IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

BRYAN CORDREY and DONNA CORDREY, Plaintiffs, v. CORPORAL MARK J. DOUGHTY, In his individual capacity, DEPARTMENT OF SAFETY AND HOMELAND SECURITY – DIVISION OF STATE POLICE, CORPORAL CHRISTOPHER POPP, in his individual capacity, CORPORAL DEVON HORSEY, in his individual Capacity, TFC JOSH SCARAMUZZA, in his individual capacity, TFC BROCK ADKINS, in his individual capacity, and SERGEANT ERIC D. DANIELS, in his individual capacity. Defendants.	)	C.A. No. N17C-04-001 JRJ

OPINION

Date Submitted: August 22, 2017
Date Decided: October 11, 2017

Upon Plaintiffs' Motion to Amend: **GRANTED.**

Patrick C. Gallagher, Esquire, 250 Beiser Blvd., Suite 202, Dover, Delaware, Attorney for Plaintiffs.

Michael F. McTaggart, Deputy Attorney General, Delaware Department of Justice, 820 North French Street, Wilmington, Delaware, Attorney for Defendants.

Jurden, P.J.

I. INTRODUCTION

This is the Court's decision on Plaintiffs' Motion to Amend the Complaint.[1] For the reasons set forth below, the Court finds that Plaintiffs have satisfied the requirements of Delaware Superior Court Civil Rule 15 ("Rule 15") regarding amendments and relation back consequences, and justice requires leave to amend so that Plaintiffs' claims may be litigated on the merits.

II. PROCEDURAL HISOTRY AND FACTUAL BACKGROUND

On June 3, 2015, Delaware State Police officers deployed by the State's Special Operations Response Team ("SORT") served an arrest warrant on Bryan Cordrey at his residence in Felton, Delaware (the "Event"). Bryan Cordrey and Donna Cordrey (collectively, the "Plaintiffs") allege they suffered injuries during the course of the Event, as a proximate result of the wrongful conduct of the SORT team officers serving the warrant.[2]

On April 1, 2017, within the statutory two-year limitation period,[3] Plaintiffs filed a complaint (the "Original Complaint") against Corporal Mark J. Doughty ("Doughty") and Department of Safety Homeland Security – Division of State

[1] Pls.' Mot. To Am. (D.I. 25).
[2] *Id.*
[3] 10 *Del. C.* § 8119.

Police ("DSP") (collectively, the "Original Defendants"), alleging excessive use of force by DSP officers against Plaintiffs during the Event.[4]

Prior to filing the Original Complaint, Plaintiffs' counsel researched Plaintiffs' criminal charges stemming from the Event to identify all law enforcement officers involved, but counsel's investigative efforts proved unsuccessful. Because Plaintiffs were unable to discover the identities of all law enforcement officers involved, Plaintiffs averred in their Original Complaint:

> [I]dentities of some of the agents and/or employees of DSP, including members of SORT, who participated in the [Event were] unknown to Plaintiffs, but include [Doughty]. [The] other agents and/or employees of DSP, including members of SORT [] would [have been] included as Defendants in this action but for the Plaintiffs' [. . .] mistake about their identities.[5]

The Plaintiffs also served interrogatories with the Original Complaint, which consisted of thirteen questions regarding the identities of all DSP agents present at the Event.[6] Through Defendants' answers to these interrogatories, Plaintiffs learned Corporal Christopher Popp, Corporal Devon Horsey, TFC Josh Scaramuzza, TFC Brock Adkins, and Sergeant Eric D. Daniels (collectively, the

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[4] Pls.' Mot. To Am. § 1 (D.I. 25).

[5] Compl. § 5 (D.I. 1); Sheriff's Returns (D.I. 4, D.I. 5) (The Original Complaint was served on April 27, 2017, as evidenced by the Sheriff's Returns in the docket – this differs from Plaintiffs' averment that service was made "on or about April 13, 2017.").

[6] Pls.' First Interrogs. to Defs. (D.I. 1); Defs.' Answer to the Compl. § 5 (D.I. 7). In Original Defendants' Answer to the Original Complaint, Original Defendants responded to Plaintiffs' averment regarding the unknown identities of some of the participants by stating, "[t]here is no provision under Delaware law to file claims against *John Doe* [*sic*] defendants."

