

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

KURT SCHUMACHER,

ORDER

Plaintiff,

15-cv-554-bbc

v.

RANDY SCHOLZ and LINCOLN COUNTY,
WISCONSIN,

Defendants.

Plaintiff Kurt Schumacher has filed this civil suit against defendants Randy Scholz and Lincoln County, Wisconsin, alleging that defendants violated plaintiff's constitutional rights when they terminated his employment without providing him due process. On February 23, 2016, defendants filed a motion for summary judgment on plaintiff's claims, accompanied by a brief in support, affidavits and other evidentiary materials. Although defendants' brief cited to proposed findings of fact, defendants failed to file their proposed findings of fact. Defendants did not notice their error until plaintiff pointed out the mistake in their opposition brief, which plaintiff filed on March 15, 2016. In response, defendants filed their proposed findings of fact within hours. The next day defendants filed a motion for leave to amend their summary judgment materials to include their late filed proposed findings of fact. Plaintiff has opposed defendants' motion for leave to amend.

After considering the parties' briefs and arguments on defendants' motion for leave

to amend their summary judgment materials, I am granting defendants' motion. First, defendants' failure to file their proposed findings of fact was clearly inadvertent: their brief cites repeatedly to their proposed findings of fact and all of the evidentiary materials supporting those proposed facts were filed at the same time as their motion for summary judgment. Moreover, plaintiff fails to demonstrate that he would be prejudiced if I were to allow defendants to file their proposed findings of fact late. His complaint that the timing is not convenient because his counsel is busy in April and May does not establish prejudice so as to preclude a late filing. Finally, it is worth noting that plaintiff bears some responsibility for the inconvenience and confusion associated with defendants' late filing. Of course, defendants should have made certain that their proposed findings of fact were filed at the same time as their summary judgment materials, but plaintiff could have alerted defendants to their mistake before preparing and filing his responsive materials.

ORDER

IT IS ORDERED that

1. The motion for leave to file amended summary judgment materials, dkt. #20, filed by defendants Randy Scholz and Lincoln County, Wisconsin is GRANTED.
2. Plaintiff's response to defendants' proposed findings of fact is due on or before

April 25, 2016; defendants' reply to plaintiff's response is due within seven days thereafter.

Entered this 4th day of April, 2016.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge