

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

RALPHFIELD HUDSON,

Plaintiff,

v.

T. SPENCE, Chief Pharmacist and
J. PENAFLOR, Physician Assistant,

Defendants.

ORDER

07-C-355-C

In response to this court's order of November 16, 2007, plaintiff has advised the court that he will dismiss voluntarily his case against defendant J. Penaflor, rather than pursue the action in a separate lawsuit as required by Fed. R. Civ. P. 20 and George v. Smith, ---F.3d ---, No. 07-1325 (7th Cir. Nov. 9, 2007). Therefore, plaintiff's action against defendant Penaflor will be dismissed.

One other matter requires comment. In an order entered on November 29, 2007, I stayed a decision on plaintiff's motion to compel defendants Spence and Penaflor to answer interrogatories pending plaintiff's response to the November 16 order. With the dismissal of defendant Penaflor, plaintiff's motion to compel is moot as to this defendant. With

respect to plaintiff's motion to compel defendant Spence to answer interrogatories, I note that plaintiff allegedly served Spence with a first set of interrogatories in September, before Spence had filed his answer. A preliminary pretrial conference is scheduled to be held in this case tomorrow, on December 6, 2007. At the conference, the magistrate judge will set a trial date and deadlines for moving this case to resolution, including a deadline within which the parties are to complete discovery. Because it is this court's practice to request that the parties refrain from engaging in discovery until a preliminary pretrial conference has been held, I will deny plaintiff's motion to compel defendant Spence to file a response to plaintiff's first set of interrogatories. At the preliminary pretrial conference, the magistrate judge will confirm whether defendant's counsel has in his possession the interrogatories plaintiff wishes defendant Spence to answer and set a deadline within which Spence's answer will be due.

ORDER

IT IS ORDERED that plaintiff's action against defendant J. Penaflor is DISMISSED without prejudice.

Further, IT IS ORDERED that the stay previously imposed on plaintiff's motion to compel answers to interrogatories is LIFTED. Plaintiff's motion to compel is DENIED with respect to defendant Penaflor because it is moot and with respect to defendant Spence

because it is premature.

Entered this 5th day of December, 2007.

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