

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

DENNIS EARL BARNES,

Plaintiff,

ORDER

03-C-703-C

v.

WILLIAM J. BLACK and METROPOLITAN
LIFE PROPERTY & CASUALTY INSURANCE,

Defendants.

The parties in this case are briefing defendants' motion to dismiss. When they filed their motion, defendants did not file a supporting brief. Instead, they stated their grounds for dismissal in their motion as failure to meet the statute of limitations and lack of personal jurisdiction over defendant Black. The motion was accompanied by the affidavit of William Black in support of his argument that this court lacks personal jurisdiction over him. Plaintiff filed an opposing brief titled "Plaintiff's Motion in Opposition to Defendants' Motion to Dismiss under Rule 12(b)." Defendants then filed a reply brief in which they conceded that plaintiff's complaint was filed within the applicable statute of limitations.

However, they argued for the first time that plaintiff's complaint cannot stand against defendant Metropolitan Life Property & Casualty Insurance without defendant Black, and that Black must be dismissed for lack of personal jurisdiction. Not surprisingly, plaintiff filed a sur-reply to defendants' new argument. He titled this document "Plaintiff's Motion in Response to Defendants' Reply Brief."

Now defendants have filed a letter requesting permission to respond to plaintiff's sur-reply. That request is DENIED. Both parties have had ample opportunity to develop their legal arguments in support of and in opposition to defendants' motion. The motion has been placed under advisement and will be decided as promptly as the court's calendar permits.

Entered this 17th day of May, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge