

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

S.K., individually and as special
administrator to the estate of R.A.,
M.D., J.L. and J.P.,

Plaintiffs,

v.

UNIVERSITY OF WISCONSIN HOSPITAL
AND CLINICS AUTHORITY, PAUL A. RUTECKI
and CONTINENTAL CASUALTY COMPANY,

Defendants.

ORDER

12-cv-567-bbc

Plaintiffs S.K., M.D., J.L. and J.P. are the wife and children of R.A., who died in 2010. Plaintiffs are suing defendants University of Wisconsin Hospital and Clinics Authority, Continental Casualty Company and Paul A. Rutecki for disclosing R.A.'s HIV/AIDS diagnosis without R.A.'s authorization, in violation of federal and state law. Plaintiffs filed the case in state court, but defendants removed it to this court under 28 U.S.C. § 1441 and then filed motions to dismiss the case for failure to state a claim upon which may be granted under Fed. R. Civ. P. 12(b)(6). Plaintiffs' response briefs are due on August 31 and September 5.

Plaintiffs have filed motions to "bifurcate" the briefing schedule on the motions to dismiss. That is, although defendants are seeking dismissal of plaintiffs' federal and state law

claims, plaintiffs wish to limit their response briefs to addressing defendants' arguments under federal law. They argue that, "in the event [the federal] claims are in fact dismissed, there would no longer be any jurisdictional basis for this action to be venued in federal court." Plts.' Br., dkt. #11, at 4. Plaintiffs ask that, if the court declines to dismiss the federal claims, they be given an opportunity to respond to the arguments about the state law claims at that time.

I am denying plaintiffs' motion because I see no reason to divide defendants' motions to dismiss into two stages. If defendants are successful in obtaining dismissal of the federal claims, the state law claims *may* be remanded to state court under 28 U.S.C. § 1367(c)(3), but that is not a forgone conclusion. For example, "[w]hen the resolution of [the state law] claims is clear . . . the court may choose to decide them." Cortezano v. Salin Bank & Trust Co., 680 F.3d 936, 941 (7th Cir. 2012). Obviously, it is impossible to determine whether resolution of the state law claims is clear without considering both sides' arguments regarding the merit of those claims. Further, if I deny defendants' motions as to the federal claims, bifurcating consideration of the state law claims will serve no purpose but delay.

Although I understand plaintiffs' interest in conserving resources, plaintiffs will need to address defendants' arguments at some point, regardless whether the state law claims are resolved in this court or in state court. If it turns out that the state law claims are remanded, plaintiffs will not have wasted any effort because they may make the same arguments to the state court.

ORDER

IT IS ORDERED that the motions to bifurcate the briefing schedule filed by plaintiffs S.K., M.D., J.L. and J.P., dkt. ## 11 and 19, are DENIED.

Entered this 20th day of August, 2012.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge