UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

TIMOTHY FADER,

Plaintiff,

v. Case No. 16-cv-1107-pp

RICHARD J. TELFER and
AMY EDMONDS,

Defendants.

ORDER GRANTING THE DEFENDANTS' CIVIL L.R. 7(H) EXPEDITED NON-DISPOSITIVE MOTION TO STAY DISPOSITIVE MOTION DEADLINE (DKT. NO. 15) AND DENYING WITHOUT PREJUDICE THE DEFENDANTS' MOTION TO DISMISS FOR FAILURE TO PROSECUTE, OR IN THE ALTERNATIVE TO COMPEL DISCOVERY (DKT. NO. 8)

The plaintiff filed this complaint in August 2016; at that time, he was represented by counsel. Dkt. No. 1. The defendants answered the complaint, dkt. no. 2, and Judge Clevert (who was the assigned judge at that time) held a scheduling conference and set deadlines, dkt. No. 6. The case was reassigned to this court in March 2017, in anticipation of Judge Clevert's impending retirement.

On June 7, 2017, the defendants filed a motion, asking the court to dismiss the case for the plaintiff's failure to prosecute. Dkt. No. 8. The motion alleged that the plaintiff had not responded timely and/or completely to discovery demands. Id. The plaintiff responded, dkt. no. 11, and the defendant replied, dkt. no. 13, but the court did not take any action, despite the fact that the June 15, 2017 deadline for completing discovery had passed, and the July 21, 2017 deadline for filing dispositive motions was looming. Given the court's

inactivity, on July 19, 2017, the defendants filed a motion under Civil Local Rule 7(h), asking the court to stay the dispositive motion deadline. Dkt. No. 15.

In early 2018, it came to the court's attention that there were pending motions that it had not addressed, and that the case had been languishing. The court scheduled a hearing for January 18, 2018. During that hearing, and two others that followed on February 1, 2018 and February 14, 2018, the parties discussed the fact that the plaintiff's counsel's license had been suspended, and that the plaintiff would need to find a new attorney. Dkt. Nos. 16, 18, 19. The court has set a status conference for April 25, 2018 in the hope that by that time, the plaintiff will have retained new counsel and the court can get the case back on track. Dkt. No. 19.

These developments impact the pending motions. The defendants' motion to dismiss the case for failure to prosecute or, in the alternative, to compel discovery appears to have been based, in part, on "failures to communicate" between counsel for the defendants and the plaintiff's prior attorney. When the plaintiff's new lawyer comes on board, that person may wish to try to resolve some of those issues, or to weigh in on any decision the court might make. The court will deny the motion without prejudice. If the motion remains necessary after the plaintiff's new counsel joins the case, the court encourages the defendants to file a motion to renew the motion as filed, or to file a new motion, based on any developments since the date they filed the original motion.

The defendants' motion to adjourn the dispositive motions deadline is a reasonable one under the circumstances (and was at the time the defendants filed it). The court will vacate the original deadline imposed by Judge Clevert.

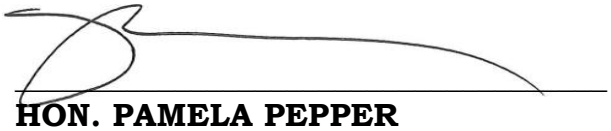
The court anticipates that at the April 25, 2018 status conference, it will coordinate a new schedule for filing dispositive motions, as well as for any other activity that may be necessary given the change in lawyers.

The court **DENIES WITHOUT PREJUDICE** the defendants' motion to dismiss, or in the alternative, to compel discovery. Dkt. No. 8.

The court **GRANTS** the defendants' Civil L.R. 7(h) motion to stay the dispositive motion deadline. Dkt. No. 15. The court **VACATES** that portion of Judge Clevert's January 4, 2017 scheduling order that required the parties to file dispositive motions on or before July 21, 2017. Dkt. No. 6. The court will set new deadlines, including a new dispositive motion deadline, at the April 25, 2018 status conference.

Dated in Milwaukee, Wisconsin this 9th day of March, 2018.

BY THE COURT:



HON. PAMELA PEPPER
United States District Judge