

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

TROY S. BURTON,

Plaintiff,

v.

MATTHEW FRANKS and
JEFFREY P. ENDICOTT,

Defendants.

ORDER

03-C-374-C

When plaintiff failed to comply with this court's summary judgment procedures on his first attempt to file a motion for summary judgment in this case, this court denied plaintiff's motion without prejudice to his filing a new motion within the deadline set by the magistrate judge for filing dispositive motions. Now plaintiff has filed a second motion for summary judgment. Although the second motion is still flawed, I will accept it for filing and set a schedule for briefing the motion.

The court's procedures require the parties to tell the court and the opposing party where there is evidence in the record to support each fact the party proposes. Plaintiff filed proposed findings of fact and evidentiary materials that have been certified as true copies of

the original documents. However, instead of writing an exhibit identification following each fact he proposed, plaintiff marked his documentary evidence with the numbered paragraph of the proposed fact he believes each document supports. Plaintiff should have identified each piece of documentary evidence as an exhibit, such as Exhibit A, Exhibit B, etc. He then could have referred to the identifying letter of the supporting exhibit following each numbered factual statement.

Although I would not ordinarily consider any proposed fact that is not followed by a written reference to admissible evidence in the record, in this instance plaintiff has proposed only eight facts. His few evidentiary materials are clearly marked to identify which proposed facts they are intended to support. Defendants should have no difficulty identifying the evidence supporting the facts plaintiff has proposed so that they can respond to the proposed facts. Therefore, I will set a schedule for briefing plaintiff's second motion for summary judgment.

ORDER

IT IS ORDERED that defendants may have until January 26, 2004, in which to

oppose plaintiff's motion. Plaintiff may have until February 5, 2004, in which to serve and file a reply.

Entered this 5th day of January, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge