

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

VINCENT L. AMMONS,

Plaintiff,

v.

BRUCE GERLINGER, RENEE
ANDERSON, BECKY DRESSLER
and RITA ERICSON,

Defendants.

ORDER

06-C-20-C

Plaintiff Vincent Ammons has filed a document titled “Motion to Rescind Bifurcation of Trial on the Issues of Liability and Damages,” which I construe as motion to modify this court’s January 19, 2007, preliminary pretrial conference order to remove the directive that trial is to be bifurcated. In support of his motion, plaintiff notes that at the preliminary pretrial conference, I advised the parties that trial of the case will be bifurcated. I explained that bifurcation means that “the parties will offer evidence and arguments only on the issue of liability, that is, whether plaintiff has proved his claims. If the jury find that the plaintiff has met his burden, then the parties will offer evidence and arguments on the issue of

damages.”

Plaintiff argues that if his case is split into two phases, he will have to present identical testimony in both phases concerning his medical treatment and care and the injuries he sustained as a result of the denial of medical care, and that this will cause the trial to be unnecessarily protracted and expensive. He notes correctly that the purpose of bifurcation is to avoid unnecessary costs or delay and promote expedition of the issues at trial.

Ordinarily, evidence to prove an injury as a result of a defendant’s allegedly illegal conduct differs from the evidence required to prove that the defendant’s conduct violated the law. In this case, however, the two are intertwined. Assuming the case goes to trial and is not decided on a motion for summary judgment, plaintiff will have to present evidence during the liability phase to show that he had a serious medical need. One way to do this is to prove that he had a “condition that carr[ied] risks of permanent impairment or death if left untreated or, that left untreated, would result in needless pain and suffering.” Gutierrez v. Peters, 111 F.3d 1364, 1371 (7th Cir. 1997). Plaintiff suggests that he intends to prove that he suffered a permanent impairment as a result of defendants’ neglect, as well as needless pain and suffering. Certainly, that evidence is equally relevant to prove his damages.

Because little if anything is to be gained in this case by bifurcating the trial, plaintiff's motion for modification of the January 19, 2007, preliminary pretrial conference order to remove the directive that trial is to be bifurcated will be granted.

ORDER

IT IS ORDERED that the January 19, 2007 order is AMENDED to remove the directive that trial is to be bifurcated.

Entered this 3rd day of May, 2007.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge