

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO. 3:07-CV-485-DCK**

**MARC HUBBARD**, individually, and )  
**SPORTS DIMENSIONS, INC.**, )  
d/b/a CLUB DEEP, )

**Plaintiffs,** )

**vs.** )

**THE CHARLOTTE-MECKLENBURG** )  
**POLICE DEPARTMENT;** )

**THE CITY OF CHARLOTTE**, a North )  
Carolina Municipality; )

**DETECTIVE MIKE BARRON**, )  
Individually and Officially, as an )  
Officer for the Charlotte-Mecklenburg )  
Police Department; )

**OFFICER TERRY MACK**, )  
Individually and Officially, as an )  
Officer for the Charlotte-Mecklenburg )  
Police Department; )

**OFFICER MIKE SMATHERS**, )  
Individually and Officially, as an )  
Officer for the Charlotte-Mecklenburg )  
Police Department; )

**MAJOR EDDIE LEVINS**, )  
Individually and Officially, as an )  
Officer for the Charlotte-Mecklenburg )  
Police Department; )

**Defendants.** )

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**THIS MATTER IS BEFORE THE COURT** on Defendant City of Charlotte’s “Motion For Summary Judgment” (Document No. 22) filed July 29, 2009; Defendants Levins, Barron, Smathers and Mack’s “Motion For Summary Judgment” (Document No. 23) “Memorandum In

Support Of Summary Judgment (Document No. 23-1) filed August 3, 2009; “Plaintiff’s Brief In Opposition To Defendants’ Motions For Summary Judgment” (Document No. 26), filed September 10, 2009; “Response Of Defendants Smathers, Levins, Mack And Barron To The Plaintiff’s Opposition Of The Defendant’s Motion For Summary Judgment” (Document No. 29), filed September 25, 2009; and “Defendant’s Reply In Support Of Motion For Summary Judgment” (Document No. 30) filed on September 25, 2009. The parties have consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c), and the motions are ripe for disposition.

Having carefully considered the papers, the record, and applicable authority, the undersigned will respectfully deny the motions for summary judgment without prejudice to re-file. The Court has spent considerable time reviewing the pleadings and finds that they are inadequate in certain important respects. Assuming Defendants wish to re-file their motion(s) for summary judgment, the Court will allow new motions and briefs to be filed. The undersigned is particularly interested in well-developed and specific arguments, supported by relevant legal authority, on issues including: 1) the effect of the statute of limitations on any of Plaintiffs’ claims; 2) the applicability of a defense of qualified immunity to any Defendants; and 3) whether the Court in its discretion should address Plaintiffs’ state law claims, and if so, the legal authority supporting summary judgment on those claims.

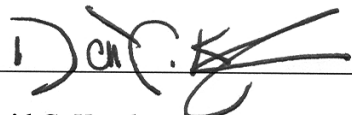
The Court regrets the time that has passed in reaching this conclusion. However, the Court will promptly review any revised motions and render a timely decision. Any further extension of the trial date currently set for October 25, 2010, is unlikely.

**IT IS, THEREFORE, ORDERED** that Defendant City of Charlotte’s “Motion For Summary Judgment” (Document No. 22) and Defendants Levins, Barron, Smathers and Mack’s “Motion For Summary Judgment” (Document No. 23) are **DENIED WITHOUT PREJUDICE**.

**IT IS FURTHER ORDERED** that Defendants may file revised motion(s) for summary judgment on or before **April 30, 2010**. Responses and replies, if any, shall follow in the time allowed by the rules.

**SO ORDERED.**

Signed: March 29, 2010

  
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David C. Keesler  
United States Magistrate Judge

