

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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SUSAN DOXTATOR,  
ARLIE DOXTATOR, and  
SARAH WUNDRLICH,

Plaintiffs,

v.

Case No. 19-C-137

ERIK O'BRIEN,  
ANDREW SMITH,  
HEIDI MICHEL,  
CITY OF GREEN BAY,  
BROWN COUNTY,  
TODD DELAIN,  
JOSEPH P. MLEZIVA,  
NATHAN K. WINISTERFER,  
THOMAS ZEIGEL,  
BRADLEY A. DERNBACH, and  
JOHN DOES,

Defendants.

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**ORDER**

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On January 24, 2019, Plaintiffs filed this action pursuant to 42 U.S.C. § 1983, in their capacities as the special administrators of the Estate of Jonathan C. Tubby, against Defendants. Defendants Brown County, John Gossage, and Heidi Michel filed a motion to dismiss Plaintiffs' claims against them on February 18, 2019. Rather than file a response to the motion, Plaintiffs filed their first amended complaint as a matter of course pursuant to Federal Rule of Civil Procedure 15(a).

Generally, the filing of an amended complaint renders moot any pending motion to dismiss. *See, e.g., Lim v. Central DuPage Hosp.*, 972 F.2d 758, 762 (7th Cir. 1992) (noting trial judge's

denial of pending motion to dismiss as moot in light of amended complaint); *Johnson v. Dossey*, 515 F.3d 778, 780 (7th Cir. 2008) (“When an amended complaint is filed, the prior pleading is withdrawn and the amended pleading is controlling.”). Accordingly, the motion to dismiss (ECF No. 20) is **DENIED as moot**.

**SO ORDERED** this 27th day of March, 2019.

s/ William C. Griesbach  
William C. Griesbach, Chief Judge  
United States District Court