"Intended Defendants") were the previously unidentified DSP agents. Plaintiffs' counsel then mailed an informal notice of the pending litigation to the residences of each of the Intended Defendants on July 21, 2017, 111 days from the date the Original Complaint was filed.[7] The informal notice read, in pertinent part:

> A lawsuit has been filed against [Doughty] and [DSP] due to the injuries received by my clients. Although the Cordrey[]s intended to name every person involved in causing their injuries on June 3, 2015, when the lawsuit was initially filed, your identity was not known at the time. Now that Plaintiffs have subsequently discovered your identity, I am placing you on notice of [. . .] the existence of this lawsuit.[8]

Of the five Intended Defendants, two received and signed for the notices, one refused service, and two notices were returned unclaimed.[9]

On July 24, 2017, three days after mailing these notices, Original Defendants' counsel, on behalf of the Intended Defendants, contacted Plaintiffs' counsel via email about the notices.[10] When voicing his concern about the notices being sent to the Intended Defendants' residences rather than their places of employment, counsel for Original Defendants said, "I am very concerned about this, as *my* clients are[,] too."[11] Counsel for Original Defendants instructed

[7] Pls.' Mot. to Am. Ex. A (D.I. 25).
[8] *Id.*
[9] Pls.' Mot. to Am. § 4 (D.I. 25); Pls.' Mot. to Am. Ex. B (D.I. 25).
[10] Pls.' Mot. to Am. § 5 (D.I. 25); Pls.' Mot. to Am. Ex. C (D.I. 25).
[11] Pls.' Mot. to Am. Ex. C (D.I. 25) (emphasis added).

Plaintiffs' counsel that all communications to members of DSP should go through him.[12]

III. PARTIES' CONTENTIONS

Through their Motion, Plaintiffs ask this Court for leave to amend the Original Complaint to include the Intended Defendants and for relation back to the Original Complaint's filing date, April 1, 2017. All Defendants oppose the Motion,[13] arguing that Rule 15(c) bars the amendment because (1) the Intended Defendants were prejudiced when Plaintiffs sent the notices to their homes, (2) and the Plaintiffs' lack of knowledge as to the identities of the Intended Defendants does not constitute "mistake" under Rule 15.

IV. DISCUSSION

A. Superior Court Civil Rule 15

Rule 15(a) provides:

> A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, the party may so amend it at any time within 20 days after it is served. Otherwise, a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within

[12] Pls.' Mot. to Am. § 5 (D.I. 25).
[13] Defs.' Resp. in Opp'n to Pls.' Mot. to Am. (D.I. 27).

> 10 days after service of the amended pleading, whichever period may be the longer, unless the Court otherwise orders.[14]

Rule 15(c) provides:

> An amendment of a pleading relates back to the date of the original pleading when (1) relation back is permitted by the law that provides the statute of limitations applicable to the action, or (2) the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, or (3) the amendment changes the party or the naming of the party against whom a claim is asserted if the foregoing provision (2) is satisfied and, within the period provided by statute or these Rules for service of the summons and complaint, the party to be brought in by amendment (A) has received such notice of the institution of the action that the party will not be prejudiced in maintaining a defense on the merits, and (B) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against the party.[15]

The purpose of Rule 15 is to encourage the disposition of litigation on its merits.[16] It is well established that leave to amend under Rule 15(a) should be freely given unless there is evidence of undue delay, bad faith, or dilatory motive on part of the movant, repeated failure to cure deficiencies, prejudice, futility, or the like.[17] "Rule 15(a) affords the parties the right, *inter alia*, to state additional

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[14] Super. Ct. Civ. R. 15(a).
[15] Super. Ct. Civ. R. 15(c).
[16] *Grand Ventures, Inc. v. Whaley*, 632 A.2d 63, 72 (Del. 1993) (citation omitted).
[17] *Hess v. Carmine*, 396 A.2d 173, 177 (Del. Super. 1978) (citing *Foman v. Davis*, 371 U.S. 178 (1962)).

claims, to increase the amount of damages sought, to establish additional defenses, and to change the capacity in which the action was commenced."[18] A decision to permit or deny an amendment under Rule 15(a) is left to the discretion of the trial judge.[19] It is the general policy in this jurisdiction to freely permit amendments to pleadings unless the opposing party would be seriously prejudiced by the amendment.[20] Rule 15(a) clearly directs liberal granting of amendments "when justice so requires."[21]

