

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

JAY J. SCHINDLER,

Plaintiff,

v.

OPINION AND
ORDER

05-C-705-C

MARSHFIELD CLINIC, PAUL
L. LISS, ROBERT K. GRIBBLE, DONALD
B. KELMAN, JOHN H. NEAL, RODNEY W.
SORENSEN, TOM FACISZEWSKI, KEVIN
RUGGLES, JAMES P. CONTERATO, FREDERIC
P. WESBROOK, GARY P. MAYEUX, ROBERT
A. CARLSON, DAVID J. SIMENSTAD,
TIMOTHY R. BOYLE, DANIEL G. CAVANAUGH,
GARY R. DEGERMAN, DOUGLAS J. REDING,
and IVAN B. SCHALLER,

Defendants.

In an order dated June 2, 2006, I converted defendant St. Joseph's Hospital's motion to dismiss to a motion for summary judgment and directed the parties to propose facts and submit briefs that would enable this court to determine whether (1) the hospital's bylaws imposed a contractual duty upon it to respond to third party requests for verification of plaintiff's affiliation with the hospital and (2) if so, whether defendant had breached such a duty by failing to respond to third party requests for verification. On June 30, 2006,

defendant St. Joseph's Hospital filed proposed findings of fact in support of its motion for summary judgment. On July 24, 2006, plaintiff responded to defendant St. Joseph's Hospital's proposed facts. In addition, plaintiff filed a cross motion for summary judgment and proposed facts in support of his motion.

Now before the court is a "motion for clarification" filed by defendants Marshfield Clinic, Paul Liss, Robert Gribble, Donald Kelman, John Neal, Rodney Sorenson, Tom Faciszewski, Kevin Ruggles, James Conterato, Frederic Wesbrook, Gary Maxeux, Robert Carlson, David Simenstad, Timothy Boyle, Daniel Cavanaugh, Gary Degerman, Douglas Reding and Ivan Schaller (the Marshfield Clinic defendants). In their motion, the Marshfield Clinic defendants ask the court whether they are obligated to respond to the facts plaintiff has proposed in support of his cross-motion for summary judgment against defendant St. Joseph's Hospital. The Marshfield Clinic defendants point out that although the legal questions raised by the cross-motions for summary judgment do not relate to them, many of plaintiff's proposed findings of fact do. A quick review of plaintiff's proposed facts reveals that more than half of them relate to actions allegedly undertaken by the Marshfield Clinic and its employees and bear no relation to actions taken (or not taken) by defendant St. Joseph's Hospital.

Prudently fearing what might happen if the court were to accept plaintiff's proposed facts as undisputed, the Marshfield Clinic defendants assert that although they dispute the truth of the facts proposed by plaintiff, they are uncertain whether they ought to respond

to facts proposed in support of a motion that does not relate to them directly. I agree that the facts proposed by plaintiff relating to actions allegedly taken by the Marshfield Clinic defendants are irrelevant to the legal questions at issue in the cross-motions for summary judgment. Consequently, in resolving the pending motions for summary judgment, I will disregard all facts proposed by plaintiff in dkt. #72 which relate to the Marshfield Clinic defendants. The Marshfield Clinic defendants do not need to respond to the facts proposed in that document.

One last point. I note that the Marshfield Clinic defendants have filed their own motion for summary judgment, dkt. #44, which the parties are briefing currently. It goes without saying that nothing in this order diminishes the obligation of the Marshfield Clinic defendants to respond to all facts that may be proposed by plaintiff in opposition to their motion.

ORDER

IT IS ORDERED that the motion for clarification of defendants Marshfield Clinic, Paul Liss, Robert Gribble, Donald Kelman, John Neal, Rodney Sorenson, Tom Faciszewski, Kevin Ruggles, James Conterato, Frederic Wesbrook, Gary Maxeux, Robert Carlson, David Simenstad, Timothy Boyle, Daniel Cavanaugh, Gary Degerman, Douglas Reding and Ivan Schaller is GRANTED. These defendants need not respond to any of plaintiff's proposed findings of fact file in support of plaintiff's cross-motion for summary judgment against

defendant St. Joseph's Hospital, dkt. #72. All proposed facts contained in dkt. #72 relating to the above-named defendants will be disregarded as immaterial.

Entered this 7th day of August, 2006.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge