

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FILED

AUG 23 2018

Clerk, U S District Court
District Of Montana
Billings

TAMMY WILHITE,

Plaintiff,

vs.

AWE KUALAWAACHE CARE
CENTER, PAUL LITTLELIGHT,
LANA THREE IRONS, HENRY
PRETTY ON TOP, SHANNON
BRADLEY and CARLA
CATOLSTER,

Defendants.

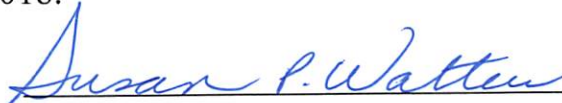
CV 18-80-BLG-SPW

ORDER

Before the Court is the Defendants' motion to vacate the scheduling conference set for August 24, 2018. (Doc. 14). The Defendants argue discovery is premature until the Court rules on the Defendants' motion to dismiss for lack of subject matter jurisdiction. The Defendants additionally argue they "intend" to file an additional motion to dismiss based on sovereign immunity. In her response brief, Plaintiff argues the case should not be delayed due to pretrial motions. In reply, the Defendants assert they are protected by sovereign immunity and the Court should vacate the scheduling conference "pending resolution of the Defendants' Motion to Dismiss based on tribal sovereign immunity."

However, the Defendants misstate the record. The Defendants have not filed a motion to dismiss based on sovereign immunity. And because the Court already denied the motion to dismiss based on subject matter jurisdiction, there are no pending pretrial motions which weigh in favor of granting the motion to vacate. The motion to vacate (Doc. 14) is therefore denied.

DATED this 22nd day of August, 2018.


SUSAN P. WATTERS
United States District Judge