

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

LOREN L. LEISER, SR.,

Plaintiff,

v.

OPINION and ORDER

11-cv-328-slc

JEANNIE ANN VOEKS R.N., DR. BRIAN J. BOHLMAN,
DR. KENNETH ADLER, DR. BRUCE GERLINGER,
DR. BRAUNSTEIN, DR. JOAN M. HANNULA,
BRADLEY HOMPE, JAMES GREER, REED RICHARDSON,
HOLLY GUNDERSON, TIMOTHY HAINES,
JODI DOUGERTY, CHERYL WEBSTER,
KENNETH MILBECK, MATTHEW GERBER,
JEROME SWEENEY, PATRICK LYNCH, JUDY BENTLEY,
PATRICIA SCHERREIKS, RENE ANDERSON, DAVID BURNETT,
DR. JOHN SPENCER ARCHINIHU AND JAMES LABELLE,

Defendants.

Plaintiff Loren Leiser is proceeding on several Eighth Amendment medical care claims against defendants, including a claim that members of a Department of Corrections committee refused to approve surgery for plaintiff's right knee. After plaintiff was allowed to proceed against several "John Doe" committee members, the court set a discovery procedure to enable plaintiff to identify these defendants. Pinning down the identity of the final John Doe committee member proved more difficult than is typical in a prison medical care case. After several months, plaintiff concluded that the name of this "John Doe" defendant is "Archinihu John Spencer." (This defendant was served with the complaint and

has identified himself as John Spencer Archinihu; the caption has been amended to reflect defendant's identity.)

The late addition of defendant Archinihu has created a problem with the schedule in this case; the dispositive motions deadline has passed (with most of the defendants having filed motions for summary judgment) and trial is set for November 13, 2012. Both plaintiff and Archinihu have filed motions bringing this issue to the court's attention. Archinihu asks for an extension of time of the deadlines set forth in the court's November 17, 2011 preliminary pretrial conference and proposes an expedited schedule for resolution of plaintiff's claim against him. Because Archinihu has not had proper time to prepare a dispositive motion or prepare for trial, I will grant his motion for an extension of the deadlines in this case. Plaintiff's motion for clarification of the schedule will be denied as unnecessary. In addition, because I see no reason to resolve this case in piecemeal fashion, I will strike the trial date in its entirety and set a new schedule as follows:

- Disclosure of defendant Archinihu's expert witnesses: November 1, 2012
- Deadline for defendant Archinihu's dispositive motions: November 15, 2012
- Discovery Cutoff regarding plaintiff's claim against defendant Archinihu (applies to both plaintiff and Archinihu): November 15, 2012
- Rule 26(a)(3) Disclosures and all motions in limine: February 4, 2013
- Objections: February 18, 2013
- Final pretrial conference: March 11, 2013 at 8:30 a.m.
- Trial: March 11, 2013 at 9:00 a.m.

Finally, I will resolve one other pending matter. Plaintiff has filed a "motion for leave

to proceed in forma pauperis” along with a trust fund account statement, but he has already paid the filing fee for this action and does not explain the purpose of his motion. Accordingly, I will deny that motion.

ORDER

IT IS ORDERED that

1. Defendant John Spencer Archinihu’s motion to extend the deadlines set forth in the court’s preliminary pretrial conference order, dkt. #88, is GRANTED. The November 13, 2012 trial date for this case is STRICKEN and the schedule is amended as set forth in the opinion above.

2. Plaintiff Loren Leiser’s motion for clarification of the scheduling order, dkt. #76, is DENIED as unnecessary.

3. Plaintiff’s motion for leave to proceed in forma pauperis, dkt. #46, is DENIED.

Entered this 30th day of July, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge