

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

PATRICIA A. WESTMORE and DWIGHT R.
WESTMORE,

Plaintiffs,

v.

ORDER

DAVID HYDE and DEPUTY TERRI L.
PROVOST,

14-cv-861-wmc

Defendants.

This case is set for a jury trial commencing May 23, 2016. Consistent with the parties' oral argument and rulings by the court during the final pretrial conference, the court enters the following.

IT IS ORDERED that:

- 1) Plaintiffs may have until noon on Thursday, May 19, 2016, to file a brief concerning whether defendants (a) may be held civilly liable for a seizure based solely on the fact that it was preceded by a wrongful search; and (b) are entitled to qualified immunity with respect to the seizure of plaintiffs' animals if supported by the opinions of independent veterinarians, with any response by defendants due by noon on Friday, May 20, 2016;
- 2) Defendants may have until noon on Thursday, May 19, 2016, to file a brief concerning any authority under Wisconsin law permitting a humane or law enforcement officer to seize animals solely on the basis of a lack of provision of food, drink or shelter, not "causing unnecessary and excessive pain or suffering or unjustifiable injury or death," with any response by plaintiffs due by noon on Friday, May 20, 2016;
- 3) Defendants may have until noon on Thursday, May 19, 2016, to file a brief supporting a jury instruction on "implied" consent for searches under the

Fourth Amendment in the Seventh Circuit, with any response by plaintiffs due by noon on Friday, May 20, 2016;

- 4) By noon on Friday, May 20, 2016, the parties shall consult with one another and file defendants' deposition designations for Janet Balzer, with proponent designations, counter-designations, and if applicable, objections clearly marked as such on the relevant pages of that transcript;
- 5) Unless included in plaintiffs' answers to defendants' interrogatories dated June 25, 2015, plaintiffs may have until noon on Thursday, May 19, 2016, to file an affidavit as to when the following photos were disclosed to defendants: (a) photos taken after June of 2013 in plaintiffs' exhibits one, two and three; (b) photos in plaintiffs' exhibit fifteen; and (c) photos in plaintiffs' exhibit seventeen;
- 7) Defendants may have until noon on Thursday, May 19, 2016, to file expert narratives, with any response by plaintiffs due by noon on Friday, May 20, 2016;
- 8) The parties shall meet and confer regarding any remaining objections to defendants' proposed exhibits and provide the court with an updated list of objections by noon on Friday, May 20, 2016; and
- 9) The court will hold a telephonic conference at 3:00 P.M. on Friday, May 20, 2016, to discuss any remaining pretrial issues. Plaintiffs' counsel is to initiate the call.

Entered this 18th day of May, 2016.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge