

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

TITUS HENDERSON,

Plaintiff,

v.

DAVID BELFUEL and JUDY CHOJNASKI,

Defendants.

ORDER

03-C-729-C

According to a preliminary pretrial conference entered in this case on May 28, 2004, the deadline for filing dispositive motions was set for November 4, 2004 and trial was scheduled for April 4, 2005. Defendant Chojnaski originally was identified as a Jane Doe defendant. Later, her identity was discovered and on July 16, 2004, plaintiff amended his complaint to name her. She was not served with plaintiff's complaint until September 21, 2004. She answered the complaint on October 8, 2004.

On January 26, 2005, defendant Chojnaski filed a motion for summary judgment. At the time, this court did not notice that the motion had been filed two months outside the November 4 deadline. Therefore, a schedule was established for briefing the motion under which plaintiff has until February 25, 2005 in which to file his opposing papers and

defendant Chojnaski has until March 7, 2005, in which to serve and file a reply. This means that the motion will not be ripe for adjudication until less than four weeks before trial. Now defendant Chojnaski has moved to adjourn the trial date if her motion for summary judgment is denied.

Although I will grant defendant's motion to adjourn, I am disappointed that counsel for defendant Chojnaski, who is not new to this court, made no apparent effort to learn what deadlines had been scheduled in the case when his client entered her appearance so that a scheduling conference could be set up to adjust the dates as necessary. Certainly, his curiosity about the status of the case should have been piqued when he received a copy of the schedule for briefing defendant Belfueil's motion for summary judgment on November 9, 2004.

In any event, had counsel asked earlier for a conference to revise the deadlines for filing dispositive motions and going to trial, I would have granted the motion in light of her late joinder in the suit. Therefore, the parties are to continue to brief the motion according to the schedule established in the court's January 28, 2005 letter. The trial date will be moved to May 2, 2005, when plaintiff is scheduled to appear in this court for trial in another of his cases, Henderson v. Berge, 04-C-39-C. If plaintiff's case 04-C-39-C survives summary judgment, I will set a new trial date for it.

Accordingly, IT IS ORDERED that defendant Judy Chojnaski's motion to reschedule the trial date so that the court can rule on her motion for summary judgment is GRANTED. Trial in this case is RESCHEDULED to May 2, 2005, at 9:00 a.m. The final pretrial conference is rescheduled to 8:30 a.m. on that same date.

Entered this 18th day of February, 2005.

BY THE COURT:

BARBARA B. CRABB
District Judge