

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

STATE OF WISCONSIN LOCAL
GOVERNMENT PROPERTY
INSURANCE FUND,

Plaintiff,

v.

LEXINGTON INSURANCE
COMPANY, THE CINCINNATI
INSURANCE COMPANY, and
MILWAUKEE COUNTY,

Defendants.

Case No. 15-CV-142-JPS

ORDER

On July 13, 2017, the Court ordered that Plaintiff State of Wisconsin Local Government Property Insurance Fund (the "Fund") should be permitted to amend its complaint to state a claim against Defendant Milwaukee County (the "County"). (Docket #120). The proposed amendment, however, would destroy the Court's subject matter jurisdiction. *Id.* The Court therefore allowed Plaintiff a period of time in which to elect whether it truly wished to amend its complaint. *Id.* The Fund has chosen to withdraw its request for leave to amend and its motion to that effect will be denied as moot. (Docket #124). In accordance with the analysis in the July 13 order, the County's motion for judgment on the pleadings will be granted and it must be dismissed from this action. *See* (Docket #120 at 4). Defendant Lexington Insurance Company's ("Lexington") motion for reconsideration of the July 13 order will also be denied as moot. (Docket #123).

Also on July 13, 2017, the Fund and Lexington filed a joint motion to amend the Court's February 3, 2017 trial scheduling order. (Docket #119). The current trial date for this matter is September 18, 2017. (Docket #51 at 1). The parties' motion states that they do not believe they can complete all desired discovery prior to that date. The parties ask the Court to reschedule the trial to no earlier than February 26, 2018.

The Court is, in large measure, unmoved by the parties' complaints. At the February 2, 2017 scheduling conference, the Court provided the parties with each of the dates embodied in the scheduling order. *See* (Docket #50). It further explained that these dates, especially the trial date, were not subject to substantial, if any, adjustment. *Id.* Both parties have now fully participated in choosing this Court as their forum: Lexington by its removal, and the Fund by declining to advance its claim against the County. The Court will not hear them complain that they now regret their choices. It also strikes the Court that much of the discovery the parties say they have done, and need to do, is duplicative, unnecessary, or wasteful of their respective clients' resources.

The Court will, nevertheless, grant the parties' motion on a limited basis. The trial will not be adjourned into 2018; this matter will be concluded before the New Year. The Court is available for trial beginning on the following dates (all Mondays): October 30, November 27, and December 4.¹ The parties are directed to confer and determine which of these dates are jointly acceptable. The parties will submit a joint filing to this effect no later

¹The parties' Rule 26(f) report stated that they anticipated a three-week trial. (Docket #47-1 at 7). The Court is confident that this case would need substantially less time than that to be tried to completion. Still, in the interests of caution, December 4 is the last viable trial date in 2017 that would ensure the case is concluded prior to January 1, 2018.

than **Wednesday, July 19, 2017 at 2:00 p.m.**² If the parties cannot agree on a new trial date from among those offered, the current date will remain in effect. The parties should further note that the only date the Court is considering for adjournment is the trial date itself. All other hearings and deadlines set forth in the February 3, 2017 trial scheduling order will remain in effect.

Accordingly,

IT IS ORDERED that Defendant Milwaukee County's motion for judgment on the pleadings (Docket #100) be and the same is hereby **GRANTED**;

IT IS FURTHER ORDERED that Defendant Milwaukee County be and the same is hereby **DISMISSED** from this action;

IT IS FURTHER ORDERED that Plaintiff State of Wisconsin Local Government Property Insurance Fund's motion for leave to amend its complaint (Docket #116) be and the same is hereby **DENIED as moot**;

IT IS FURTHER ORDERED that Defendant Lexington Insurance Company's motion for reconsideration (Docket #123) be and the same is hereby **DENIED as moot**;

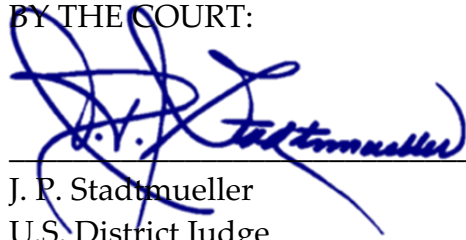
IT IS FURTHER ORDERED that the joint motion of Plaintiff State of Wisconsin Local Government Property Insurance Fund and Lexington Insurance Company to amend the Court's February 3, 2017 trial scheduling order (Docket #119) be and the same is hereby **GRANTED in part** and **DENIED in part** in accordance with the terms of this Order; and

²It is not clear whether Defendant Cincinnati Insurance Company would be meaningfully involved in a trial, if at all. The parties should update the Court on this issue as well.

IT IS FURTHER ORDERED that the parties shall file a notice regarding a new trial date as described by this Order no later than **Wednesday, July 19, 2017 at 2:00 p.m.**

Dated at Milwaukee, Wisconsin, this 17th day of July, 2017.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "J.P. Stadtmueller", is written over a horizontal line. The signature is stylized and somewhat cursive.

J. P. Stadtmueller
U.S. District Judge