

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

DOUGLAS K. UHDE,

Plaintiff,

ORDER

v.

03-C-323-C

MARK K. BITSKY, GARY A. SILKA,
TAMMY L. KROETZ, BRIAN EZMAN
and MATTHEW SHERD,

Defendants.

On December 2, 2003, I partially granted defendant Brian Ezman's motion to stay discovery. As explained in more detail in that order, I granted a general stay, but excepted from it any discovery attempts by plaintiff dealing with Ezman's claim that he was not on duty at the time of the conduct alleged in plaintiff's complaint. I also extended plaintiff's response deadline on Ezman's summary judgment motion to give him time to develop any relevant evidence on this point.

On December 12, 2003, this court received from plaintiff a response in opposition to the motion for a stay, along with a response to the summary judgment motion. Both were dated December 8, 2003, and neither referred to my order. I assume that plaintiff's documents and the court's order crossed in the mail. Having considered plaintiff's submissions, I see no need to modify the new dates set in my earlier order. Plaintiff still may

have until January 8, 2004, within which to respond to Ezman's summary judgment motion. I presume plaintiff would have gotten the court's order in time to propound any new discovery requests on the summary judgment by the new December 12, 2003 deadline set in my order. In any event, I see no need to extend that deadline because plaintiff's summary judgment response presents his version of the facts.

The problem is that plaintiff provides no foundational support for his factual proffer. He has until January 8, 2004, within which to correct that deficiency. If he does not do so, then, pursuant to this court's summary judgment procedure (a copy of which was attached to the October 21, 2003, preliminary pretrial conference order), the court will not consider any unsupported factual proffer.

The bottom line is that the December 2, 2003 order remains in effect.

Entered this 15th day of December, 2003.

BY THE COURT:

STEPHEN L. CROCKER
Magistrate Judge