

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

EDDIE L. JOHNIKIN,

Plaintiff,

v.

Case No. 18-cv-316-pp

OMEGA RESTAURANT, *et al.*,

Defendants.

DECISION AND ORDER DISMISSING CASE FOR FAILURE TO PROSECUTE

The plaintiff, an inmate who is representing himself, filed this case in March 2018. Dkt. No. 1. On March 28, 2018, the court received a request from the plaintiff, asking the court to set aside his case for ninety days, dkt. no. 6, which the court construed as a motion for an extension of time to file the certified trust account statement that the Prisoner Litigation Reform Act requires for proceeding without prepayment of the filing fee, dkt. no 8. The court granted him more time, but also explained to the plaintiff that based on some things he said in his complaint, it was possible that he did not have a federal cause of action. Dkt. No. 8 at 2. Specifically, the complaint said that the plaintiff was suing the defendants for battery “under state-law claims.” Dkt. No. 1 at 4. The plaintiff stated, “I’ll like to file my civil suit under state-law.” *Id.* at 3. The court gave the plaintiff the opportunity to amend his complaint, either to allege federal causes of action or to name defendants who are not Wisconsin residents. Dkt. No 8 at 3. The court’s order advised the plaintiff that if he wanted to proceed with the case, he had to file the amended complaint *and*

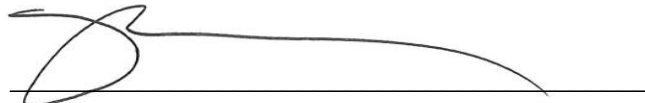
submit his six-month trust account statement by the end of the day on June 26, 2018. Id. The court told the plaintiff that if he failed to do either one of those things by day's end on June 26, 2018, the court would dismiss his case. Id. at 4.

It is now July, and the plaintiff has not filed an amended complaint or his trust account statement. As the court stated, it will dismiss his case without prejudice for failure to prosecute. Civil L.R. 41(c) (E.D. Wis.)

The court **ORDERS** that this case is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute.

Dated in Milwaukee, Wisconsin this 9th day of July, 2018.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
United States District Judge