

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

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JOHN HACKEL,

Plaintiff,

ORDER

v.

12-cv-642-wmc

NATIONAL FEEDS, INC., OHIO  
CASUALTY INSURANCE CO.,  
UNITED PET FOODS, INC., and  
CINCINNATI INSURANCE CO.,

Defendants,

NATIONAL FEEDS, INC., and OHIO  
CASUALTY INSURANCE CO.,

Third party Plaintiffs

v.

UNITED PET FOODS, INC., and  
CINCINNATI INSURANCE CO.,

Third Party Defendants.

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The court is in receipt of two recently-filed motions in this case. In the first, defendants United Pet Foods, Inc. and its insurer Cincinnati Insurance Co. move the court for leave to file a motion for summary judgment on plaintiff's claims. (Dkt. #89.) Plaintiff shall file a response to this motion on or before October 8, 2013. No reply will be allowed unless requested by the court. The court will then issue a decision on United Pet Foods' motion for leave and set a deadline for plaintiff's response to the summary judgment motion, if required.

In the second motion, plaintiff Jon Hackel seeks an extension of time to respond to defendants National Feeds, Inc. and Ohio Casualty Insurance Co.'s motion for summary judgment. (Dkt. #94.) Despite filing this motion, plaintiff also filed a response by the

original deadline of September 30, 2013, explaining in the motion that he seeks to “respond in further detail” after having an opportunity to depose Tracy Westphal.

As plaintiff’s counsel explains it, his motion was necessitated when Westphal, a customer service representative of Milk Specialties, unexpectedly failed to appear for her September 20, 2013, deposition despite being issued a subpoena. The court will grant plaintiff leave to file a supplement to his opposition, limited to evidence obtained as a result of Westphal’s deposition and the impact of that evidence on Hackel’s arguments in response to National Feeds’ motion for summary judgment. Any supplement, however, is due on or before October 15, 2013. As a result, National Feeds’ reply is now due on or before October 22, 2013.

Oddly, plaintiff does not seek assistance from this court in compelling Westphal’s attendance by issuance of an order to show cause why Westphal should not be held in contempt. If plaintiff cannot secure Westphal’s attendance, it is his obligation to seek relief from this court as soon as possible. No further extensions of the October 15 deadline will be granted absent extraordinary cause shown.

#### ORDER

IT IS ORDERED that:

- 1) Plaintiff John Hackel shall file a response to defendants United Pet Foods, Inc. and Cincinnati Insurance Co.’s motion for leave to file a motion for summary judgment on plaintiff’s claims (dkt. #89) on or before October 8, 2013;
- 2) Plaintiff’s motion for an extension of time to file a response to defendant National Feeds’ motion for summary judgment (dkt. #94) is GRANTED. Plaintiff may have until October 15, 2013, to file a supplement to its previously-filed opposition, limited to evidence from Westphal’s deposition and any impact of that evidence on Hackel’s arguments in opposition to summary judgment;

3) Defendants National Feeds, Inc. and Ohio Casualty Insurance Co.'s reply to their motion for summary judgment is now due on or before October 22, 2013.

Entered this 1st day of October, 2013.

BY THE COURT:

/s/

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WILLIAM M. CONLEY  
District Judge