing experts, and filing dispositive motions set forth in the Court's May 8, 2019, Scheduling Order, in light of the following, which demonstrates good cause to modify the schedule:

1. On March 23, 2020, the Eastern District's entered General Order No. 20-4 regarding COVID-19 Virus Public Emergency—Building Closures. On March 24, 2020, Wisconsin Governor Tony Evers signed the "Safer at Home" order, requiring Wisconsin residents to stay home unless they have "essential business" to attend to.

2. The parties have been diligently working together during discovery to ensure the case moves forward in an efficient manner and have completed eight (8) depositions to date. There

were several additional depositions scheduled for late March and early April, and several more deposition that were in the process of being scheduled for late April and early May, however, the recent COVID-19 developments have forced the parties to cancel those depositions. In particular, due to the recent international travel of several lawyers involved with this case, their resulting self-quarantine, and the “Safer at Home” order, it was not feasible to proceed with the depositions, which were all scheduled to be taken in-person, as noticed.

3. Due to the location of witnesses who are all residents of the State of Wisconsin, and the fact that many of the Defendants are law enforcement officers, the parties have discussed in good faith and agree that in-person depositions are not options for the foreseeable future. The parties further discussed their intent to reschedule those depositions by video conference if necessary; however, logistically adjusting to videoconferencing will take some extra time, particularly due to school, child-care, and law firm office closures that have resulted from the COVID-19 pandemic.

4. Accordingly, to facilitate efficient discovery and in the interest of the health and safety of all involved individuals, the parties jointly stipulate and respectfully move this Court to enter an Order extending the deadlines set forth in its May 8, 2019, Order as follows:

- a. The Defendants’ expert disclosures with reports will be provided to Plaintiffs on or before June 1, 2020;
- b. All rebuttal expert reports will be exchanged on or before July 1, 2020;
- c. Discovery Deadline shall be completed no later than July 31, 2020;
and
- d. Dispositive motions in this matter shall be filed with the Court on or before August 3, 2020; the parties opposition memorandum shall be filed on or before September 3, 2020; and the parties’ reply memorandum shall be filed on or before September 18, 2020.

5. In an effort to avoid disrupting the Court's calendar, the parties agree that at this time, the Court's pre-trial date of November 2, 2020 and trial date of November 16, 2020 should remain in place. However, due to the uncertainty of COVID-19, that date may need to be adjusted.

The parties will continue to work together to ensure the movement of the case by completing written discovery without in-person contact.

Respectfully submitted,

Dated this 3rd day of April, 2020.

DORSEY & WHITNEY LLP

Attorneys for Plaintiffs

By: /s/ Forrest Tahdooahnippah
Skip Durocher State Bar No. 1018814
Forrest Tahdooahnippah MN Bar No. 0391459
Suite 1500, 50 South Sixth Street
Minneapolis, MN 55402-1498
T: (612) 340-2600 / F: (612) 340-2868
E: durocher.skip@dorsey.com
forrest@dorsey.com
David R. Armstrong State Bar No. 1070205
8975 Westchester Dr.
Manassas, VA 20112
E: david.armstrong@gmail.com

Dated this 3rd day of April, 2020.

CRIVELLO CARLSON, S.C

Attorneys for Defendants Todd J. Delain, Heidi Michel, Brown County, Joseph P. Mleziva, Nathan K. Winisterfer and Thomas Zeigle

By: /s/ Benjamin A. Sparks
Samuel C. Hall, Jr. State Bar No. 1045476
Benjamin A. Sparks State Bar No. 1092405
710 N. Plankinton Avenue, Suite 500
Milwaukee, WI 53203
T: (414) 271-7722 / F: (414) 271-4438
E: shall@crivellocarlson.com
bsparks@crivellocarlson.com

Dated this 3rd day of April, 2020.

GUNTA LAW OFFICES, S.C.

Attorneys for Defendants City of Green Bay,
Erik O'Brien and Andrew Smith

By: /s/ Jasmyne M. Baynard
Gregg J. Gunta WI State Bar No. 1004322
Ann C. Wirth WI State Bar No. 1002469
John A. Wolfgang WI State Bar No. 1045325
Jasmyne M. Baynard WI State Bar No. 1099898
9898 West Bluemound Road, Suite 2
Wauwatosa, Wisconsin 53226
T: (414) 291-7979 / F: (414) 291-7960
E: gjg@guntalaw.com
acw@guntalaw.com
jaw@guntalaw.com
jmb@guntalaw.com