

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

David P. Bourke,)
Plaintiff,)
No. 22-cv-03164
-vs-)
(Judge Kennelly)
Denis Richard McDonough, in his)
official capacity as Secretary of)
Veterans Affairs,)
Defendant.)

**AGREED MOTION TO FILE INADVERTENTLY
 OMITTED SUMMARY JUDGMENT EXHIBITS AND
 TO RESET SCHEDULE ON CROSS-MOTIONS**

Plaintiff, with the agreement of the defendant, moves the Court for leave to file summary judgment exhibits that counsel inadvertently failed to file with plaintiff's summary judgment documents.

Grounds for this motion are as follows:

1. Plaintiff filed on November 13, 2023 his Local Rule 56.1(b)(2) Statement (ECF No. 32), Rule 56.1(b)(3) Statement of Additional Facts (ECF No. 33), Cross-Motion for Summary Judgment (ECF No. 34), Local Rule 565.1(a)(2) Statement of Undisputed Facts (ECF No. 35), and Memorandum on Cross-Motions for Summary Judgment. (ECF No. 36.) Plaintiff inadvertently omitted to file his Appendix of Exhibits.

2. Defense counsel called this omission to the attention of plaintiff's counsel on January 2, 2023 and indicated that the defendant does not object to correction of the omission.

3. The VA's response and reply regarding summary judgment are currently due on January 5, 2024. This deadline has been extended once before. While

defense counsel has almost completed the VA's response and reply, she will require some additional time to review plaintiff's submission of exhibits and address any additional related factual issues.

4. Defense counsel is shortly to begin a trial before Judge Shah in a high-value, complex medical malpractice trial involving traumatic injuries to a young child, *K.G. v. United States*, No. 20 C 2872. Trial is set to begin on January 16, 2024, and is expected to conclude on January 26, 2024.

5. Final preparation for this trial is currently underway and demanding significant time, which will affect the defendant's review of the plaintiff's filing in order to complete the VA's submission.

6. Counsel for the parties have discussed whether it would be appropriate to ask the Court to reset the summary judgment schedule; counsel have agreed to request that the Court reset the schedule as follows: VA's response and reply due February 2, 2024; Bourke's reply due on February 16, 2024.

It is therefore respectfully requested that the Court grant plaintiff leave to file his Appendix of Exhibits, and reset the schedule as requested above.

Respectfully submitted,

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