

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

JEFFREY D. LEISER,

Plaintiff,

ORDER

v.

BELINDA SCHRUBBE, R.N., DR. CHARLES
LARSON, M.D., DR. DEBBE LEMKE, M.D.,
DR. PAUL SUMNIGHT, M.D., MARK
JENSEN, R.N., SANDY JACKSON, R.N.,
SERGEANT DONALD VANDERGALIEN
and TONIA ROZMARYNOSKI¹

11-cv-254-slc

Defendants.

In an order entered on July 26, 2011, plaintiff was granted leave to proceed on his claims that defendants Schrubbe, Larson, Lemke, Sumnicht, Jensen, Jackson, VanderGalien and Rozmarynoski were deliberately indifferent to plaintiff's neck and back pain in violation of the Eighth Amendment. The Attorney General's office has accepted service of plaintiff's complaint on behalf all of the defendants *except* defendants Lemke and VanderGalien. Therefore, the clerk of court has prepared Marshals Service and summons forms for these defendants and is forwarding copies of the complaint and completed forms to the United States Marshal for service on them.

In completing the Marshals Service forms for defendants Lemke and VanderGalien, the clerk has not provided forwarding addresses because this information is unknown. It will be up to the marshal to make a reasonable effort to locate defendants Lemke and VanderGalien by contacting their former employer or conducting an Internet search of public records for the

¹ I have amended the caption to replace Sergeant Vander-Galon with the name Donald VanderGalien and Sergeant Bristol with the name Tonia Rozmarynoski as identified in the Acceptance of Service.

defendants' current addresses or both. *See Sellers v. United States*, 902 F.2d 598, 602 (7th Cir. 1990) (once defendant is identified, marshal to make reasonable effort to obtain current address). Reasonable efforts do not require the marshal to be a private investigator for civil litigants or to use software available only to law enforcement officers to discover addresses for defendants whose whereabouts are not discoverable through public records.

Also, for plaintiff's information, in *Sellers*, the court of appeals recognized the security concerns that arise when prisoners have access to the personal addresses of former or current prison employees. *Sellers*, 902 F.2d at 602. For this reason prison employees often take steps to insure that their personal addresses are not available in public records accessible through the Internet. If the marshal is successful in obtaining a defendant's personal address, he is to maintain that address in confidence rather than reveal it on the marshals service forms, because the forms are filed in the court's public file and mailed to the plaintiff after service is effected.

Finally, pursuant to an informal service agreement between the Wisconsin Department of Justice and this court, the Department has agreed to accept electronic service of documents on behalf of the defendants it represents. This means that for the remainder of this lawsuit, plaintiff does not have to send a paper copy of each document he files with the court to the Department or defendants Schrubbe, Sumnicht, Jensen, Jackson, Larson and Rozmarynoski. The Department will access the document through the court's electronic filing system.

However, because the Department is currently not representing defendants Lemke and VanderGalien, plaintiff still must send to counsel for these defendants paper copies of each document he files with the court. If, at some later time, the Department agrees to represent one or both of these defendants, then plaintiff will not have to send those defendants a copy of each document he files any more.

Discovery requests or responses are an exception to the electronic service rule: plaintiff should send his discovery requests and send his responses to defendants' discovery requests directly to the attorneys for the opposing parties. Plaintiff does not have to send discovery requests or responses to the court. Discovery procedures will be explained more fully at the preliminary pretrial conference.

ORDER

IT IS ORDERED that the U.S. Marshal shall make reasonable efforts to locate defendants Lemke and VanderGalien and, if his efforts are successful, to serve them with a copy of the summons and complaint in this case. If the Marshal is unsuccessful in locating defendants Lemke and VanderGalien despite making reasonable efforts to locate these defendants, he may file an unexecuted return on which he describes the efforts he made.

Entered this 9th day of August, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge