

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Jonathan David Loggins,)
Plaintiff,) **ORDER**
vs.)
Burleigh County, et al.,)
Defendant.)
Case No. 1:24-cv-106

On January 24, 2025, Plaintiff Jonathan David Loggins (“Loggins”) filed what the court construes as a motion for leave to file a second amended complaint. (Doc. No. 27).¹ Therein he names several new defendants.

On February 7, 2025, Defendant Burleigh County filed a response to Loggins’s motion. (Doc. Nos. 28 and 29). It initially points out that the deadline to file motions to amend has expired. However, it recognizes that the new defendants Loggins has named may be the “Unknown Officers 1-20” that he enumerated in his earlier pleadings and that he may have been able to ascertain the identity of these new defendants through discovery it has provided. Consequently, it does not object to Loggins’s motion with the understanding that Loggins is proceeding against these newly named defendants in their official capacity.² However, it requests that the court schedule a status conference and scheduling conference to amend the current scheduling order.

¹ The document filed by Loggins is not a motion or brief, but rather a proposed second amended complaint.

² Loggins does not specify the capacity in which is suing the newly named Defendants. The brightline rule in the Eighth Circuit has long been that when a plaintiff’s complaint is silent about the capacity in which he is suing the defendant, the complaint is interpreted as including only official-capacity claims. However, the Eighth Circuit has recently abandoned this rule in favor of the course of proceedings test. S.A.A. v. Geisler, 127 F.4th 1133, 1140 (8th Cir. 2025) (“[W]e join our sister circuits in rejecting the clear statement rule in favor of the course of proceedings test for determining the capacity in which a § 1983 defendant is sued.”).

The court **GRANTS** Loggins's motion for leave to file a second amended complaint (Doc. No. 27). The document filed by Loggins at Doc. No. 27 shall be re-filed as Loggins's second amended complaint. The court GRANTS Burleigh County's request for a status conference. (Doc. No. 29). The court shall hold a status conference with the parties' by telephone on March 25, 2025, at 9:00 AM by telephone. To participate, the parties should call 571-353-2301 and enter 292466149 followed by # when prompted for "Call ID."

IS SO ORDERED.

Dated this 11th day of March, 2025.

/s/ Clare R. Hochhalter

Clare R. Hochhalter, Magistrate Judge
United States District Court