

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

TIMOTHY LOUIS HERMANN, HERMANN FAMILY,
KAREN ELAINE, JACOB, JEWELL, JOY,
BLACKBERRY COMMUNITY FARM/BLACKBERRY HILLS
FARM and BLACKBERRY HILLS FARM TRUST,

Plaintiffs,

v.

DUNN COUNTY SHERIFF'S DEPARTMENT,
DENNIS P. SMITH, MICHAEL TIETZ,
MARSHALL MULTHAUF, BRAD LEACH,
RUSSELL WADDELL, IRVINGTON GARAGE,
MARVYN DOANE, BRAD DOANE and JOHN QUILLING,

Defendants.

ORDER

10-cv-600-wmc

In an order entered on October 28, 2010, plaintiffs were directed to serve their complaint on the defendants. On December 29, 2010, defendants Irvington Garage, Marvyn Doane, Brad Doane and John Quilling answered plaintiffs' complaint, raising various affirmative defenses. Now plaintiffs have filed an "Affidavit Notice of Opposition to the Defendants Answers and Defenses" dated January 3, 2011, in which they reply to several factual statements made in the answer and argue that certain of defendants' affirmative defenses are not valid.

Plaintiffs do 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.

ORDER

IT IS ORDERED that plaintiffs' reply to the answer, dkt 32, will be placed in the court's file but will not be considered.

Entered this 7th day of January, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge