

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

Susan Doxtator, Arlie Doxtator, and
Sarah Wunderlich, as Special
Administrators of the Estate of Jonathon
C. Tubby,

Plaintiffs,

Case No. 19-CV-00137

v.

Erik O'Brien, Andrew Smith, Todd J.
Delain, Heidi Michel, City of Green
Bay, Brown County, Joseph P. Mleziva,
Nathan K. Winisterfer, Thomas Zeigle,
Bradley A. Dernbach, and John Does 1-5,

Defendants.

**DEFENDANT BROWN COUNTY'S NOTICE OF MOTION
AND MOTION TO DISMISS DEFENDANTS ERIK O'BRIEN, ANDREW SMITH, AND
CITY OF GREEN BAY'S CROSS-CLAIM (ECF NO. 41)**

Defendant Brown County, by its attorneys, Crivello Carlson, S.C., respectfully moves the Court for an order, pursuant Fed. R. Civ. P. 12(b)(6), dismissing the defendants Erik O'Brien, Andrew Smith, and City Of Green Bay's cross-claim for state law indemnification and contribution claims against Brown County, (ECF No. 41), because the allegations fail to state a claim upon which relief can be granted due to noncompliance with the procedural prerequisites under Wis. Stat. § 893.80. As such, the cross-claim should be dismissed.

This motion is based on the pleadings and papers on file in this action and the accompanying Brief in Support.

Dated this 16th day of April, 2019.

CRIVELLO CARLSON, S.C.

Attorneys for Defendants Todd J. Delain, Heidi Michel,
Brown County, Joseph P. Mleziva, Nathan K. Winisterfer,
Thomas Zeigle, and Bradley A. Dernbach

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