

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF KANSAS

MICHAEL D. VAN DEELEN,

Plaintiff,

Vs.

No. 05-4039-SAC

MARION JOHNSON,
STEVEN MILES,
DALE FLORY,
KENNETH FANGOHR,
KEN McGOVERN, and
THE BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS, KANSAS,

Defendants.

MEMORANDUM AND ORDER

The court has reviewed the decision of the Tenth Circuit dated August 14, 2007, and notes the Court's direction that this court conduct additional summary judgment proceedings in this case. The court understands that the following claims, as stated in the Pretrial Order, remain subject to summary judgment briefing: First Amendment claims against defendants Miles, Johnson,

and Flory only, as stated in Theories 1, 2, 5, 6 and 8; and State Law claims as stated in Theories 12, 13, 14, 15 and 16 against the named individual defendants.¹ Plaintiff's right to petition claim, as stated in Theory 17, will be set for trial at a later date after resolution of additional summary judgment motions, if any. The remaining claims as set forth in Theories 3, 4, 7, 9, 10, 11 and 18, are not subject to further briefing, having been fully resolved in favor of defendants upon appeal.

In accordance with the Mandate from the Tenth Circuit, the court hereby permits the parties to file any additional summary judgment motions that are consistent with the Tenth Circuit's August 14, 2007, decision in this case on or before October 31, 2007. Any responses shall be filed on or before November 23, 2007, and any reply memoranda shall be filed on or before December 7, 2007.

SO ORDERED.

Dated this 4th day of October, 2007, Topeka, Kansas.

s/ Sam A. Crow
Sam A. Crow, U.S. District Senior Judge

¹Plaintiff's claims in Theory 2 of retaliation based upon due process and equal protection are not subject to further briefing since the Tenth Circuit affirmed their dismissal. Plaintiff's remaining claims of retaliation as stated in Theory 2 which are based upon the First Amendment, i.e., assembly, association and speech, remain.