B. Relation Back Test Under Rule 15(c) For Adding New Parties

The Court employs a four-prong test to determine whether a proposed amendment to a complaint seeking to add a party "relates back" under the provisions of Rule 15(c): (1) the basic claim arose out of the conduct set forth in the original pleading; (2) the party to be brought in must have received such notice that the party will not be prejudiced in maintaining its defense; (3) the party to be brought in must know, or should have known but for a mistake concerning identity of the proper party, the action would have been brought against it; and (4) the second and third requirements must have been fulfilled within the prescribed limitations period.[22]

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[18] *Mullen v. Alarmguard of Delmarva, Inc.*, 625 A.2d 258, 263 (Del. 1993) (citation omitted).
[19] *Wilson v. Consumer's Life Ins. Co.*, 2000 WL 1211169, at *2 (Del. Super. Aug. 1, 2000) (citations omitted).
[20] *Id.*
[21] Super. Ct. Civ. R. 15(a).
[22] *Marro v. Gopez*, 1993 WL 138997, at *2 (Del. Super. Mar. 31, 1993) (citation omitted).

1. There Is No Dispute Over the Commonality of Operative Facts Because All Claims Arise from the Event

There is no dispute that Plaintiffs' claims against the Intended Defendants arise from the same conduct, transaction, or occurrence set forth in the original pleading.[23]

2. The Intended Defendants Received Such Notice That They Will Not Be Prejudiced in Maintaining Their Defenses

This prong contains two parts: (a) the party must have received notice of the institution of the action; and (b) the notice must have been sufficient to prevent prejudice.[24]

a. Plaintiffs Provided Sufficient Notice of the Proceeding and a Copy of the Original Complaint to the Intended Defendants

"Delaware courts have held that 'such notice' under Rule 15(c) is notice of the pending litigation rather than the incident giving rise to the cause of action."[25] Here, within 111 days of filing the Original Complaint, Plaintiffs sent a cover letter with a copy of the Original Complaint to each Intended Defendant by certified

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[23] *See* Pls.' Mot. to Am. (D.I. 25); *see also*, Defs.' Resp. in Opp'n to Pls.' Mot. to Am. (D.I. 27).

[24] Super. Ct. Civ. R. 15(c)(3).

[25] *Fraser v. G-Wilmington Associates L.P.*, 2017 WL 365500, at *4 (Del. Super. Jan. 24, 2017) (citing *Concklin v. WKA Fairfax, LLC*, 2016 WL 6875960, at *4 (Del. Super. Nov. 16, 2016)); *see also Mullen*, 625 A.2d 258. The Delaware Supreme Court in *Mullen* held:

> While 15(c) affords no room for construction as to either the meaning of "institution of the action" or application of the time requirement, the spirit of the Rules permits liberality of construction as to the type of the notice. The Rule is silent on that point. The Rule Advisory Committee Notes state that such notice ... need not be formal, we agree. And certain it is that notice by service of process is not mandated, and it may not have to be in writing.

mail.[26] The cover letter explained the Plaintiffs' intent to add each Intended Defendant to the lawsuit.[27] Three days thereafter, on July 24, 2017, Original Defendants' counsel, on behalf of the Intended Defendants, contacted Plaintiffs' counsel via email regarding the notices, and on July 28, in another email, referred to the Intended Defendants as "my clients."[28] As explained below, the record establishes the Intended Defendants were on notice that Plaintiffs intended to include them in the suit by no later than July 28, 2017. The fact that one Intended Defendant refused service, and two notices were returned unclaimed, does not change the Court's finding on this prong because attorney knowledge of notice can be imputed from attorney to client.[29] The shared attorney theory has been used to impute notice to other government officials when "there was 'some communication or relationship between the shared attorney and the John Doe defendant[s] prior to the expiration of the 120-day period[.]'"[30] There must be evidence of an agency relationship to support constructive notice in the absence of a prior understanding communicated to the petitioner.[31]

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[26] Pls.' Mot. to Am. Ex. A (D.I. 25).
[27] *Id.*
[28] Pls.' Mot. to Am. § 5 (D.I. 25); Pls.' Mot. to Am. Ex. C (D.I. 25).
[29] *Lovett v. Pietlock*, 32 A.3d 988, 989 (Del. 2011).
[30] *Id.*; *see also Garvin v. City of Philadelphia*, 354 F.3d 215, 225 (3d Cir. 2003) (citing *Singletary v. Pennsylvania Dep't of Corrs.*, 266 F.3d 186, 196–97 (3d Cir. 2001)).
[31] *CCS Investors, LLC v. Brown*, 977 A.2d 301, 312 (Del. 2009) (citing *Hackett v. Bd. of Adjustment of Rehoboth Beach*, 794 A.2d 598–99 (Del. 2002); *Vance v. Irwin*, 619 A.2d 1163, 1165–66 (Del. 1993)).

The Superior Court imputed Rule 15 notice from an attorney to a party in *Brown v. City of Wilmington Zoning Bd. of Adjustment*.[32] In that case, residents petitioned for judicial review of a City of Wilmington Zoning Board of Adjustment decision that affected a nearby neighborhood. The Court held that notice to the attorney who represented the developer, CCS Investors, LLC ("CCS"), at a prior administrative hearing could be imputed to CCS because "notice to a party's attorney concerning a legal matter will, in certain instances, provide constructive notice to the party," particularly if the attorney-client relationship has been disclosed.[33] The Court in *Brown* found that there was a basis in the record to conclude CCS received notice of the appeal through its attorney.[34] A letter the attorney sent to the economic development director provided evidence that the attorney continued to represent CCS after the administrative decision was released. The attorney identified CCS as a client in the letter and proposed continuing discussions with the city on behalf of CCS.[35] According to the Court, the attorney's "reference to the [administrative] decision and her attempt to contact [petitioners' counsel] further demonstrate[d] that she intended to represent CCS in 'obtaining remaining approvals over the next few months.'"[36]

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[32] *Brown v. City of Wilmington Zoning Bd. of Adjustment*, 2007 WL 1828261 (June 25, 2007).
[33] *Id.* at *9.
[34] *Id.* at *10.
[35] *Id.*
[36] *Id.*

Here, just three days after Plaintiffs' counsel sent the notices by certified mail to the Intended Defendants, Original Defendants' counsel contacted Plaintiffs' counsel, via email, with knowledge of (and concern regarding) the notices. On July 28, 2017, in another email exchange, Original Defendants' counsel repeated his concerns and referred to the Intended Defendants as "my clients."[37] Following *Brown*, Original Defendants' counsel's notice of Plaintiffs' intent to include the Intended Defendants, as evidenced by the email exchanges, can be imputed to the Intended Defendants. And, the fact Original Defendants' counsel reached out on behalf of the Intended Defendants shows intent to represent the Intended Defendants in the proceeding if it moved forward.[38] Based on this record, the Court is satisfied that Plaintiffs served sufficient notice of the institution of the proceeding and their intent to add the Intended Defendants.

When interpreting Rule 15 prejudice, "the touchstone is whether the non-moving party will be prejudiced if the amendment is allowed."[39] The prejudice referenced in Rule 15 is dependent on whether the party received notice within the specified time, not whether the manner in which notice was served was upsetting,

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[37] Pls.' Mot. to Am. Ex. C (D.I. 25).
[38] Defs.' Resp. in Opp'n to Pls.' Mot. to Am. (D.I. 27). Further demonstrating that the notice prong of Rule 15(c) has been satisfied, Original Defendants' counsel responded in opposition to Plaintiffs' Motion to Amend on behalf of *all* Defendants, Original and Intended.
[39] *Parker v. State*, 2003 WL 24011961, at *6 (Del. Super. Oct. 14, 2003) (citing *Howze v. Jones & Laughlin Steel*, 750 F.2d 1208, 1212 (3d Cir. 1984)).

intrusive, or harmful. As this Court previously held in *Hess v. Carmine*, prejudice is to be tested by the terms and construction of Rule 15(c)(3).[40]

As Defendants' counsel admitted in his written response and at oral argument, the prejudice he argues exists is not the type of harm Rule 15 was designed to address.[41] This Court agrees. Upset with the location to which informal notice of the institution of the proceeding was sent is not the type of prejudice Rule 15 was designed to prevent.[42] The Court does not find the Intended Defendants were prejudiced under Rule 15.

