

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

MARK P. STAFFA,

Plaintiff,

-vs-

Case No. 13-CV-5

Appeal No. 13-2588

WILLIAM POLLARD, DR. DAVID BURNETT,
DR. P. SUMNICHT, BELINDA SCHRUBBE,
and JAMES GREER,

Defendants.

DECISION AND ORDER

On October 2, 2013, the Court of Appeals for the Seventh Circuit issued a mandate dismissing the plaintiff's interlocutory appeal. Thus, the stay in this case will be lifted.

The plaintiff filed a motion for a temporary restraining order/preliminary injunction on September 6, 2013. He seeks immediate hospitalization and alleges that he is in danger due to lack of medical attention. The plaintiff has not submitted any sworn statements in support of the motion. Moreover, the motion is identical to one that he filed on May 6, 2013. For the reasons stated in the court's order May 31, 2013, order denying the previous motion, the plaintiff's request will be denied.

On September 26, 2013, the plaintiff filed a motion for a protective order and

to compel the production of a “list of all [Bureau of Health Services] employees who were known to be infected and who had contact with plaintiff since 2006” (Docket ## 53-54.) In response, the defendants assert that such a list does not exist. They contend that, even if it did exist, the plaintiff fails to demonstrate the relevance of such a list because his claim in this case is focused on the alleged deliberate indifference of the treatment and diagnosis he received, not the alleged negligence in the transmission of MRSA. Here, the Court finds that the defendants cannot produce what they do not have. Moreover, the plaintiff’s claim is based on the alleged lack of treatment for MRSA, and not the transmission, which allegedly took place during a MSRA outbreak at Waupun Correctional Institution in 2006. Thus, the plaintiff has not shown that his discovery request — a list of non-defendant Bureau of Health Services employees who had MRSA and who had contact with him since 2006 — is relevant to his deliberate indifference claim. Thus, the plaintiff’s motion will be denied.

IT IS THEREFORE ORDERED that the stay in this case is **LIFTED**. The deadline for the completion of discovery is **March 28, 2014**, and the deadline for filing dispositive motions is **April 30, 2014**.

IT IS FURTHER ORDERED that the plaintiff’s motion for temporary restraining order/preliminary injunction (Docket # 50) be and hereby is **denied**.

IT IS FURTHER ORDERED that the plaintiff's request for a protective order and to compel discovery (Docket # 54) be and hereby is **denied**.

Dated at Milwaukee, Wisconsin, this 3rd day of January, 2014.

SO ORDERED,



HON. RUDOLPH T. RANDA
U. S. District Judge