

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

ERVIN GAGAS,

Plaintiff,

v.

WISCONSIN CENTRAL, LTD.,

Defendant and Third Party Plaintiff,

SAMUELS RECYCLING COMPANY and
RESIDUAL MATERIALS, INC.,

Third Party Defendants.

ORDER

06-C-651-C

Third party defendant Samuels Recycling Company has filed a motion to amend its answer to include a cross claim against third party defendant Residual Materials, Inc. The deadline for filing amendments to the pleadings has long since passed and trial is now imminent. It is far too late to change the nature of the case, particularly on an issue that is peripheral to the claim originally raised by plaintiff.

Samuels says that its motion for leave to amend was prompted by this court's summary judgment order, but Samuels fails to explain why it could not have foreseen the result of that order. Because Samuels has unduly delayed in seeking to amend its pleadings

and an 11th-hour amendment would cause prejudice to the other parties, Samuels's motion for leave to amend its answer is DENIED.

Entered this 6th day of November, 2007.

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