

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

TITUS HENDERSON,

Plaintiff,

v.

DAVID BELFUEL, in his individual and official capacity, JEFFREY ENDICOTT, in his individual and official capacity, SUZANNE DEHAAN, in her individual and official capacity, SCOTT ECKSTEIN, in his individual capacity, JANELLE PASKE, in her individual capacity, DAVID TARR, in his individual capacity, SANDRA HAUTUMAKI, in her individual capacity, CINDY O'DONNELL, in her official capacity, and JOHN DOES,

Defendants.

ORDER

03-C-729-C

In compliance with Magistrate Judge Stephen Crocker's preliminary pretrial conference order dated May 27, 2004, plaintiff has submitted a proposed amended complaint in which he identifies the Doe defendants as Herb Dean, Paul Ruhland and Judy Chojnaski. However, before I accept plaintiff's proposed amended complaint as the operative pleading in this case, I will offer plaintiff an opportunity to cure two potential defects in the amended complaint.

First, defendants identified the Doe defendant that plaintiff believed was “CO II Dean” as Herb Dehn. Plaintiff identifies this defendant in his amended complaint as Herb Dean. If plaintiff wants Herb Dehn to be served with his complaint, he will have to correct this mistake.

Second, plaintiff’s proposed amended complaint no longer contains any allegations about the retaliation claim on which he was allowed to proceed against defendants Tarr, Endicott, Dehaan, Paske, Hautumaki and O’Donnell. It may be that plaintiff has made the decision to abandon that claim. If he did not, he will have to add the allegations relating to this claim to his proposed amended complaint.

Preparation of the proposed amended complaint will be easier if plaintiff follows the instruction of the magistrate judge to make a copy of his original complaint and change the caption to identify it as the amended complaint and then replaces all references to the Doe defendants with the names provided to him.

Because plaintiff may not have understood that the amended complaint will completely replace the original complaint, I will give him a short opportunity to prepare a new amended complaint and submit it to the court and opposing counsel.

ORDER

IT IS ORDERED that plaintiff may have until July 16, 2004, in which to file a

proposed amended complaint that complies with the magistrate judge's directions in the May 27, 2004 preliminary pretrial conference order. In an effort to speed this process, I am enclosing a copy of plaintiff's original complaint to him with a copy of this order.

If, by July 16, 2004, plaintiff fails to serve and file a corrected amended complaint, I will accept his June 23, 2004 proposed amended complaint as the operative pleading in this case and dismiss his retaliation claim against defendants Tarr, Endicott, Dehaan, Paske, Hautumaki and O'Donnell.

Entered this 6th day of July, 2004.

BY THE COURT:
BARBARA B. CRABB
District Judge