3. A Rule 15(c) Mistake Exists Because Plaintiffs Investigated the Identities of Event Participants with Intent to Include Them

a. Rule 15 Mistakes Are Not Limited to Cases of Misnomers

The Intended Defendants argue that the failure to name them in the Original Complaint does not constitute "mistake" under Rule 15. While Rule 15 motions to amend commonly involve mistakes with regard to the names of entities and successor entities,[43] the scope of this rule is broader. In *Fraser*,[44] an injured

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[40] *Hess*, 396 A.2d at 176.

[41] Defs.' Resp. in Opp'n to Pls.' Mot. to Am. § 5 (D.I. 27) (Defense counsel acknowledges, "[T]his may not be the traditional type of harm envisioned under Rule 15(c)(3) [. . .]").

[42] This Court acknowledges the potential harm created by Plaintiffs' mode of service of the notice on Intended Defendants and acted swiftly to cure the harm. Defs.' Mot. for Protective Order (Sept. 6, 2017).

[43] *See Boyce v. Blenheim at Bay Pointe, LLC*, 2015 WL 1541939 (Del. Super. April 1, 2015) (Plaintiff sought and was granted leave of court to amend complaint to include entity as successor in interest to the principal.).

[44] *Fraser v. G-Wilmington Associates L.P.*, 2017 WL 365500 (Del. Super. Jan. 24, 2017). Fraser had filed suit against Defendants for a personal injury sustained during a slip and fall in a shopping center parking managed by Defendants. Through a third-party complaint filed by

plaintiff successfully amended an original complaint to include a new party that the plaintiff only learned of through a third-party complaint the defendants filed after the statute of limitations had expired. The Court in *Fraser* allowed the plaintiff to add DMC Construction as a defendant because it was apparent DMC Construction knew or should have known that the plaintiff would have filed suit against it, and it was clear that the plaintiff intended to sue all parties involved with the maintenance of the lot in which she was injured.[45] *Fraser* is factually similar to the case here. Plaintiff's counsel learned the identities of Intended Defendants through answers to interrogatories provided after the complaint was filed. Plaintiffs' demonstrated in their Complaint an intent to sue all who were involved in the Event. The Intended Defendants received notice of the institution of the proceeding after the statute expired, but within the period provided by the Rules for service of the summons and the complaint.

And, as noted by the Court in *Fraser*, "[r]elation back is not limited to cases of misnomer."[46] Indeed, relation back extends to the addition of parties not previously named or attempted to be named, as well as named, original parties.[47]

Defendants, the plaintiff learned of a contractual obligation that made DMC Construction responsible for cleaning the lot of debris. DMC Construction sought to dismiss on the ground that the two-year statute of limitations barred the amendment.

[45] *Id.* at *6.

[46] *Id.*

[47] *Id.*; *Mullen*, 625 A.2d at 260. "The [party] sought to be added may or may not share some element of identity with an original party."

b. Misleading Conduct is Not Required for Relation Back Within the Period Provided by the Rules

Defendants contend relation back is inappropriate because no misleading conduct occurred. Defendants rely on *DiFebo v. Bd. of Adjustment of New Castle Cty.*[48] In *DiFebo*, the Supreme Court stated, "Delaware courts generally decline to find a mistake when the plaintiff cannot demonstrate an intent to include the unnamed party before the period expired but will find a mistake if the plaintiff intended to sue certain parties but was **misled** as to the identity of those parties."[49]

The facts in *DiFebo* are inapposite to this case. In *DiFebo*, the petitioner had known the proper parties for over fifteen years, but failed to name them in the complaint.[50] In sharp contrast, the Cordreys did not know the identities of all the law enforcement officers who participated in the Event, and the Cordreys' counsel undertook investigative efforts before filing the Original Complaint to ascertain the identities of the Intended Defendants.[51] The plaintiffs in *Cordrey* thus attempted and intended to include the unnamed parties before the statute expired; through no

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[48] *DiFebo v. Bd. of Adjustment of New Castle Cty.*, 132 A.3d 1154 (Del. 2016). In DiFebo the Supreme Court affirmed a Superior Court decision to dismiss an amended petition for writ of certiorari to challenge a Board of Adjustment decision after Petitioner failed to name the owners of affected properties who were known at the time the petition was filed.

