

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

LAMON LAMAR BARNES,

Plaintiff,

-vs-

Case No. 13-CV-607

BROWN COUNTY, et al.,

Defendants.

DECISION AND ORDER

The plaintiff has filed a motion for leave to include exhibits identifying John and Jane Doe defendants (ECF Nos. 92 and 32) as attachments to the June 19, 2015, amended complaint. Upon due consideration, this request will be granted.

Next, the plaintiff has filed a motion to extend time to file his motion to compel beyond the June 22, 2015, deadline (ECF No. 189). He asserts that he placed his motion to compel and supporting materials in the prison mailbox on June 19, 2015, but the documents were not mailed out that day because the institution scale was broken. The plaintiff's motion to compel was filed on June 24, 2015, two days beyond the deadline. The Court will grant the plaintiff's motion. *See* Fed. R. Civ. P. 6(d); *see also Edwards v. United States*, 266 F.3d 756, 758 (7th Cir. 2001) (applying the "mailbox rule," papers filed by a prisoner are deemed filed on the date they are given

to prison authorities for mailing).

The plaintiff has filed a supplemental motion for continuance to file motion to compel, extension of summary judgment deadline, and extension of time to respond to dispositive motion (ECF No. 193). By this motion, the plaintiff provides additional support for his motion for extension of time to file his motion to compel. He also requests additional time to respond to the defendants' motion for summary judgment and to file his own dispositive motion. The Court will grant this motion as set forth below.

Here, the defendants filed their joint motion for summary judgment on December 8, 2014.¹ The plaintiff has not yet responded to this motion. He recently, with leave of the Court, filed a motion to compel discovery.² Also, on June 19, 2015, the plaintiff filed an amended complaint identifying the three Doe defendants: DTF Investigator Scanlan, DTF Investigator Brodbeck, and Mary Lynn Young. Two of these defendants, Brodbeck and Young, have been served and answered the amended complaint; the third former Doe defendant, Scanlan, has not yet been served. Finally, on June

¹ There are three sets of defendants (Brown County defendants, City of Green Bay defendants, Village of Ashwaubenon defendants) represented by different attorneys.

² The Court will address the plaintiff's motion to compel, which is not yet fully briefed, in subsequent order.

5, 2015, the Court ordered the United States Marshals Service to locate and serve defendant JuJuan Jones by July 6, 2015.

Based on the above-noted factors, i.e., the fact that most of the defendants have filed a motion for summary judgment while four of the defendants have not yet been served and the fact that there are three sets of defendants represented by different attorneys, this case is procedurally complicated. In order to simplify this case as much as possible, and to put the case back on a single litigation track as to all defendants, the Court will deny without prejudice the defendants' motion for summary judgment at this time.³ Once all of the defendants have been served and answered the amended complaint, the Court will enter an Amended Scheduling Order and allow the parties to conduct discovery, limited to the new defendants. The Amended Scheduling Order will also set one deadline for filing dispositive motions which will apply to all defendants.

NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT the plaintiff's motion for leave to include exhibits, ECF Nos. 92 and 32, as attachments to the amended complaint

³ The defendants are advised that when they file their amended motion for summary judgment, they may refer to materials from their original motion, without refile the materials with the Court. They should mail the materials to the plaintiff, however.

(ECF No. 185) is **GRANTED**.

IT IS FURTHER ORDERED that the plaintiff's motion for extension of time (ECF No. 189) is **GRANTED**.

IT IS FURTHER ORDERED that the plaintiff's motion for continuance to file motion to compel, extension of dispositive motion deadline, and extension of time to respond (ECF No. 193) is **GRANTED**.

IT IS FURTHER ORDERED that the defendants' motion for summary judgment (ECF No. 123) is **DENIED WITHOUT PREJUDICE**. Once all of the defendants have been served and answered the amended complaint, the Court will enter an Amended Scheduling Order and allow the parties to conduct discovery, limited to the new defendants. The Amended Scheduling Order will also set one deadline for filing dispositive motions which will apply to all defendants.

IT IS FURTHER ORDERED that defendant Investigator Bradbeck should be correctly named as Brad Brodbeck.

Dated at Milwaukee, Wisconsin, this 7th day of July, 2015.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge