

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JOE ALLEN POST,

Plaintiff,

v.

WARDEN McKEE, et al.,

Defendants.

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Case No. 2:07-cv-11943

HONORABLE STEPHEN J. MURPHY, III

**ORDER REQUESTING ADDITIONAL BRIEFING ON PLAINTIFF'S MOTION  
FOR LEAVE TO AMEND THE COMPLAINT TO ADD NURSE QUARLES  
AS A PARTY-DEFENDANT PURSUANT TO MCL 600.2957 (docket no. 83)**

The plaintiff in this civil rights action has filed a motion to amend the complaint to add a Nurse Quarles as an additional party-defendant pursuant to MCL 600.2957. The defendants have opposed amendment, relying on the applicable three-year statute of limitations contained in MCL 600.5805(10) to argue that any claim against Nurse Quarles is time barred. Plaintiff asserts in his reply that MCL 600.2957 applies to toll the statute of limitations contained in MCL 600.5805(10).

There is authority in Michigan and in this district that Rule 2.112(K) of the Michigan Court Rules is relevant to the question of whether MCL 600.2957 applies to toll the statute of limitations in cases similar to the present matter. See *Staff v. Johnson*, 242 Mich. App. 521 (2000), *United House of Prayer for All People v. United Bldg. Contractors, Inc.*, 428 F. Supp. 2d 688 (E.D. Mich. 2006) and *Veget v. Detroit Entertainment, LLC*, No. 02-73720, 2007 WL 4126372 (E.D. Mich. Nov. 20, 2007). Neither party has addressed the applicability of the Michigan rule to this issue. The Court therefore requests that the parties file supplemental briefs on the issue of whether Mich. Ct. R. 2.112(K) is relevant to the question of whether plaintiff's motion to amend should be granted.

For the foregoing reasons it is hereby **ORDERED** that the plaintiff and defendants may each file a supplemental brief, not to exceed ten pages in length, on plaintiff's Motion for Leave to Amend Complaint to add Nurse Quarles as a Party-Defendant Pursuant to MCL 600.2957 (docket no. 83) by July 30, 2009. Either party may also file a response, not to exceed five pages in length, to the other party's supplemental brief by August 6, 2009. The supplemental briefs are to address the question of whether and to what extent Michigan Court Rule 2.112(K) applies to the issues raised by plaintiff's motion to amend.

s/Stephen J. Murphy, III  
STEPHEN J. MURPHY, III  
United States District Judge

Dated: July 22, 2009

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on July 22, 2009, by electronic and/or ordinary mail.

Alissa Greer  
Case Manager