

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Samuel J. Bourne

v.

Civil No. 05-cv-365-JD

Town of Madison, et al.

O R D E R

In anticipation of trial, the parties filed pretrial materials and motions addressing those materials. The trial has now been continued to a date that will be scheduled after the motions for summary judgment are resolved. To avoid confusion, the motions addressing pretrial materials are denied without prejudice to refile, if necessary, when a new trial schedule is set.

In addition, the defendants' motion for summary judgment was improperly included within their objection to the plaintiff's motion for summary judgment. For that reason, on January 21, 2010, the defendants' were notified that their summary judgment motion must be refiled. To date, the defendants' have not refiled their motion.

The plaintiff moved for leave to file a reply to the defendants' objection to his motion for summary judgment on his interference with contractual relations claim. Because the reply is to an objection to a dispositive motion, however, leave is not

required. LR 7.1(e)(1). Instead, the reply must be filed within fourteen days of service of the objection. Id. Because the plaintiff mistakenly filed for leave to file his reply, the time to file might pass while that motion is pending. Therefore, the plaintiff's reply will be docketed, and his motion for leave will be terminated.

Conclusion

For the foregoing reasons, the parties' motions related to pretrial matters for the previously scheduled trial are resolved as follows:

1. the defendants' motion for relief (document no. 140) and motion to limit evidence of damages (document no. 144), and
 2. the plaintiff's motion to strike part of the witness list (document no. 150) and motion to preclude exhibits (document no. 153)
- are denied without prejudice.

In addition, because the plaintiff's motion for summary judgment on the counterclaim (document no. 139) has been denied as moot, the plaintiff's motion (document no. 177) for leave to file a reply to the objection to that motion is also denied as moot.

To avoid unnecessary further delay, the deadline for refiling the defendants' motion for summary judgment is **February 12, 2010**. The plaintiff will have thirty days from the date of filing to file his response. Local Rule 7.1(e)(1) shall govern filing a reply, and Local Rule 7.1(e)(3) shall govern filing a surreply.

The plaintiff's motion for leave to reply (document no. 178) is terminated. The plaintiff's reply filed with his motion for leave will be docketed. Local Rule 7.1(e)(3) shall govern the opportunity to file a surreply.

SO ORDERED.



Joseph A. DiClerico, Jr.
United States District Judge

February 2, 2010

cc: Samuel J. Bourne, Esquire
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Richard D. Sager, Esquire