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

ROXANNE ANDLER, individually and on behalf of others similarly situated and the Proposed Wisconsin Rule 23 Class,

Plaintiff,

v.

ASSOCIATED BANC-CORP,

Defendant.

ORDER

11-cv-79-wmc

Before the court is the parties' joint motion to amend the pretrial order to facilitate mediation, dkt. 20. This motion will be denied. Here's why:

As counsel undoubtedly are aware, this small federal court has become a national magnet for FLSA class action lawsuits (along with its status as a patent lawsuit magnet) due to the notorious alacrity with which this court resolves its cases. Although the instant case at least has a strong connection to Wisconsin, defendant's headquarters is in the Eastern District of Wisconsin, the proposed Rule 23 class includes the entire state of Wisconsin and it appears that the FLSA class includes loan officers in Wisconsin, Illinois and Minnesota. So, plaintiffs' decision to seek relief in the Western District of Wisconsin appears to have been a tactical choice motivated at least in part by the "when" and "how" of this court's quick and strict procedures for class action lawsuits.

That's fine, but these procedures are a package deal. Litigants and their attorneys are not free to pick and choose which calendaring practices they like and which they would rather avoid, at least not when this would affect the court's ability to do its own work in this case. This court does not stay briefing on substantive motions, even if the parties think it would enhance the possibility of settlement. The court understands that right now, the parties are asking only to extend briefing deadlines on class action issues (in order to delay the need to take discovery), but this is the camel's nose. If this extension is granted and the case does not settle in August, then the rest of the existing

schedule perforce must fall because the calendaring template is tightly tuned with no significant "give" available on the important deadlines.

As a result, this court eschews scheduling moratoriums for settlement purposes, particularly in class action lawsuits. Years of experience in these matters have established to the court's satisfaction that the parties' motivation to settle any given lawsuit increases in the face of firm deadlines and decreases when the deadlines are relaxed or removed. A two-month delay at the beginning of a lawsuit to attempt settlement usually ends up being just a two-month delay, with the added cost of a failed settlement attempt, thus frustrating Rule 1 on every level. Nothing about the parties' proposal in this case convinces the court to handle it differently. This is consistent with the court's April 22, 2011 order in *Larkin, et al. v. Consumer Programs, Inc.*, 10-cv-411, dkt. 69, where the parties made the same request and obtained the same result.

If the parties wish to forego expensive discovery over the summer because they are confident they can settle this case in August, then they may make that bet and they may stake its success or failure with their own time and money. If the parties are more risk averse, then they have the option of crafting a stipulation to dismiss this lawsuit without prejudice and to toll the FLSA statute of limitations while they attempt to settle. But the parties have not persuaded the court that it should delay proceedings in this lawsuit so that they may make another front-end attempt to settle.

Entered this 6th day of June, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge