

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

RICHARD OATES,

Plaintiff,

v.

ORDER

LORI DOEHLING, SHARON MOERCHEN,
DR. CHARLES HUIBREGTSE and
JOHN and JANE DOES 1-10,

10-cv-816-bbc

Defendants.

Plaintiff Richard Oates was granted leave to proceed on his claim that defendants Laurie Doehling, Sharon Moerchen, Dr. Huibregtse and John and Jane Does 1-10 violated his Eighth Amendment rights by failing to provide him adequate medical treatment for his back pain. Before the court is defendants' motion to compel plaintiff to sign authorization for release of medical information. Dkt. 20. Also ready for decision is plaintiff's motion to compel. Dkt. 24.

Plaintiff objects to signing the authorization form until defendants provide him the discovery he has requested. This is not how discovery works in federal civil litigation. Plaintiff cannot hold his medical authorization hostage until he receives responses to later discovery requests. Plaintiff chose to put his medical care into issue in a federal lawsuit. Defendants cannot defend themselves without access to plaintiff's medical records. Although the court would never compel plaintiff to sign a medical release, if plaintiff refuses to consent to the release of these relevant medical records requested by defendants, then his refusal likely will result in dismissal of his Eighth Amendment claim.

In his motion to compel a response to his discovery request, plaintiff asserts that he has asked defendants for the names of the John and Jane Does defendants who served on the Redgranite Special

Needs Committee, and they have not responded. Also, he adds that he now wants defendants compelled to produce the Department of Corrections employment files of all the defendants.

As defendants point out, plaintiff did not properly serve his discovery request on defendants' counsel. He was advised in a February 22, 2011 memorandum, Dkt. 9, how discovery requests were to be served. Plaintiff must properly serve his discovery request on defendants' lawyer before the defendants are required to respond. As for the names of the committee members, defendants would not be able to provide the requested information without access to the medical records where this information is contained. In short, plaintiff's motion to compel will be denied because he has not properly requested the information. So as not to mislead plaintiff, I note that it is extraordinarily rare for this court to allow open access to a party's employment files. At most, a party can obtain information actually relevant to the lawsuit in some explainable way.

ORDER

IT IS ORDERED that:

1. Defendants' motion to compel plaintiff to sign authorization for release of medical records, dkt. 20, is DENIED, with the understanding that plaintiff's refusal to permit access to his medical records likely will result in dismissal of his claim.

2. Plaintiff's motion to compel, dkt. 24, is DENIED.

Entered this 14th day of June, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge