

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

JAMES C GREGORY

PLAINTIFF

v.

3:12-cv-00013-BRW

CODY GENTRY, et al.

DEFENDANTS

ORDER

Pending is Plaintiff's Motion for Summary Judgment (Doc. No. 41). Defendants have filed a Response seeking additional time to respond to Plaintiff's Motion because they have not had time to conduct discovery.¹ For the following reasons, Plaintiff's Motion for Summary Judgment is DENIED without prejudice.

"Although discovery need not be complete before a case is dismissed, summary judgment is proper only if the nonmovant has had adequate time for discovery."² Plaintiff filed his current Motion on April 30, 2012.³ At this time, discovery has not begun and the Initial Scheduling Order has just been issued.⁴ I find that Defendants have not had time to conduct adequate discovery; therefore, Plaintiff's Motion (Doc. No. 41) is premature and is DENIED without prejudice. Based on this ruling, Defendants' Motion (Doc. No. 46) is MOOT.

IT IS SO ORDERED this 14th day of May, 2012.

/s/Billy Roy Wilson
UNITED STATES DISTRICT JUDGE

¹ Doc. 46.

² *Martindale Corp. v. Heartland Inns of America, LLC*, No. 08-CV2065-LRR, 2009 WL 362270, at *1 (N.D. Iowa, Feb. 11, 2009) (quoting *Robinson v. Terex Corp.*, 439 F.3d 465, 467 (8th Cir. 2006)).

³ Doc. No. 41.

⁴ Doc. No. 44.