[49] Defs.' Resp. in Opp'n to Pls.' Mot. to Am. § 8 (D.I. 27) (quoting *DiFebo v. Bd. of Adjustment of New Castle Cty.*, 132 A.3d 1154, 1158 (Del. 2016) (citation omitted) (emphasis added) (quoting *CCS Investors*, 977 A.2d at 313).

[50] *DiFebo*, 132 A.3d at 1158.

[51] Pls.' Mot. to Am. §§ 2–3 (D.I. 25).

fault of their own, the *Cordrey* plaintiffs were "mistaken" as to the identities of all the law enforcement participants in the Event.[52]

Delaware's approach as to what constitutes mistake under Rule 15(c) turns on plaintiffs' demonstration of intent to sue the proper parties.[53] In those Delaware cases where the Court found no sufficient mistake, the plaintiffs knew the identities of the putative defendants at the time they filed suit, yet the plaintiffs did not demonstrate an intent to sue those parties until it was too late.[54] In contrast, the plaintiffs here investigated the identities of all defendants before filing the Original Complaint, and stated their intent to sue all participants of the Event in the Original Complaint and in the mailed notices, all within the time provided by statute and the Rules.

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[52] *Cf. id. with* Compl. § 5 (D.I. 1) *and* Pls.' Mot. to Am. §§ 2–3 (D.I. 25).

[53] *Marro*, *supra* note 22 ("Delaware decisions have uniformly rejected the liberal approach [. . .] [that finds] mistakes 'whenever a party who may be liable for the actionable conduct alleged in the Complaint was omitted as a party defendant."); *DiFebo*, *supra* note 50.

[54] *See Levine v. New Castle Cty. Vocational-Technical Sch. Dist.*, C.A. No. 81C-AP-14, O'Hara, J., at 506 (Del. Super. July 20, 1983) (not available on-line); *Manacari, et. al. v. A.C. & S. Co., Inc.*, C.A. No. 82C-JL-80, Poppiti, J. (Del. Super. Nov. 1, 1985) (not available online); *Mullen*, 625 A.2d at 265; *Walley v. Harris*, 1997 WL 817867, at *2 (Del. Super. Nov. 24, 1997); *Johnson v. Paul's Plastering, Inc.*, 1999 WL 744427, at *2 (Del. Super. July 30, 1999); *Trone v. Delaware Alcoholic Beverage Control Comm'n*, 2000 WL 33113799, at *5 (Del. Super. Dec. 28, 2000), aff'd, *Trone v. Delaware Alcoholic Beverage Control Comm'n*, 757 A.2d 1278 (Del. 2000).

C. Relation Back Under Rule 15(c)(2) for Adding New Claims Against an Original Party

1. Rule 15(c)(2) Standard

An amendment of a pleading relates back to the date of the original pleading when the claim asserted in the amended complaint arises "out of the same conduct, transaction or occurrence asserted in the original pleading."[55] As previously noted, "leave shall be freely given when justice so requires."[56]

2. The New § 1983 Claim Arises Out of the Event

The new claim against Doughty arises from the same Event set forth in the Original Complaint. Although the 42 U.S.C. § 1983 claim was not specifically cited in the Original Complaint, conduct proscribed by § 1983 has been the focal point of this litigation since the proceeding was initiated, allowing Defendants to prepare a defense, accordingly.[57] A fair reading on the Original Complaint put the Defendants on notice they were being sued for the alleged usage of excessive force as administered by the State and by agents of the State.[58] This Court grants leave to amend the Original Complaint to include the § 1983 federal claim, which will relate back to the original filing date.

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[55] Super. Ct. Civ. R. 15(c)(2).
[56] Super. Ct. Civ. R 15(a).
[57] *See Parker*, 2003 WL 24011961, at *9.
[58] Compl. § 1 (D.I. 1); *see also Parker*, 2003 WL 24011961, at *8.

V. CONCLUSION

Delaware Superior Court Civil Rule 15(a) clearly directs liberal granting of leave to amend "when justice so requires."[59] For the foregoing reasons stated above, Plaintiffs' Motion to Amend is **GRANTED**. Plaintiffs' Amended Complaint will relate back to April 1, 2017, the filing date of Plaintiffs' Original Complaint.

IT IS SO ORDERED.

Jan R. Jurden, President Judge

Original to Prothonotary

cc: Patrick C. Gallagher, Esq.
Michael F. McTaggart, Esq.

[59] Super. Ct. Civ. R. 15(a).