

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

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AARON A. KREILKAMP,

Plaintiff,

v.

ROUNDY'S, INC.,

Defendant.

ORDER

05-C-425-C

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Before the court is plaintiff Aaron Kreilkamp's motion for a copy of a December 12, 2005 deposition (dkt. 23) and his motion for protection from discovery (dkt. 25). I am granting the first motion and denying the second.

On January 4, 2006, I entered an order commemorating the results of the January 3, 2006, status conference and ruling on defendant Roundy's, Inc.'s motion to compel discovery. *See* dkt. 22. Among other things, I ruled that Roundy's could take discovery on plaintiff Aaron Kreilkamp's religious beliefs and affiliations, if he had any, because Kreilkamp's lawsuit alleges religious coercion and harassment at the workplace. I also provided Kreilkamp the option of seeking a protective order shielding from public view any personal information responsive to such discovery requests. I set January 11, 2006 as the deadline for Kreilkamp to provide his supplemental responses to Roundy's discovery requests.

On January 6, 2006, Kreilkamp filed with this court a copy of his supplemental responses (dkt. 24), which he avers on page 2 to be complete, although he questions the

relevance of some of the information requested. So far, so good. But Kreilkamp simultaneously filed a “motion for protection” (dkt. 25) in which he states:

I deeply feel that Roundy’s Inc. is going too far in asking how often I go to any of the houses of faith which I belong to. I go as often as I can and I feel that I can and any answer I give to this question will not be satisfactory to Roundy’s Inc. Interrogatory No. 3.

I have answered the questions to the fullest truth and feel that my rights to my faith is my business and will not be used against me.

This is not an action of religious rights violation but my civil and constitutional rights.

Roundy’s Interrogatory No. 3 asks Kreilkamp to “specify Plaintiff’s participation in such religious organizations of which the Plaintiff is a member.” Plaintiff responded

Participation in religious organizations is my personal right. As my right to participate in as many religious organizations as I feel that I want to. It is my civil right as a American to participate in them freely. This has no bearing on this case as it is not religious but my civil rights.

Dkt. 24, fifth page. Elsewhere in his discovery packet Kreilkamp included a 1953 certificate of Baptism issued by the Catholic Welfare Bureau, Archdiocese of Madison; a 1980 certificate issued by Temple Beth El in Madison welcoming Kreilkamp as a member of the Jewish faith; and a May 22, 2005 Certificate of Church Membership issued by the Plymouth Congregational United Church of Christ in Madison. (Kreilkamp has not sought confidentiality for any of these documents, so I am inferring that this is not a concern).

Kreilkamp claims in his lawsuit that in December 2004 Roundy’s coerced him to wear an angel necklace at work during the Christmas season, then harassed him after he protested.

It is true that such conduct, if proved, would be a violation of Kreilkamp's "civil" rights, but the right at issue is his right to be free from discrimination and harassment based on religion. It is also true that the merit of Kreilkamp's lawsuit does not depend on his religious affiliation or whether he actively practices his faith. *Everybody* has the right to be free from religious coercion and harassment at the workplace. But Roundy's still is entitled to discover whether Kreilkamp had any religious affiliation at the time, and to explore the depth of his affiliation. Such evidence could be relevant to damages, as impeachment evidence, or for other purposes at trial. Whether the court actually would admit such evidence at trial would depend on whether Roundy's sufficiently established its relevance and the lack of unfair prejudice, but such evidence certainly is fair game during pretrial discovery.

As he did at the status conference, Kreilkamp expresses fear that whatever information he gives Roundy's will not satisfy the defendant. This excuse has worn thin after I explained to Kreilkamp during our status conference that he need not fret about such things so long as he provides all of the information reasonably available to him and avers that his disclosure is accurate and complete to the best of his knowledge.

Therefore, pursuant to my previously issued order to compel, Kreilkamp must provide counsel for Roundy's with his best recollection of his participation in religious activities during the calendar years 2004 and 2005. If he does not have accurate records, then he must provide good faith best estimates.

Finally, Kreilkamp has asked this court to order Roundy's to provide him with a copy of the transcript of a December 12, 2005 deposition. Pursuant to the October 18, 2005 pretrial conference order, dkt. 10 at 10, both sides promptly must file with the court transcripts of depositions.<sup>1</sup> Since anything filed with the court also must be served on a party's opponent, perforce the parties must provide each other with copies of deposition transcripts. The court's docket sheet does not reveal any deposition transcripts. If Roundy's has prepared any transcripts, then it must file them with the court and serve them on Kreilkamp.

ORDER

It is ORDERED that plaintiff's motion for protection is DENIED and his motion for service of the deposition transcript is GRANTED.

Entered this 9<sup>th</sup> day of January, 2006.

BY THE COURT:  
/s/  
STEPHEN L. CROCKER  
Magistrate Judge

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<sup>1</sup> In most civil cases the litigants honor this rule in the breach, at least until the final pretrial conference submission deadline. Since Kreilkamp asked, he is entitled to have Roundy's comply with the rule.