

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

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SALAAM JOHNSON

Plaintiff,

v.

LIEUTENANT PRIMMER, *et al.*,

Defendants.

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ORDER

10-cv-316-slc

In orders entered on August 10, 2010 and September 14, 2010, plaintiff was granted leave to proceed in this action against defendants Ellen Ray, Gary Boughton and Lieutenants Primmer and Hanfeld. On September 17, 2010, defendants Ray, Boughton and Hanfeld answered plaintiff's complaint, raising various affirmative defenses<sup>1</sup>. Now plaintiff has filed a response to the answer and affirmative defenses dated September 27, 2010, in which he replies to several factual statements made in the answer and argues that certain of defendants' affirmative defenses are not valid.

Plaintiff does not need to be concerned: although defendants have raised certain affirmative defenses in their answer, defendants have not actually filed a motion to dismiss. Therefore, plaintiff does not need to reply to the answer. If defendants later file an actual motion to dismiss, then plaintiff will be allowed to respond to that motion. In the meantime, Rules 7(a) and 8(b)(6) of the Federal Rules of Civil Procedure work together to protect plaintiff from defendants' claims in the answer. Because of those rules, this court does not need plaintiff to reply to the answer; instead, the court automatically assumes that plaintiff has denied the factual statements and affirmative defenses raised in that answer.

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<sup>1</sup> Pursuant to an informal service agreement between the Wisconsin Department of Justice and this court, defendants Primmer and Hanfeld have until October 25, 2010 to answer or otherwise respond to the September 14, 2010 order on leave to proceed.

ORDER

IT IS ORDERED that plaintiff's reply to the answer, dkt 27, will be placed in the court's file but will not be considered.

Entered this 5<sup>th</sup> day of October, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge