

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

MICHELLE L. BOHMAN,

Plaintiff,

v.

COUNTY OF WOOD, a government
politic, COUNTY OF WOOD d/b/a
DEPARTMENT OF UNIFIED
SERVICES and NORWOOD HEALTH
CENTER,

Defendants.

ORDER

03-C-571-C

On November 17, 2003, defendants County of Wood d/b/a Department of Unified Services and Norwood Health Center moved to dismiss this action against them on the ground that neither entity is suable. Plaintiff has not opposed the motion. Instead, in a letter to the court dated December 12, 2003, counsel for plaintiff wrote, "I will not contest the motion assuming the defendants concede that Wood County is the employer and the party accountable for FMLA violations."

Although the parties have not stipulated formally that Wood County is "the employer and the party accountable for FMLA violations," counsel for plaintiff attached to his letter

a letter dated October 28, 2003, from defendants' lawyer in which counsel states,

I would also appreciate it if you would consider dropping the purported defendants "County of Wood dba Department of Unified Services" and Norwood health Center. Neither of these are independent legal entities. *Wood County is the employer and the party accountable for FMLA violations.* Your agreement to drop these defendants would avoid the need to litigate the question of whether they are amenable to suit. (Emphasis added.)

From these letters, it appears that the parties have stipulated that defendants County of Wood d/b/a Department of Unified Services and Norwood Health Center should be dismissed. However, the issue has been slightly muddied with the filing of defendants' January 30, 2004 "Motion to Amend Answer and Affirmative Defenses." In this motion, defendants "County of Wood d/b/a Department of Unified Services and Norwood Health Center" move to amend defendants' answer to "incorporate key facts that bring forth the affirmative defenses of waiver and estoppel." Although the amended pleading does not list "defendant County of Wood, a government politic" as a separate defendant, I will presume that *all* of the defendants are moving to amend their answer and affirmative defenses. Because I am granting the motion to dismiss of defendants County of Wood d/b/a Department of Unified Services and Norwood Health Center, I will deny these defendants' motion to amend their answer and affirmative defenses as moot. As the motion relates to defendant County of Wood, a government politic, however, the motion to amend will be granted. The motion was filed within the amendment deadline and plaintiff has not

objected to it.

ORDER

IT IS ORDERED that

1. The motion to dismiss of defendants County of Wood d/b/a Department of Unified Services and Norwood Health Center is GRANTED.

2. The motion of defendants County of Wood d/b/a Department of Unified Services and Norwood Health Center to amend their answer and affirmative defenses is DENIED as moot.

3. The motion of defendant County of Wood, a government politic, to amend its answer and affirmative defenses is GRANTED.

Entered this 11th day of February, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge