

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

ROBERT HARRY KUNFERMAN,

Plaintiff,

v.

JOANNE E. BERG; DAVID BACKSTROM;
UWEC X-Dean ROBERT SHAW;
KARLA A. WEBER; ERNESTO R. MONGE;
DEBRA LAUDER; CYNTHIA B. HASZ;
SUSAN FISCHER,

Defendants.

ORDER

09-cv-662-bbc

In this civil action for monetary and injunctive relief, plaintiff Robert Harry Kunferman, pro se, is suing numerous defendants associated with the University of Wisconsin for their alleged violations of his constitutional and state rights. In an order dated September 20, 2010, dkt. #48, this court dismissed several of plaintiff's claims, but concluded that he had stated claims for relief against defendants Joanne Berg, David Backstrom, Robert Shaw, Karla Weber, Ernesto Monge, Debra Lauder, Cynthia Hasz and Susan Fischer. However, in the same order I told plaintiff that his second amended complaint violated Fed. R. Civ. P. 20 because it contained three separate lawsuits against

different sets of defendants:

1. Lawsuit #1: Plaintiff's claim that defendant Shaw retaliated against him in violation of the First Amendment.
2. Lawsuit #2: Plaintiff's claim that defendant Backstrom retaliated against him in violation of the First Amendment.
3. Lawsuit #3: Plaintiff's claim against defendant Monge for First Amendment retaliation and his defamation claim against defendants Monge, Fischer, Lauder, Hasz, Berg and Weber.

I directed plaintiff to identify which lawsuit he wished to pursue under this case number.

Plaintiff has responded, dkt. #49, stating that he wishes to proceed under this case number with lawsuit #3, and proceed under separate case numbers with lawsuits #1 and #2. Plaintiff has moved to proceed in forma pauperis in the two severed lawsuits. Thus, the claims of lawsuit #1 will be treated as a separate action and assigned case number 10-cv-574-bbc, and the claim of lawsuit #2 will be treated as a separate action and assigned case number 10-cv-575-bbc. Plaintiff's request to proceed in forma pauperis in case numbers 10-cv-574-bbc and 10-cv-575-bbc will be considered in separate orders.

One final matter requires attention. Defendants have filed a motion for clarification of the deadline for its response to plaintiff's second amended complaint in this case, dkt. #52. Under Fed. R. Civ. P. 12(a)(4)(A), "if the court denies [a motion to dismiss]. . . the responsive pleading must be served within 14 days after notice of the court's action." Under this rule, defendants' answer would be due 14 days after the court's September 20 order.

However, as defendants point out, they did not know upon which claims plaintiff would be proceeding on until September 29, 2010, when plaintiff informed the court that he would be proceeding with lawsuit #3 in this case. I will construe defendants' motion for clarification as a motion for extension of time in which to file a response to plaintiff's second amended complaint. Defendants may have until October 13, 2010, in which to file a response to plaintiff's second amended complaint.

ORDER

IT IS ORDERED that

1. This case is SEVERED in accordance with Fed. R. Civ. P. 20:

(a) In case number 09-cv-662-bbc, plaintiff is proceeding on his claims that defendant Monge retaliated against him in violation of the First Amendment and his claim that defendants Monge, Susan Fischer, Debra Lauder, Cynthia Hasz, Joanne Berg and Karla Weber defamed him by reporting falsely that he was disorderly and racist.

(b) In case number 10-cv-574-bbc, plaintiff is proceeding on his claim that defendant Robert Shaw retaliated against him in violation of the First Amendment.

(c) In case number 10-cv-575-bbc, plaintiff is proceeding on his claim that defendant David Backstrom retaliated against him in violation of the First Amendment.

2. Defendants' motion for an extension of time in which to file a response to

plaintiff's second amended complaint in lawsuit #1, dkt. #52, is GRANTED. Defendants may have until October 13, 2010, in which to file a response to plaintiff's second amended complaint.

Entered this 5th day of October, 2010.

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