

RABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DANIEL MITCHELL, ROBIN BALL, LUKE
RETTMER, ARMEN TOOLOE, NATHANIEL
CASEY, MATTHEW WALD, SECOND
AMENDMENT FOUNDATION, and NATIONAL
RIFLE ASSOCIATION,

Plaintiffs,

vs.

CHUCK ATKINS, in his official capacity as the
Sheriff of Clark County, Washington; CRAIG
MEIDL, in his official capacity as the Chief of
Police of Spokane, Washington; and TERESA
BERNSTEN, in her official capacity as the
Director of the Washington State Department
of Licensing,

Defendants,

SAFE SCHOOLS SAFE COMMUNITIES,

Intervenor Defendant.

NO. 3:19-CV-05106-RLB

DEFENDANTS CHUCK ATKINS' AND
CRAIG MEIDL'S REPLY IN SUPPORT
OF MOTION TO EXTEND THE INITIAL
SCHEDULING DEADLINES

NOTE ON MOTION CALENDAR:
APRIL 19, 2019

I. INTRODUCTION.

Defendants Meidl and Atkins adopt and incorporate their opening Memorandum
of Authorities (Dkt. No 36) as if stated in full. By way of further argument, Defendants
Meidl and Atkins reply as follows.

DEFS ATKINS' & MEIDL'S REPLY IN SUPPORT
OF MOTION TO EXTEND THE INITIAL
SCHEDULING DEADLINES - 1
(3:19-cv-05106-RBL)

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1 **II. ARGUMENT.**

2 Plaintiffs assert that the instant Motion before this Court is meaningless.

3 Plaintiffs base this assertion on Fed. R. Civ. P. 26(f) requiring all parties to confer on
4 discovery matters “as soon as practical”. Fed. R. Civ. P. 26(f)(1). Plaintiffs further
5 assert that Defendants’ instant motion is moot due to Plaintiffs’ offer to withhold serving
6 any discovery on Defendants Meidl and Atkins until this Court rules on the pending
7 Motions to Dismiss. Incredulously, Plaintiffs allege that this Motion, as well as the
8 Motions to Dismiss brought by Defendants Meidl and Atkins, serve no purpose and
9 demonstrate nothing less than a collusive attempt and effort between all presently
10 named Defendants and the voluntary intervenor in order to foster the delay and/or
11 evade the discovery obligations of Defendant Bernsten and the voluntary intervenor,
12 both of which are clearly the focus of Plaintiffs’ present lawsuit.
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15 Plaintiffs’ assertions, allegations and arguments throughout Plaintiffs’ Response
16 to the Defendants’ Motion to Extend the Initial Scheduling Order are spurious in nature
17 and not supported by any case law. Plaintiffs argue and allege that Defendants’ failure
18 to agree to meet this week prior to this motion being heard, somehow evidence an
19 orchestrated indefinite delay in the discovery process. Further, Plaintiffs contend that
20 such delay is based upon issues unrelated to the merits of any aspect of Meidl’s or
21 Atkins’ pending motions for dismissal. Plaintiffs argue “the parties **must** confer **as soon**
22 **as practicable.**” (emphasis theirs). Plaintiffs’ Response focuses attention on the term
23 “must” and phrase “as soon as practicable”, placing an immediate requirement or
24 urgency upon these Defendants to meet and confer with respect to discovery. Plaintiffs
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1 misinterpret the court rule and their conjectured argument and allegations towards that
2 end are baseless.

3 Clearly, Defendants', Meidl and Atkins, concerns bringing the instant motion lie
4 upon the interpretation of Fed. R. Civ. P. 26(f). Defendants' focus is on the terms
5 "parties" and "practicable." This Court's ruling in the pending dispositive motions, which
6 are scheduled to be heard on April 26, 2019, will determine the "**parties**" in this action.
7 To further support efficiencies and expense to all presently named parties and this
8 Court, it is the Defendants' position that it is not practicable nor is it feasible for the Fed.
9 R. Civ. P. 26(f) conference to take place until this Court rules on the pending dispositive
10 motions. This was communicated to Plaintiffs' counsel when requesting Plaintiffs'
11 counsel to stipulate to a short continuance of dates within the Initial Scheduling Order.
12 Plaintiffs' counsel refused to stipulate, resulting in this timely motion, requesting relief
13 from the deadlines established in the Initial Scheduling Order. Further, Defendants
14 never refused to participate in the Fed. R. Civ. P. 26(f) conference. Defendants clearly
15 indicated that there will be plenty of opportunity to meet and confer pursuant to the
16 Court rule should this instant motion not be granted.

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20 Plaintiffs also argue that by offering to delay issuing discovery upon Meidl and
21 Atkins this somehow renders this present motion moot, proving again the purpose
22 behind this motion was to foster an indefinite delay to comply with the Fed. R. Civ. P.
23 26(f) conference. Plaintiffs miss the mark on all levels.

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25 Defendants Meidl and Atkins have never proposed an indefinite delay to the Fed.
26 R. Civ. P. 26(f) conference. As evidenced by the proposed order accompanying this
27 motion (Dkt. No. 36-1), Defendants Meidl and Atkins have left the determination to this
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1 Court to issue an Amended Order at its discretion. Further, prior to filing this motion,
2 counsel for Atkins called Plaintiffs' counsel and requested that he stipulate to a short
3 continuance of the Initial Scheduling Deadlines, which Plaintiffs' counsel declined
4 unless certain demands were met. (Dkt. No. 37). Notably, as outlined in Plaintiffs'
5 Response to this motion, Plaintiffs' question the need for any discovery from
6 Defendants Meidl and Atkins as the true Defendant in this action is the State. (Dkt. No.
7 39, p.3). If that is the case, Defendants Meidl and Atkins should be dismissed from this
8 action forthwith.
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11 Defendants Meidl and Atkins maintain having staggered discovery timelines
12 among the presently designated parties as contemplated by Plaintiffs' offer does
13 nothing to advance the efficiencies in this litigation nor does it alleviate any expenses
14 incurred by Defendants Meidl and Atkins in responding and/or participating in the Fed.
15 R. Civ. P. 26(f) conference. Additionally, as evidenced by Plaintiffs' proposed Joint
16 Scheduling Order (Dkt. No. 39-1, Exhibit F), Plaintiffs propose a date of July 17, 2020
17 for the close of discovery, and a trial date scheduled for October, 2020. Clearly, given
18 Plaintiffs' own proposed timelines, a short continuance of the deadlines issued in the
19 Initial Scheduling Order as is contemplated by the Defendants in this matter will not
20 prejudice the Plaintiffs whatsoever.
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23 Contrary to Plaintiffs' contentions, the Defendants' opening brief establishes
24 good cause upon which this Court may grant the requested relief to extend the
25 deadlines within the Initial Scheduling Order. Established case law, similar to the facts
26 in this matter, has been provided to this Court supporting Defendants' requested relief.
27 Defendants have valid concerns bringing this Motion for extension until after the
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1 pending Motions to Dismiss are ruled upon. Namely, Defendants Atkins' and Meidl's
2 motions to dismiss have merit, and present a possibility of dismissing these two
3 defendants from this case, or at least limiting the claims against them. If this Court
4 grants the requested relief to dismiss, there would be no need for these two Defendants
5 to engage in **any discovery**, including participating in making initial statements of the
6 case and/or disclosures required by Fed. R. Civ. P. 26(f).

8 Simply put, this Court has the discretion to grant the relief sought by Defendants
9 Meidl and Atkins (as well as to joining Defendant Bernsten and the voluntary intervenor)
10 to extend the deadlines established in the Initial Scheduling Order until this Court has
11 the chance to fully consider and rule on the Motions for Dismissal. There is no
12 conceivable prejudice to Plaintiffs resulting from extending the deadlines within the
13 Initial Scheduling Order.

15 **III. CONCLUSION.**

16 For the forgoing reasons, Defendants Meidl and Atkins respectfully request this
17 Court grant this Motion.

19 Respectfully submitted this 19th day of April, 2019.

20 /s/ Leslie Lopez

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the 19th day of April, 2019, I caused to be electronically filed the foregoing “Defendants Chuck Atkins’ and Craig Meidl’s Reply in Support of Motion to Extend the Initial Scheduling Deadlines” with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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