

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

DAVID NEWBROUGH,

Plaintiff,

vs.

**BISHOP HEELAN CATHOLIC
SCHOOLS, THE DIOCESE OF
SIOUX CITY, R. WALKER
NICKLESS, and DAN RYAN,**

Defendants.

No. C13-4114

**ORDER REGARDING MOTIONS
FOR SUMMARY JUDGMENT**

This matter comes before the Court on the Motion for Summary Judgment (docket number 17) filed by the Defendants on September 16, 2014, and the Motion for Partial Summary Judgment (docket number 25) filed by the Plaintiff on October 17, 2014.

Plaintiff combined his motion for partial summary judgment with his resistance to Defendants' motion for summary judgment. This procedure fails to comply with Local Rule 7.e ("A resistance to a motion may not include a separate motion or a cross-motion by the responding party. Any separate motion or cross-motion must be filed separately as a new motion."). Plaintiff will be given seven days in which to file a motion for partial summary judgment which is fully compliant with the local rules.

Plaintiff also failed to comply with Local Rule 56.b.2. In support of their motion for summary judgment and in compliance with Local Rule 56.a.3, Defendants filed a statement of material facts. The statement sets forth those facts as to which Defendants contend there is no genuine issue. The statements are supported by citations to the record, as required by FED. R. CIV. P. 56(c)(1)(A). Plaintiff has *not* responded to Defendants' statement of material facts, as required by Local Rule 56.b.2. Instead, Plaintiff simply

filed his own statement of material facts in support of his motion for summary judgment. Defendants also filed a statement of additional material facts in resistance to Plaintiff's motion for partial summary judgment. Again, Plaintiff did not respond to the statement of additional material facts.

Plaintiff will be given seven days in which to file responses to Defendants' statements of material facts, including appropriate citations to the record. If Plaintiff fails to respond to a statement of material facts, with appropriate citations as required by the rule, then the Court may consider that fact admitted. *Libel v. Adventure Lands of America, Inc.*, 482 F.3d 1028, 1032-33 (8th Cir. 2007); *Lawyer v. City of Council Bluffs*, 361 F.3d 1099, 1104 (8th Cir. 2004).

ORDER

IT IS THEREFORE ORDERED that not later than **January 20, 2015**, Plaintiff must re-file his motion for partial summary judgment in compliance with Local Rule 7.e. Furthermore, Plaintiff must respond by that date to Defendants' statements of material facts, with appropriate citations to the record, as required by Local Rule 56.b.2 and FED. R. CIV. P. 56(c)(1)(A).

DATED this 13th day of January, 2015.



JON STUART SCOLES
CHIEF MAGISTRATE JUDGE
NORTHERN DISTRICT OF IOWA