

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

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EDWIN GONZALES,

Plaintiff,

v.

DR. BOB BEVARD and
NURSE STEVE HELGERSON,

Defendants.

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ORDER

07-C-144-C

This case has gotten off to a rocky start. Defendant Sue Ward has been dismissed, reinstated and dismissed a second time because plaintiff has been unable to serve her with his complaint. By this order I will reinstate her once again.

In an order dated August 2, 2007, I advised plaintiff that I would reinstate Ward as a defendant in this lawsuit only if, by August 14, he prepared and sent to the court a service packet for Ward containing a copy of his complaint and this court's screening order allowing him to proceed on his claims, and all the items required under Fed. R. Civ. P. 4(d)(2) to be included in a request for waiver of service of a summons packet. Plaintiff has now complied with this order, mostly. He sent the court the packet in a timely manner and included all of the necessary materials except a self-addressed stamped envelope in which Ward may

return to plaintiff the waiver of service form, as required by Fed. R. Civ. P. 4(d)(2)(G).

It is perplexing why plaintiff failed to comply in full with the procedures for assembling the materials necessary to attempt to receive a waiver of service of a summons from Ward. These procedures were explained to plaintiff twice. The materials he did submit were neatly organized and carefully labeled. I can only speculate that the speed with which he was required to respond to this court's August 2 order either caused him to overlook the requirement that he submit a postage prepaid envelope for Ward to use in returning a signed waiver form to him, or prevented him from obtaining approval from the financial office for the disbursement required to prepay postage on the envelope. In light of the diligence plaintiff exhibited in preparing the service packet for Ward and the speed with which he responded to this court's order, I conclude that it would be in the interests of justice to accept plaintiff's submission as sufficient to reinstate Ward. The court will include in plaintiff's packet addressed to Ward a stamped envelope for Ward's use in returning the waiver of service of a summons form to plaintiff. Plaintiff will be required to reimburse the court the \$.41 cost of postage.

ORDER

IT IS ORDERED that Sue Ward is reinstated as a defendant in this lawsuit. The service packet plaintiff prepared, together with a copy of this order and the August 2, 2007

order and a stamped envelope addressed to plaintiff, in which Ward may return to plaintiff the completed waiver of service of a summons form is being mailed to defendant Ward on this date.

IT IS FURTHER ORDERED that plaintiff Edwin Gonzales is to reimburse the court \$.41 for postage for the return envelope sent to defendant Ward.

Entered this 20th day of August, 2007.

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