

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SOLOMON BOOMER,

Plaintiff,

DECISION AND ORDER

03-CV-6348L

v.

JOSE DEPERIO,
STEPHEN LASKOWSKI,
ROBERT M. TAKOS,
LESTER N. WRIGHT, M.D.,

Defendants.

Plaintiff's motion for summary judgment (Dkt. #58) is denied. In deciding that motion, the Court must view the factual record in this case in the light most favorable to the non-moving parties, *i.e.*, the defendants, and draw all reasonable inferences in their favor. *Leibowitz v. Cornell University*, 584 F.3d 487, 498 (2d Cir. 2009). Applying that standard here, it would clearly be impossible to grant summary judgment for plaintiff without resolving disputed issues of fact, which the Court may not do on a motion for summary judgment. *See Goldberg & Connolly v. New York Community Bancorp, Inc.*, 565 F.3d 66, 71 (2d Cir. 2009).

CONCLUSION

Plaintiff's motion for summary judgment (Dkt. #58) is denied.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "David G. Larimer", written over a horizontal line.

DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
January 12, 2010.