

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

FRANKLIN C. EDMONDS,

Plaintiff,

v.

OPERATING ENGINEERS LO. 139,

Defendant.

ORDER

08-cv-644-bbc

This is a civil action for monetary relief in which plaintiff Franklin Edmonds, who is proceeding pro se, alleges that he has been discriminated against by defendant Operating Engineers Lo. 139. Plaintiff has paid the \$350 fee for filing this case.

The next step is for plaintiff to serve his complaint on the defendant. Under Fed. R. Civ. P. 4(m), a plaintiff has 120 days after filing a complaint in which to serve the defendant. However, that is an outside limit with few exceptions. This court requires that a plaintiff act diligently in moving his case to resolution. If plaintiff acts promptly, he should be able to serve his complaint on the defendant well before the deadline for doing so established in Rule 4. To help plaintiff understand the procedure for serving his complaint, I am enclosing with this order a copy of a document titled "Procedure for Serving a Complaint on a Corporation, Partnership or Unincorporated Association in a Federal

Lawsuit.” In addition, I am enclosing to plaintiff an extra copy of his complaint and forms he will need to send to the defendant in accordance with the procedures set out in Option 1 of the memorandum.

Plaintiff should be aware that in serving his complaint on defendant it will not be necessary for him to include the evidentiary materials he submitted in support of his complaint. In fact, the 227 pages of exhibits, 4 audio tapes and two union handbooks petitioner submitted will be disregarded because they are not necessary to an understanding of his claims. If they were, the complaint would violate Federal Rule of Civil Procedure 8(a)(2), which requires that a complaint contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Because the submission of evidentiary materials at this stage of the lawsuit is contrary to the dictates of Rule 8, I am returning the materials to him with his copy of this order.

ORDER

IT IS ORDERED that plaintiff promptly serve his complaint on the defendant and file proof of service of his complaint as soon as service has been accomplished. If, by January 5, 2009, plaintiff fails to submit proof of service of his complaint on the defendant or explain his inability to do so, I will direct plaintiff to show cause why his case should not be

dismissed for lack of prosecution.

Entered this 7th day of November, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge