UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Improper jurisdiction and venue

STEVEN ALAN MAGRITZ,

Plaintiff,

v.

OZAUKEE COUNTY, *et al.*,

Defendant.

Incorrect Party

Incorrect case number

Civil Action No. 11-806 (EGS)

ORDER

On June 27, 2012, a motion to dismiss was filed on behalf of forty defendants in the above-captioned action. An Order directing plaintiff to respond to the motion to dismiss by July 23, 2012 was entered on June 29, 2012 and mailed to plaintiff. A second motion to dismiss was filed on behalf of defendants Adam Y. Gerol, Andrew T. Gorring, and Sandy A. Williams on July 6, 2012.

On July 23, 2012, plaintiff filed identical motions to strike the two motions to dismiss.[1] In the motions to strike, plaintiff refers to defendants' counsel Deborah Baum as an "interloper," accusing her of fraud and of making false statements to the Court. Plaintiff does not respond to the grounds alleged in the first motion to dismiss, with the exception of the issue of whether defendants were acting in their official capacity. Rather, plaintiff states that he "reserves the right to address the issues

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[1] Plaintiff also moved to strike two motions for admission *pro hac vice* that the Court has already granted.

From: "UNITED STATES DISTRICT COURT"
postmarked July 30, 2012

of venue and jurisdiction should the Court so desire." Mot. to Strike at 9. Plaintiff does not appear to respond specifically to any of the issues raised in the second motion to dismiss. Plaintiff also sets forth no legal basis upon which the Court should take the extreme measure of striking defendants' motions to dismiss, rather than considering them on their merits.

As set forth in the Court's June 29, 2012 Order, a plaintiff is required to respond to a motion to dismiss or risk dismissal of the case. In the Order, the Court advised plaintiff of his obligations under the Federal Rules of Civil Procedure and the rules of this Court. *See Fox v. Strickland*, 837 F.2d 507 (D.C. Cir. 1988); *Neal v. Kelly*, 963 F.2d 453, 456 (D.C. Cir. 1992). The Court reiterates the substance of its June 29, 2012 Order below:

The plaintiff is advised that the Court will rule on the defendants' motions taking into consideration the facts proffered in the complaint, along with the plaintiff's response or opposition to the motions. The plaintiff's attention is directed to Local Civil Rule 7(b), which states:

> Within . . . such . . . time as the Court may direct, an opposing party shall serve and file a memorandum of points and authorities in opposition to the motion. If such a memorandum is not filed within the prescribed time, the Court may treat the motion as conceded.

Local Civil Rule 7(b). Additionally, the plaintiff is directed to Rule 6(d) of the Federal Rules of Civil Procedure which provides:

> When a party may or must act within a specified time after service and service is made [by mail or by other

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> means consented to in writing by the person served], 3 days are added after the period would otherwise expire . . . .

Fed. R. Civ. P. 6(d). The Court may treat as conceded any motion not opposed within the time limits outlined above. Alternatively, the Court may consider on the merits any motion not opposed within the time limits outlined above. Thus, failure to respond to the defendant's motion in this case carries with it the risk that the case will be dismissed.

Accordingly, it is hereby

ORDERED that [16] plaintiff's motion to strike defendants' June 25, 2012 motion to dismiss and defendants' June 27, 2012 motions for leave to appear *pro hac vice* is **DENIED**; and it is

FURTHER ORDERED that [17] plaintiff's motion to strike defendants Girol, Gorring and Williams' July 6, 2012 Motion to Dismiss is **DENIED**; and it is

FURTHER ORDERED that, on or before **August 24, 2012**, plaintiff shall file oppositions or other responses to the motions to dismiss filed on behalf of defendants on June 25, 2012 and July 6, 2012. If the plaintiff fails to respond timely, the Court may grant the motions as conceded, and may dismiss the complaint.

SO ORDERED.

Signed: Emmet G. Sullivan
United States District Judge
July 26, 2012

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Steven Wright
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