

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

ROBERT W. TESSEN,

Plaintiff,

v.

STEVE HELGERSON, NANCY HAHNISCH,
DARCI BURRESON, JENNIFER NICKEL, NATALIE
NEWMAN and Kim CAMPBELL,

Defendants.

ORDER

10-cv-104-wmc

Plaintiff Robert W. Tessen has been allowed to proceed on his Eighth Amendment claim that defendants Steve Helgerson, Nancy Hahnisch. Darci Burreson, Jennifer Nickel, Natalie Newman and Kim Campbell were deliberately indifferent to his serious medical need. Now before the court is plaintiff's motion to appoint a medical expert for trial in this case, dkt. 64.

In their response, defendants suggest this motion be stayed until a decision is reached on the pending motions for summary judgment, which are not based on medical opinions but on how responsive defendants were to plaintiff's navel rash/MRSA. The court agrees and will stay the motion.

Regardless, the court reminds plaintiff is advised that this court lacks funds to appoint medical experts in these types of cases. *See* , October 13, 2010 preliminary pretrial conference order, dkt. 28, at 4-5. Although Rules 706 and 614 of the Federal Rules of Evidence give district courts *discretion* to appoint impartial expert witnesses in a civil case to assist the court in evaluating complex scientific evidence, this case is not so complicated as to require such an appointment. *McKinney v. Anderson*, 924 F.2d 1500 (9th Cir. 1991) (district court might

appoint impartial expert to help court evaluate scientific evidence on health effects of exposure to secondary cigarette smoke).

ORDER

IT IS ORDERED that plaintiff Robert W. Tessen's motion to appoint a medical expert, dkt. 64, is STAYED until the resolution of the motions for summary judgment..

Entered this 25th day of February, 2011..

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge