

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

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TONY O. LaVINE and GAYLE M.  
LaVINE,

Plaintiffs,

v.

CITY of HAYWARD, a fourth class  
Wisconsin municipality, THOMAS J.  
DUFFY, JR., individually and in his  
official capacity as Mayor of the City  
of Hayward, JOHN METCALF,  
individually and in his official capacity  
as Director of Public Works for the  
City of Hayward, MICHAEL A.  
KELSEY, individually and in his  
official capacity as City Attorney for  
the City of Hayward, LUCY  
GUNTHER, individually and in her  
capacity as City Clerk for the City of  
Hayward, and CHESTER A.  
BONCLER, JR.,

Defendants

and

WEST BEND INSURANCE COMPANY,

Intervening Defendant.  
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MEMORANDUM

04-C-0201-C

A scheduling hearing was held by telephone in this case on January 5, 2005, before United States District Judge Barbara B. Crabb. Jeffrey Leavell participated on behalf of West Bend Mutual. Michael Modl participated on behalf of City of Hayward and defendants Duffy, Metcalf, Kelsey and Gunther. Jacob Westerhof participated as counsel on behalf of Chester Boncler, Jr. Kevin D. Stanley represented plaintiffs.

After some discussion, I determined that the plaintiffs' motion to amend their complaint focuses on the supplemental amended complaint that they filed on December 8, 2004, which is docketed as dkt. #58. The parties do not oppose the motion for leave to amend now that they know which document is intended to be the operative amended complaint. Therefore, the motion for leave to amend is GRANTED.

Because the amended complaint raises some new issues or concerns new facts, West Bend Mutual may have until January 19, 2005 in which to file and serve a revised motion for summary judgment. Responses are due no later than February 9, 2005 and the reply is to be filed and served no later than February 18, 2005.

The motion for summary judgment on the merits is to be filed and served no later than February 1, 2005. Briefs and materials in opposition are to be filed and served no later than February 22, 2005 and replies are due March 10, 2005.

Mr. Westerhof indicated that he intends to file a counterclaim on behalf of Chester Boncler, Jr. He may have until January 21, 2005, in which to do so.

Entered this 6th day of January, 2005.

BY THE COURT:

BARBARA B. CRABB  
District Judge