

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

v.

EBENEZER K. HOWE IV, and PHI
DEVELOPMENT LLC,

Defendants.

Case No. 2:19-cv-00421-DCN

**MEMORANDUM DECISION AND
ORDER**

Pending before the Court is Defendant Ebenezer Howe’s Emergency Rule 72 Objection to Magistrate’s Order Denying Unopposed Summary Judgment Motion. Dkt. 94.

In essence, Howe requests that the undersigned “determine whether Ms. Dale erred by holding that [his] unopposed Rule 56 summary judgment motion was supposedly ‘premature’ until she sets deadlines for discovery and dispositive motions” *Id.* at 5.

The Court finds Judge Dale did not err.

Howe filed a Motion for Summary Judgment on October 12, 2021. Dkt. 88. Judge Dale denied the same on October 18, 2021. Dkt. 91. In her decision, Judge Dale accurately noted that discovery has yet to even begin in this case. Without discovery, the Court cannot accurately rule on Howe’s Motion.

Courts in this District (and throughout the Country) frequently decline ruling on early motions for summary judgment until the discovery phase is complete. *See, e.g.,*

Goodrick v. Field, No. 1:17-CV-00265-BLW, 2020 WL 1948840, at *6 (D. Idaho Apr. 22, 2020) (denying portion of summary judgment motion dealing with a matter that had not gone through the discovery process); *Boden v. Nutrien AG Sols., Inc.*, No. 4:18-CV-00266-DCN, 2019 WL 5386465, at *2 (D. Idaho Oct. 21, 2019) (granting an extension to summary judgment briefing until discovery was complete). The same rings true here. It will be better for everyone—including Howe—to engage in discovery before presenting arguments to the Court for adjudication.


Judge Dale’s decision to “deny the motion without prejudice on the grounds that it is premature” was not in err. Dkt. 91, at 4.

ORDER

1. Howe’s Objection (Dkt. 94) is OVERRULED.



DATED: October 22, 2021



David C. Nye
Chief U.S. District Court Judge