

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

LEWIS, J., individually and on behalf
of all others similarly situated,

Plaintiff,

v.

EPIC SYSTEMS CORPORATION,

Defendant.

ORDER

15-cv-82-bbc

Plaintiff J. Lewis was a technical writer for defendant Epic Systems Corporation. In this proposed collective action, plaintiff contends that defendant misclassified his position as exempt from the requirement to pay overtime wages under the Fair Labor Standards Act.

Plaintiff filed this case at the same time as Long v. Epic Systems Corporation, No. 15-cv-81-bbc, another proposed collective action in which the plaintiff was a technical writer contending that defendant had misclassified him. The court scheduled both cases for trial in April 2017; the deadline for dispositive motions was November 14, 2016. Dkt #61.

One prominent difference between the cases was that Lewis had signed an arbitration agreement, but Long had not. As a result of that agreement, defendant moved to compel arbitration in this case. Dkt. #19. I concluded that the arbitration agreement was invalid and denied defendant's motion, dkt. #54, but I stayed proceedings in this case (but not in Long) while defendant pursued an interlocutory appeal, dkt. #66. Now that the Court of

Appeals for the Seventh Circuit has affirmed the decision to invalidate the arbitration agreement and remanded the case for further proceedings, Lewis v. Epic Systems Corp., 823 F.3d 1147 (7th Cir. 2016), the parties have filed a joint request to modify the schedule.

In light of the delay caused by the interlocutory appeal, I agree with the parties that the schedule needs to be modified. However, I do not agree with the dates the parties chose. For example, they do not explain why they need an additional 10 months for motions related to class certification. In addition, under their proposed schedule, there would be only two months between the date they completed their summary judgment briefing (assuming no extensions) and the deadline for motions in limine. That schedule is unrealistic and assumes a seamless summary judgment process, which is far from certain in any case, much less a proposed class action. Accordingly, I will modify the schedule as set forth in the order below.

One final matter deserves attention. Although the court of appeals issued its mandate on July 7, 2016, dkt. #68, the parties did not seek relief from the schedule until more than two months later. In the future, if the parties wish to request a change in the schedule, I anticipate that they will do so in a more timely fashion.

ORDER

IT IS ORDERED that the schedule in this case is modified as follows:

- **May 9, 2017:** Deadline for motions for class certification and motions for decertification of the collective action;

- **October 16, 2017:** Deadline for dispositive motions;
- **December 15, 2017:** Disclosure of plaintiff's damages expert;
- **January 15, 2018:** Disclosure of defendant's damages expert;
- **February 15, 2018:** Discovery cut off;
- **February 22, 2018:** Settlement letters;
- **February 22, 2018:** Rule 26(a)(3) disclosures and all motions in limine;
- **March 8, 2018:** Objections to Rule 26(a)(3) disclosures and responses to motions in limine;
- **March 22, 2018:** Final pretrial conference;
- **April 2, 2018:** Trial.

Entered this 28th day of September, 2016.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge