

## United States District Court, Northern District of Illinois

<b>Name of Assigned Judge or Magistrate Judge</b>	Joan H. Lefkow	<b>Sitting Judge if Other than Assigned Judge</b>	
<b>CASE NUMBER</b>	09 C 5725	<b>DATE</b>	6/5/2013
<b>CASE TITLE</b>	Pillay vs. Millard Refrigerated Services, Inc.		

### DOCKET ENTRY TEXT

Plaintiff's motion for partial summary judgment or alternatively for an instruction at trial that Ramirez was disabled under the ADA (dkt. 140) is denied. See statement section.

■ [ For further details see text below.]

Notices mailed by Judicial staff.

### STATEMENT

Partial summary judgment is only available when granting such relief would entirely dispose of one or more counts of the complaint. *See Ambre v. Joe Madden Ford*, 881 F. Supp. 1187, 1193 (N.D. Ill. 1995). *See also S.N.A. Nut Co. v. Haagen-Dazs Co., Inc. (In re S.N.A. Nut Co.)*, 226 B.R. 869, 872 (Bankr. N.D. Ill. 1998) (collecting cases). Granting plaintiff's motion would not entirely dispose of any count in his complaint, and, therefore, partial summary judgment is not available to plaintiff on the pending motion.

That said, this court may enter an order, pursuant to Federal Rule of Civil Procedure 56, that is interlocutory in nature to help narrow and frame the triable issue in the event partial summary judgment is unavailable. *Capitol Records, Inc. v. Progress Record Distrib., Inc.*, 106 F.R.D. 25, 28-29 (N.D. Ill. 1985). In this instance, however, the issue upon which plaintiff seeks a finding—that Ramirez was regarded as disabled—is not a fact that must be proved in order for Pillay to succeed on his claim. *See, e.g., Dunn v. Nordstrom, Inc.*, 260 F.3d 778, 784 (7th Cir. 2001) (A plaintiff must establish that he engaged in statutorily protected activity; he suffered an adverse employment action thereafter; and there was a causal link between the adverse action and the protected activity.). Such a finding would not narrow the issues even slightly. As for the alternative relief requested, jury instructions should be tendered as a whole in conjunction with the pretrial materials.