

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

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DENNIS STRONG,

Plaintiff,

v.

STATE OF WISCONSIN, *et al.*

Defendants.

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ORDER

07-C-086-C

Plaintiff has moved to extend his deadline to conduct destructive testing (dkt. 14). Defendant Vitense does not oppose extending the deadline until July 31, 2007, but asks for more time to research the issue and to provide any substantive objection. *See* dkts. 17-18.

I will move the destructive testing deadline to July 31, 2007 (although the parties apparently have reached a consensus on this without court intervention).

I understand that Vitense's attorney is busy with other matters, but we cannot allow an entire month to elapse before he files a substantive objection. This would jeopardize plaintiff's ability to obtain timely test results and expert testimony, which might be important in this lawsuit. I will allow Vitense ten extra days, until May 17, 2007 within which to file any substantive objections to providing a DNA sample by means of a blood draw or a buccal swab. This may be a new issue to her attorney, but it's not particularly complicated or controversial in a case of this nature. *See, e.g., McGrath v. Nassau Health Care Corp.*, 209 F.R.D. 55, 59 - 64 (E.D.N.Y. 2002) (surveying the law on DNA discovery and granting such discovery so that defendant could attempt to prove his allegation of consensual sexual contact with plaintiff on

a blanket stained with their bodily fluids); *see also D'Angelo v. Potter*, 224 F.R.D. 300, 302-04 (D. Mass. 2004)(applying *McGrath* and reaching same result).

Plaintiff's reply, if any, is due by May 22, 2007. Same day service is required.

Entered this 3<sup>rd</sup> day of May, 2007.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge