

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

CHAMBERS OF  
LEO I. BRISBOIS  
MAGISTRATE JUDGE



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Re: Mille Lacs Band of Ojibwe, et al, vs. County of Mille Lacs, Minnesota, et al, 17-CV-5155 (SRN/LIB)

Dear Sirs:

The Court is in receipt of Docket No. 68, a June 20, 2019, letter on behalf of Defendant Joseph Walsh and Defendant Don Lorge, requesting leave to file dispositive motions before the September 30, 2019, close of fact discovery as provided for in the Amended Pretrial Scheduling Order. (Docket No. 60, paras. I, X). Pursuant to instructions from the Court, the Plaintiffs filed their responsive letter on July 3, 2019. (Docket No. 70).<sup>1</sup>

The Plaintiffs oppose the requested early motion practice before the close of fact discovery; moreover, the parties disagree as to whether the dispositive motion practice on behalf of Defendants Walsh and

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<sup>1</sup> Plaintiffs were directed by the Court (Docket No. 69) to file a response to the request for filing of early, dispositive motions on behalf of Defendants Walsh and Lorge. In their letter, Docket No. 70, the Plaintiffs did not limit themselves to the sole subject for the letter as directed by the Court; instead, the Plaintiffs also unilaterally expanded the content of their letter to cover other, possible dispositive or partially dispositive motions which were not the subject of the matter presently before the Court. (See, Docket No. 70). Consequently, the undersigned will not consider at this time the other potential, early dispositive motions floated by Plaintiffs in Docket No. 70.

Lorge may be affected by the fact discovery pending or remaining to be completed before the impending fact discovery cutoff of September 30, 2019. (Compare, Docket No. 68 and Docket No. 70).

Given the very short window of time remaining in the fact discovery phase of this case, the Court sees no material efficiencies to be gained in the conduct of this case, and consequently, no inordinate burdens to be avoided by any party thereto through permitting the filing of early, partial dispositive motion practice before the completion of fact discovery as requested in the June 20, 2019, letter. (Docket No. 68). Indeed, allowing the completion of all pending or remaining fact discovery before September 30, 2019, will avoid the possibility of any Rule 56(d) based opposition to the proposed early dispositive motion practice which would effectively eliminate whatever limited efficiencies, if any, that might be gained by the filing of partial dispositive motions by Defendants Walsh and Lorge during the next 8 – 10 weeks.

In fact, the Court believes it would be a more orderly, and therefore more efficient, way to handle this case overall by first requiring all parties adhere to the September 30, 2019, fact discovery cutoff as provided for in the Amended Pretrial Scheduling Order (Docket No. 60, para. I) before engaging in any early dispositive motion practice. Thereafter, once fact discovery will have been completed here in the very near future, if either side still feels that early dispositive motion practice before the current May 1, 2020, scheduled by deadline (Docket No. 60, para. X) may be potentially advisable, the counsel for all parties shall, prior to seeking leave of the Court, formally meet and confer on the subject of early, partial dispositive motion practice for purposes of trying to determine whether a joint request for leave to file early, partial dispositive motions (not dependent upon completion of expert discovery) may be crafted. If any requests for leave to file early, dispositive motion practice are to be renewed after the completion of fact discovery, the meet and confer described in this paragraph shall be completed and any resulting request for leave to file such motions submitted to the Court no later than October 25, 2019.

Accordingly, for the reasons set forth herein, and subject to the directions provided above for potential future requests for leave to file early dispositive motions, the request by Defendants Walsh and Lorge in their joint letter of June 20, 2019, (Docket No. 68) is DENIED without prejudice.

Respectfully,

Leo I. Brisbois

