

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

BRET N. BOGENSCHNEIDER,

Plaintiff,

v.

KIMBERLY CLARK GLOBAL SALES, LLC,

Defendant.

ORDER

14-cv-743-bbc

Pro se plaintiff Bret Bogenscheider is proceeding on a claim that his former employer, defendant Kimberly Clark Global Sales, LLC retaliated against him in various ways after plaintiff reported what he says was defendant's tax fraud, in violation of the Sarbanes-Oxley Act, 18 U.S.C. § 1514A. Now before the court is plaintiff's motion for leave to amend his complaint. Dkt. #41.

It is difficult to determine plaintiff's purpose in wishing to file a new complaint. In one of his briefs, plaintiff insists that his "claims [in his amended complaint] are exactly the same as in the initial complaint." Dkt. #50 at 2. See also Plt.'s Br., dkt. #46, at 1 ("No additional claims have been raised."). In fact, plaintiff filed a motion for summary judgment *before* he filed his motion for leave to amend and his position is that his amended complaint does not have any effect on his summary judgment motion. Dkt. #41 at 1. If plaintiff does not wish to expand or retract the scope of his claims, then he does not need to file a new

pleading.

At one point, plaintiff states that his new allegations “relate to the pleading of intent.” Dkt. #50 at 2. However, defendant has not challenged the sufficiency of plaintiff’s allegations on these grounds, so any changes in that respect are unnecessary as well.

Plaintiff makes a confusing argument in one of his briefs that “[t]he Amended Complaint simply takes into account the various contrary-factual claims made in the Answer.” Dkt. #46 at 1. He never fully explains what he means by this, but I understand him to be alleging that defendant’s answer includes allegations that are inconsistent with positions it has taken in the past. If this is plaintiff’s concern, then it is unfounded. Plaintiff is not required (or even permitted) to file a response to defendant’s answer unless the court orders him to do so. Fed. R. Civ. P. 7(a). Because the court has not issued such an order, under Fed. R. Civ. P. 8(b)(6), the court assumes that plaintiff denies all of the allegations that defendant made in its answer, so plaintiff is not prejudiced by his inability to respond to those allegations.

In sum, plaintiff has not identified any legitimate purpose that his proposed amended complaint serves. Accordingly, I am denying as unnecessary his motion for leave to file an amended complaint and restarting the briefing schedule on plaintiff’s motion for summary judgment.

ORDER

IT IS ORDERED that

1. Plaintiff Brett Bogenschneider's motion for leave to amend his complaint, dkt. #41, is DENIED.

2. Defendant Kimberly Clark Global Sales, LLC may have until May 7, 2015 to file a response to plaintiff's motion for summary judgment. Plaintiff may have until May 18, 2015, to file a reply.

Entered this 22d day of April, 2015.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge