

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION

VICTORIA WHITTINGTON,)
MAEGEN BRIGHT, and)
SONDRA LONESS,)
)
Plaintiffs,)
)
v.) No. 2:13 CV 16 DDN
)
MARK ANTHONY ISGRIG,)
ANGELA PEARL, and)
PATRICIA CORNWELL,)
)
Defendants.)

MEMORANDUM AND ORDER

Before the court is the renewed motion of plaintiffs under F. R. Civ. P. 20 to add Sondra Loness as a plaintiff. (Doc. 73.) As the court had ordered (Doc. 72), plaintiffs attached to their renewed motion a proposed second amended complaint which states the proposed allegations on behalf of Ms. Loness. (Doc. 73-1.)

Federal Rule of Civil Procedure 20 provides in relevant part:

(a) Persons Who May Join or Be Joined.

(1) ***Plaintiffs.*** Persons may join in one action as plaintiffs if:

(A) they assert any right to relief jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and

(B) any question of law or fact common to all plaintiffs will arise in the action.

* * *

(b) Protective Measures. The court may issue orders -- including an order for separate trials -- to protect a party against embarrassment, delay, expense, or other prejudice that arises from including a person against whom the party asserts no claim and who asserts no claim against the party.

F.R.Civ.P.20(a), (b).

Plaintiffs' proposed amended complaint alleges that defendant Mark Anthony Isgrig, while employed as a corrections officer at the Missouri state Women's Eastern Reception, Diagnostic and Corrections Center (WERDCC), subjected the plaintiffs, who were inmates at that correctional center, to sexual physical contact without their consent: Victoria Whittington from March 1 through June 22, 2011; Maegen Bright from June 1 through June 21, 2011; and Sondra Loness from February 1 through June 21, 2011.

Plaintiffs and Ms. Loness seek similar relief under the Eighth Amendment to the Constitution of the United States for alleged cruel and unusual punishment, failure to train employees, failure to protect plaintiffs, and failure to have adequate procedures to protect plaintiffs. Plaintiffs and Ms. Loness also seek relief under Missouri state common law for outrageous conduct against them.

The proposed second amended complaint asserts identical rights to relief that allegedly arose out of a series of similar occurrences by defendant Isgrig against each of the plaintiffs and Ms. Loness. The issues of law and fact, from the face of the proposed amended complaint, are common to all the claimants and defendants. Their claims are sufficiently "logically related" to warrant adding Ms. Loness as a plaintiff. In re Prempro Products Liability Litigation, 591 F.3d 613, 622-23 (8th Cir. 2010).

Defendants argue that the amendment comes too late, because the deadline for adding parties was November 13, 2013, and the discovery closing date is November 21, 2014. Further, the jury trial setting is April 6, 2015 in Hannibal, Missouri.

Defendants' argument regarding the timeliness of the amendment is addressed by F.R.Civ.P. 15, which directs that "The court should freely give leave [to amend] when justice so requires." F.R.Civ.P. 15(a)(2). No argument is made that Ms. Loness's allegations do not state a claim upon which relief can be granted. F.R.Civ.P. 12(b)(6).

Defendants argue that allowing the amendment will confuse the jury and prejudice the defendants. The court disagrees. The rights of all parties, plaintiffs and defendants, can be sufficiently addressed by measures that include proper jury instructions.

The motion to add a third plaintiff is sustained.

Adverting to federal civil Rule 20(b), the court can prevent any unfair prejudice or disadvantage to defendants caused by the addition of a third plaintiff at this time. The court will require the parties to meet, discuss, and propose an amended case management order to allow for appropriate further discovery and motion practice, and a new trial date if necessary.

Therefore,

IT IS HEREBY ORDERED that the motion of plaintiffs to add the claim of Sondra Loness (Doc. 73) is sustained.

IT IS FURTHER ORDERED that plaintiffs have until November 21, 2014 to file their, as yet unsigned, second amended complaint.

IT IS FURTHER ORDERED that the parties file not later than December 19, 2014, a proposed joint amended case management order, which addresses necessary additional discovery and motion practice, and any need for a new trial date.

/s/ David D. Noce
UNITED STATES MAGISTRATE JUDGE

Signed on November 10, 2014.