

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

ROSEANNE WAGNER,

Plaintiff,

v.

LIFE INSURANCE COMPANY OF
NORTH AMERICA,

Defendant.

ORDER

07-cv-609-bbc

On October 25, 2007, defendant removed this ERISA lawsuit to federal court. On December 19, 2007, this court held the telephonic preliminary pretrial conference. There, the parties predicted that this case would be resolved on a summary judgment motion. The parties disputed whether in this case plaintiff could take discovery. In light of this, I set a fairly tight schedule to resolve the discovery issue, with plaintiff's motion due by January 18, 2008, defendant's response due January 25, 2008, and any reply from plaintiff due by January 30, 2008. I also set a March 28, 2008 filing deadline for summary judgment motions and a court trial for August 11, 2008 at 9:00 a.m.

On January 11, 2008, the parties stipulated that plaintiff could file his motion for leave to take discovery by February 15, 2009, with all briefing completed by March 7, 2008. The court accepted that stipulation. But February 13, 2008 came and went with no motion. On March 17, 2008, the parties filed a second stipulation that plaintiff file any motion to allow discovery not later than April 21, 2008, almost a month after the summary judgment deadline. The court nonetheless accepted this stipulation, figuring that the parties must know what they were doing.

But defendant did not file a summary judgment motion on March 28, 2008 and it did not ask for an extension of the filing deadline. The next time the court heard from the parties was on April 22, 2008 when they filed a *third* stipulation for an extension of time for plaintiff to file a motion to allow discovery, asking for a new May 12, 2008 deadline, with briefing completed by June 2, 2008. The parties have never offered any explanation as to why this fairly simple front-end issue has caused them such consternation.

Enough is enough. This proposed stipulation is REJECTED. The discovery issue was supposed to be resolved by early February, 2008 so that if discovery were permitted, it could occur before the March 28 summary judgment motion deadline. Defendant, for whatever reason, did not seek summary judgment and never asked to extend the filing deadline. Therefore, the opportunity to file dispositive motions has passed. Based on the parties' inexplicable languor, it appears that they will be trying this case to the court on August 11, 2008 using the evidence already available to them.

Entered this 25th day of April, 2008.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge