

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

RONALD ROMANELLI,

Plaintiff,

ORDER

v.

DALIA SULIENE,
DEPUTY KUHL,
CPT. KUHL and
STEVEN ROWE,

07-C-19-C

Defendants.

Defendants have moved to amend their answer to add as an affirmative defense that plaintiff failed to act reasonably to mitigate his damages. Plaintiff will not be prejudiced by the amendment if I allow it. Fed. R. Civ. P. 8(d) provides that averments in a pleading to which no responsive pleading is required or permitted (such as an answer) shall be taken as denied or avoided. However, defendants' proposed amended complaint is not in the format this court requires.

Ordinarily, an amended pleading is to take the place of the original pleading. That means that a motion to amend should be accompanied by a proposed amended pleading that

stands on its own, rather than simply adds material to or subtracts material from the original. It is simply too confusing and cumbersome to require the parties and the court to search the record for two or more documents composing the parties' pleadings. Therefore, defendants' motion to amend is GRANTED, on the condition that, no later than May 16, 2007, they serve and file an amended answer that replicates the original answer in its entirety and includes the affirmative defense defendants wish to add.

Entered this 7th day of May, 2007.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge