

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION

ROY MORLEY and WENDY MORLEY

PLAINTIFFS

v.

No. 3:16-cv-110-DPM

MEDIC ONE LLC, d/b/a Medic One-Arkansas;
DANIEL RIVERA; DESIREE HAWKINS BYRD;
JOHN DOES, 1-6; JIM TOLEWITZKE;
BROOKLAND FIRE PROTECTION DISTRICT;
and AMERICAN ALTERNATIVE
INSURANCE CORPORATION

DEFENDANTS

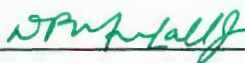
ORDER

The Morleys' motion for reconsideration, *No. 62*, is granted pursuant to Federal Rule of Civil Procedure 59(e). They are right that the Court's extensions of time to serve process preserved the Morleys' time for relation back under Rule 15(c)(1)(C). *Lee v. Airgas-Mid South, Inc.*, 793 F.3d 894, 897 n.3 (8th Cir. 2015); *Robinson v. Clipse*, 602 F.3d 605, 608 (4th Cir. 2010). A timeline with all the material dates and events is in Appendix A. Among the many extensions granted, the Court extended the Morleys' deadline to serve the *original* complaint to 7 April 2017. *No. 19*. Air Evac knew about the lawsuit naming it at least as early as 3 April 2017. *No. 35 at ¶ 2*. So, within the time for service under Rule 4(m), as extended by the Court, Air Evac had enough

notice of this lawsuit that it won't be prejudiced in defending on the merits. It's also clear that, within that period, Air Evac knew the Morleys had made a mistake in not naming Air Evac at the outset. *Ibid.*; *No 21 at ¶¶ 12-13*. Those circumstances satisfy all of Rule 15(c)(1)(C)'s conditions.

Air Evac is reinstated as a defendant; the Court's June 8th Order, *No 57*, is vacated insofar as it is inconsistent with this Order. The Medic One defendants' motion for leave to file notice of non-party fault, *No 58*, is denied without prejudice. They can proceed by cross-claim. The Morleys' motion for more time to file a brief, *No 64*, is denied as moot.

So Ordered.



D.P. Marshall Jr.
United States District Judge



17 August 2017

Appendix A

- 20 April 2016 Complaint filed, naming Medic One, individuals, and John Does. *No* 1.
- 21 April 2016 Statute of limitations expired.
- 15 July 2016 Service deadline extended to 16 November 2016. *No* 7.
- 16 November 2016 Service deadline extended to 15 February 2017. *No* 15.
- 8 February 2017 Service deadline extended to 7 April 2017. *No* 19.
- 30 March 2017 Amended Complaint filed, naming Air Evac for the first time. *No* 21.
- 3 April 2017 Air Evac served with Amended Complaint. *No* 35.
- 5 April 2017 Corrected Amended Complaint filed. *No* 23.
- 10 April 2017 Service deadline extended to 19 April 2017. *No* 25.
- 4 May 2017 Air Evac moved to dismiss on limitations grounds. *No* 40.