IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

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JERRY CHARLES,

Plaintiff,

v.

DICK VERHAGEN,

Defendant.

ORDER

01-C-253-C

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JERRY CHARLES,

Plaintiff,

v.

SGT. REICHEL and
LT. PONTO,

Defendants.

01-C-276-C

- -

Plaintiff has filed responses to defendants' motions for summary judgment. Unfortunately, plaintiff's responses are not in compliance with this court's procedures to be followed on motions for summary judgment, a copy of which was sent to the parties with the

preliminary pretrial conference orders in these cases.

According to Procedure III.C.3.b, plaintiff is required to respond to each numbered paragraph of the defendants' proposed findings of fact, stating clearly whether there is a genuine issue as to the whole or a part of the factual proposition. This plaintiff did. However, where a plaintiff believes there is a genuine issue as to part of the factual proposition, he is to identify precisely that part of the numbered paragraph with which he takes issue, state his own version of the fact, and cite to specific evidence in the record that supports his version of the fact. Procedure III.C.3.c. and d.

In case no. 01-C-253-C, plaintiff has taken issue with a number of facts defendants propose. However, in most cases, although he states his version of the fact, he fails to refer to evidence in the record to prove his version. Moreover, where plaintiff cites to purported "evidence," he refers to unauthenticated photocopies of documents attached to his response. To be admissible in evidence, exhibits must either be certified as true copies of the documents they purport to be, be accompanied by an affidavit of a person attesting to their validity, or be accompanied by stipulation of counsel that the opposing party does not dispute the authenticity of the proposed document.

Likewise, in response to defendants' proposed findings of fact in case no. 01-C-276-C, plaintiff frequently fails to cite to evidence in the record supporting his version of a disputed fact. In addition, he has submitted a document titled "Plaintiff Response to Defendants'

Motion for Summary Judgment and Cross-Motion for Summary Judgment for the Plaintiff Pursuant to F.R.C.P. Rule 56(A)," in which he appears to be offering an entirely new set of proposed facts that may or may not be appropriate under the court's procedures. See Procedures, Sec. II.C.4. ("if properly disputing the movant's proposed findings of fact alone does not adequately support the non-movant's position. . . the nonmovant may present its own proposed findings of fact"). Once plaintiff has properly responded to defendants' proposed findings of fact, he should not repeat in another document designated as his own set of proposed facts statements of fact that he has already made in response to defendants' proposed findings of fact.

Furthermore, even if plaintiff finds it necessary to propose facts beyond those he proposes in response to the defendants' proposed findings of fact, he is required to follow the same procedures applicable to the moving party in presenting the facts. Procedures, Sec. II.C.4. Specifically, plaintiff's proposed findings of fact must be set forth in numbered paragraphs limited to the extent possible to a single factual proposition, and each factual proposition must be followed by a cite to evidence in the record supporting the fact. Again, in some instances, plaintiff does not follow his factual propositions with a cite to evidence in the record supporting it. Where he does refer to his own submissions of "evidence," the purported evidence is inadmissible because it consists of photocopies of affidavits rather than original affidavits and photocopies of unauthenticated documents.

It requires mention that plaintiff has titled certain of his submissions in both cases in such a way as to suggest that he is filing a "cross-motion" for summary judgment. However, the deadline for filing dispositive motions in case no. 01-C-253-C was January 11, 2002; in case no. 01-C-276-C, the deadline was January 18, 2002. Defendants filed timely motions. Subsequently, plaintiff requested and was granted an enlargement of time to February 14, 2002 in which to respond to these motions. He did not request and was not granted an enlargement of time in which to file a cross motion for summary judgment. Plaintiff's submissions will not be construed as including cross-motions for summary judgment.

Finally, I note that even plaintiff's responses to defendants' motions for summary judgment were filed outside the extended deadline granted. Plaintiff's responses are dated February 21, 2002. They were not received by the court until February 26, 2002. The trial date in case no. 01-C-253-C is May 6, 2002 and the trial date in case no. 01-C-276-C is May 13, 2002. These dates are firm. If the court is to have sufficient time to decide defendants' motions for summary judgment, there is no time for plaintiff to amend his submissions to bring them into compliance with the court's summary judgment procedures. Nevertheless, I will grant plaintiff a short enlargement of time to March 8, 2002, in which to refine his responses to defendants' motions for summary judgment. This new deadline is fixed. If plaintiff fails to cure the defects in his submissions by March 8, the court will rule

on defendants' motions for summary judgment disregarding those portions of plaintiff's responses that are not in compliance with the court's summary judgment procedures.

ORDER

IT IS ORDERED that plaintiff may have until March 8, 2002, in which to supplement his responses to defendants' motions for summary judgment in these cases to bring them into compliance with the court's summary judgment procedures. Defendants may have until March 18, 2002, in which to serve and file a reply. No further extensions of the schedule for briefing the motions for summary judgment in these cases will be granted.

Entered this _____ day of February, 2002.

BY THE COURT:

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STEPHEN L. CROCKER
Magistrate Judge