

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

DAVID SCHLEMM,

Plaintiff,

v.

EDWARD WALL,

Defendant.

OPINION AND ORDER

11-cv-272-wmc

The court is in receipt of plaintiff David Schlemm's latest motion leading up to the March 21 trial of this matter, this time for an extension to complete discovery pursuant to Fed. R. Civ. P. 6(b)(1). (Dkt. #172.) Specifically, plaintiff seeks to extend the discovery cutoff to take depositions that were originally noticed by his former counsel to take place in early- to mid-December of 2015. Unfortunately, plaintiff has not shown "good cause" for an extension as required by Rule 6(b)(1). To the contrary, it was plaintiff who chose to "go it alone" in this case, rather than continue with his representation by extraordinarily competent counsel, apparently because of disagreements over the direction of his lawsuit. Moreover, plaintiff waited two and half months after those depositions were noticed to begin before he wrote a letter to opposing counsel asking to "re-schedule the Depositions at [the Attorney General's] convenience."

In that same February 15, 2016, letter to Assistant Attorney General Jody J. Schmelzer, plaintiff also noted that defendant's pretrial disclosures of witnesses expected to testify included six additional individuals who had not been deposed, and he asked

that their depositions also proceed “as soon as possible.” There is also no good cause shown for plaintiff’s delay in determining possible witnesses who might testify at trial or seeking their depositions on a timely basis. Accordingly, the court will deny plaintiff’s motion for extension.

Fortunately, because the scheduled trial is to the bench, there is a remedy available to plaintiff notwithstanding his unjustified delay that does not require scrambling by the parties to arrange discovery during the last two weeks leading up to trial. The court will allow plaintiff some leeway in questioning defendant’s witnesses who have not been deposed and, for good cause shown, allow him to object to the admission of evidence or to supplement the record with contrary evidence should any legitimate “surprises” present themselves during trial. In addition, the court will further address these accommodations when the parties are present in person at the final pre-trial conference on March 16, 2016.

Finally, should plaintiff wish to take advantage of the opportunity, his former attorneys have graciously agreed to act as advisory counsel at trial -- not formally appearing as trial counsel for the plaintiff, but being available for consultation and advice during the trial and at breaks. The court would also inquire about the availability of one of those attorneys to assist him during the final pre-trial conference as well, but plaintiff will need to notify the court promptly in writing if he wants their assistance.

ORDER

IT IS ORDERED that plaintiff's motion for extension of time to complete discovery pursuant to Fed. R. Civ. P. 6(b)(1) (dkt. #172) is DENIED.

Entered this 4th day of March, 2016.

BY THE COURT:

/s/

William M. Conley
District Judge