

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

JAY J. SCHINDLER,

Plaintiff,

v.

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.

On July 7, 2006, 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) filed a motion for partial summary judgment in this case. On July 27, 2006, the magistrate judge extended plaintiff's time for filing a response to defendants' motion by

three weeks, to August 14, 2006, in accordance with the parties' stipulation. Dkt. #83. Despite that extension, at 11:53 p.m. on August 14, 2006, less than ten minutes before the expiration of the extended time for filing his response, plaintiff filed a "Motion to Enlarge Time to File a Response," dkt. #113, in which he stated that he would be filing documents after the deadline.

This is the fourth time in this lawsuit that plaintiff has filed a motion for an extension after his filing deadline has passed. See dkt. ## 57, 80, 108. Plaintiff's only explanation for his untimeliness is that his time has been "extremely limited" in recent days. Such an explanation is inadequate. Nevertheless, plaintiff's delay was minimal: his brief was filed before the court's deadline, and his supporting documents (dkt. ##114-127) were filed within 24 hours after the court's deadline. Although I will strike any further untimely submissions by plaintiff, I am unwilling to strike all of plaintiff's responsive filings solely because his affidavits and proposed facts were filed a few hours late.

However, there are additional problems with plaintiff's submissions that require comment. As this court's summary judgment procedures make clear, parties opposing a motion for summary judgment must respond to the moving party's proposed findings of fact paragraph by paragraph, either acknowledging the truth of the fact proposed or describing another version of the fact and citing to admissible evidence to support that version. Plaintiff did not file any response to defendants' proposed findings of fact. Instead, plaintiff proposed 405 facts of his own, some of which are responsive to defendants' proposed facts

and many of which are not.

The “principal purpose of the summary judgment rule . . . is to isolate and dispose of factually unsupported claims or defenses.” Goka v. Bobbitt, 862 F.2d 646, 650 (7th Cir. 1988) (citing Celotex Corp. v. Catrett, 477 U.S. 317, 323-24 (1986)). This court’s summary judgment procedures are designed to streamline the process of separating supported claims from unsupported claims, making the process more efficient for the parties and for the court. By failing to respond to defendants’ proposed facts, plaintiff has greatly complicated the process by which this court determines which facts, if any, are in genuine dispute. Rather than force defendants to comb through plaintiff’s proposed facts, trying to determine whether any of them contradict facts defendants have proposed, I will strike plaintiff’s proposed findings of fact, dkt. # 114, and provide plaintiff with one final opportunity to comply with this court’s procedures.

Plaintiff may have one week in which to draft a response to defendant’s proposed findings of fact. In addition to responding to defendants’ proposed findings of fact, plaintiff may propose additional facts that are *material to the disposition* of defendants’ pending motion and for which plaintiff would bear the burden of proof at trial. If plaintiff has not filed these submissions (and these submissions only), by August 25, 2006, I will proceed to consider the merits of defendants’ motion, relying only on defendants’ proposed facts. If plaintiff complies with this order, defendants may have until September 5, 2006, in which to file a reply in support of their motion for summary judgment.

ORDER

IT IS ORDERED that

1. Plaintiff Jay Schindler's "Motion to Enlarge Time to File Response," dkt. # 113, is GRANTED in part and DENIED in part. In ruling on defendants' pending motion for summary judgment, the court will consider all affidavits that were submitted on August 15, 2006, insofar as they are cited to support facts proposed by plaintiff in his revised response to defendants' proposed findings of fact.

2. Plaintiff's proposed findings of fact in opposition to defendants' motion for summary judgment are STRICKEN. Plaintiff may have until August 25, 2006, in which to file a response to defendants' proposed findings of fact and additional proposed findings of fact in accordance with this court's summary judgment procedures.

2. Defendants may have until September 5, 2006, in which to file a reply in support of their motion for summary judgment.

Entered this 18th day of August, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge