IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RAYCHELLE FREEMAN and
BOBBY DEAN, SR., individually and on behalf of
other similarly situated employees,

OPINION AND ORDER

Plaintiffs,

12-cv-461-wmc

v.

TOTAL SECURITY MANAGEMENT -- WISCONSIN, LLC,
TOTAL SECURITY MANAGEMENT -- ILLINOIS 1, LLC,
TOTAL SECURITY MANAGEMENT -- INDIANA, LLC and
TOTAL SECURITY MANAGEMENT, INC.,

Defendants.

As originally pled on June of 2012, this action involved claims for failure to pay wages and overtime in violation of the federal Fair Labor Standards Act (FLSA), 29 U.S.C. § 201 *et seq*., and Wisconsin's wage and hour laws, Wis. Stat. § 103.03 and § 109.02. The complaint named one plaintiff, Raychelle Freeman, two defendants, Total Security Management – Wisconsin, LLC, and Total Security Management, Inc., and proposed a single Rule 23 class for the claims arising under Wisconsin law.

After the deadline for the parties to amend their pleadings without leave of the court, Freeman has now thrice moved to amend her complaint to add claims and parties. None of these pending motions are opposed by defendants. The first time, on November 7, 2012, she asked leave to add defendant Total Security Management – Illinois 1, LLC. (Dkt. #19.) The second time, on January 16, 2013, she asked leave to (1) add overtime claims under Illinois and Indiana state law; (2) split her Wisconsin Rule 23 in two; (3)

add Rule 23 classes for Illinois and Indiana plaintiffs; (4) add a fourth defendant, Total Security Management – Indiana, LLC; and (5) add a co-plaintiff, Bobby Dean Sr., who would serve as the proposed representative of the putative Illinois and Indiana classes. (Dkt. #76.) The third time, on March 8, 2013, Freeman filed an unopposed third amended complaint, which deleted her Rule 23 Wisconsin class claims regarding pre-shift work. (Dkt. #86.)

Federal Rule of Civil Procedure 15(a)(2) provides that courts "should freely give leave [to amend] when justice so requires." A request to amend may, however, be denied for undue delay, undue prejudice to the party opposing the motion, or futility of the amendment. *Butts v. Aurora Health Care, Inc.*, 387 F.3d 921, 925 (7th Cir. 2004). Freeman argues that adding the proposed claims and classes will not unduly prejudice or burden defendants because "the elements of the Illinois and Indiana wage and hour statutes are effectively the same as the Wisconsin statutes," and that these state law claims are all based on the same facts that are relevant to the FLSA claims -- thus, the addition of the state law claims "will not require the opposing party to bear additional discovery costs." Freeman also convincingly argues that she has been diligent in her early discovery and in seeking leave to amend once discovery uncovered additional claims and defendants.

Since defendants also apparently agree, having disputed none of these assertions, the court will allow all of Freeman's proposed amendments. Accordingly, the third amended complaint is now the operative pleading, defendants may have twenty (20)

days to answer, move or otherwise respond (or to agree with plaintiffs that no additional pleading is necessary), and the caption in this case will be altered as set forth above.

ORDER

IT IS ORDERED that:

1) plaintiffs' motions to file a first, second and third amended complaint (dkts. ## 19, 76, 85) are GRANTED;
2) defendants may have twenty (20) days to answer, move or otherwise respond; and
3) the caption in this case will be altered as set forth above.

Entered this 12th day of March, 2013.

BY THE COURT:

/s/

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WILLIAM M. CONLEY
District Judge