

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

GEORGE'S PLACE, LLC., and
MARGARET K. HOCTER,

Plaintiffs,

v.

Case No. 3:11-cv-1096-J-37JBT

GORDON SMITH, in his official
capacity as Sheriff of Bradford
County, Florida and SEVERAL
UNKNOWN BRADFORD COUNTY
DEPUTY SHERIFFS, individually.

Defendants.

ORDER

This cause is before the Court on the following:

- 1) Sheriff Smith's Motion for Final Summary Judgment (Doc. No. 29) ("Motion for Summary Judgment"), filed on March 19, 2012; and
- 2) Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment (Doc. No. 35) ("Response"), filed on April 19, 2012.

BACKGROUND

On February 2, 2012, this Court entered an Order denying Plaintiffs' Motion for Preliminary Injunction. (Doc. No. 25.) On March 19, 2012, before the Court entered a Case Management and Scheduling Order ("CMSO"), Sheriff Smith filed his Motion for Summary Judgment. (Doc. No. 29.) A week later, on March 26, 2012, the Court entered the CMSO, which designated a discovery deadline of September 7, 2012, and a dispositive motions deadline of October 5, 2012. (Doc. No. 31.) Recognizing that Plaintiffs had not yet responded to the Motion for Summary Judgment, the Court entered a *Milburn* Notice,

advising Plaintiffs that it would take the Motion under advisement on April 19, 2012. (Doc. No. 34.)

On April 19, 2012, Plaintiffs filed their Response. (Doc. No. 35.) In it, they contended that Sheriff Smith's Motion is "blatantly premature" because there has been no opportunity for reasonable discovery. (Doc. No. 35, p. 3.) They asked the Court to deny the Motion at this time, and to give them the opportunity to adequately conduct discovery and review the relevant documents. (See *id.* at p. 5.)

In light of the fact that the discovery deadline is approximately five months from the date of this Order, the Court finds Plaintiffs' arguments well-taken.

CONCLUSION

Accordingly, it is hereby **ORDERED AND ADJUDGED** that Sheriff Smith's Motion for Final Summary Judgment (Doc. No. 29), filed on March 19, 2012, is **DENIED** without prejudice. Sheriff Smith may re-file his Motion (with any changes or additions as he sees fit) at the close of discovery or at such time as the parties have had an opportunity to fully develop the record.

DONE AND ORDERED in Chambers in Jacksonville, Florida, on April 24, 2012.



ROY B. DALTON, JR.
United States District Judge

Copies:

Counsel of Record