

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

FREDERICK ROGERS,

Plaintiff,

v.

C.O. HERWIG,

Defendant.

ORDER

04-C-977-C

A preliminary pretrial conference was held in this case on April 20, 2005. At the conference, United States Magistrate Judge Stephen Crocker scheduled the trial of this case for March 6, 2006 and set deadlines for the completion of discovery and disclosure of witnesses. In addition, he set October 7, 2005, as the deadline for filing dispositive motions.

Deadlines for dispositive motions are ordinarily scheduled approximately four to six months following the preliminary pretrial conference so that the parties have time to gather the evidence they need to prove or defend against the claims raised in the lawsuit. In this case, however, plaintiff has filed a motion for summary judgment, together with supporting papers, only seven days after the preliminary pretrial conference was held.

The Court of Appeals for the Seventh Circuit has stated repeatedly that summary

judgment is the "put up or shut up" moment in a lawsuit. A party's failure to show what evidence he has to convince a trier of fact to accept his version of the facts will result in summary judgment for the opposing party. Fed. R. Civ. P. 56(e); Johnson v. Cambridge Industries, Inc., 325 F.3d 892, 901 (7th Cir. 2003); Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986); Matsushita Electric Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 (1986). Plaintiff has only one opportunity to move for summary judgment. If he does so before he has the evidence necessary to prove his claims, he will not have another chance. I will give plaintiff two weeks in which to advise the court and defendants' counsel whether he wishes to proceed on his motion at this time. If he says that he does, I will set a briefing schedule. If, however, defendant is not prepared to oppose the motion at that time, I will give him an extension that will allow him the time he needs to conduct discovery.

ORDER

IT IS ORDERED that plaintiff may have until May 20, 2005, in which to advise the court whether he wants to proceed on his summary judgment motion at this time.

Entered this 5th day of May, 2005.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge