

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

STEVEN J. PEPLINSKI,

Plaintiff,

v.

TERRY COLLINS, *et al.*,

Defendants.

ORDER

06-C-733-C

Before the court is plaintiff's motion to extend his summary judgment deadline so that he may depose two witnesses. *See* dkt. 29. Defendants do not oppose the extension, but are concerned that plaintiff intends to question the witnesses about irrelevant and embarrassing topics, particularly witness Sarah Karbula, who is aligned with defendants but is not a defendant in this lawsuit. *See* August 16, 2007 letter, dkt. 30.

I am not able to set clear guidelines in advance of the August 31 depositions because plaintiff's conspiracy allegations¹ allow him the opportunity to attempt to prove that the city attorney and the city clerk had improper—that is unconstitutional—motives for seeking the ban. So, the topic of whether these witnesses had any animus against plaintiff is fair game.

That said, in allowing these depositions to proceed, I noted in my previous order that plaintiff has clear obligations under F.R. Civ. Pro. 26(b), 26 (c) and 30(d)(4) and that one major condition on which I was allowing these depositions to proceed was plaintiff's response that he

¹ Plaintiff alleges that the City Clerk, City Attorney, and Common Council Members of Galesville conspired to violate plaintiff's civil rights by banning plaintiff from entering public buildings in Galesville to reduce his alleged relentless harassment of city employees.

understood these obligations and he promised to comply with them. I warned plaintiff that if he broke his word and violated his obligations, then this court would sanction him in whatever manner it deemed appropriate, which could include cost-shifting, closing discovery in whole or in part, or dismissal of this lawsuit with prejudice. *See* dkt. 23.

I am aware of the considerable animosity between plaintiff and these witnesses. I am aware of the profound difference of opinion about how to characterize plaintiff's interaction with Karbula prior to charges being brought against him. But I cannot forbid plaintiff from dredging up this topic if he has an articulable good faith basis to tie such questioning to his claims of an unlawful government conspiracy to violate his civil rights. This is *not* a license to delve into this sensitive and embarrassing topic. To the contrary, plaintiff must not inquire into it absent some ability to proffer to the witnesses' attorney (outside the presence of the witnesses if necessary) how this information possibly could be relevant to the development of his claims and his resistance to defendants' summary judgment motion. If plaintiff cannot do this, then he may not broach this topic during Karbula's deposition.

I understand that plaintiff is not trained as an attorney, so it likely will be difficult for him to craft artful questions that will efficiently elicit information relevant to the pending summary judgment motion and for trial. But I am warning plaintiff again that throughout all depositions in his lawsuit, he is obliged to play it straight: he must be courteous. He must be concise. He must avoid repetitive questioning. He must stick to relevant topics. He must avoid intentionally embarrassing the witnesses. He must move quickly through his topics to avoid wasting the time of the witnesses and their attorney. In the event a witness believes that

plaintiff has crossed the line during questioning, the witness may attempt to contact the court telephonically for input and a ruling.

As for the matter actually before the court, I will allow plaintiff two weeks following the August 31 depositions, until September 14, 2007, within which to complete his response to defendants' pending motion for summary judgment. Defendants may have until September 24, 2007 within which to file and serve any reply.

Entered this 20th day of August, 2007.

BY THE COURT:
/s/
STEPHEN L. CROCKER
Magistrate Judge