

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

JEREMY MEYERS , individually, and)	
on behalf of all others similarly situated,)	
)
Plaintiff,)	
)
v.)	No. 15-cv-445
)
ONEIDA TRIBE OF INDIANS)	
OF WISCONSIN,)	
)
Defendant.)	

**PLAINTIFF’S CIVIL L.R. 7(h) EXPEDITED, NON-DISPOSITIVE
MOTION TO STAY THE MOTION FOR CLASS CERTIFICATION**

Plaintiff Jeremy Meyers (“Plaintiff”), respectfully requests that this Court stay Plaintiff’s Motion for Class Certification (Dkt. No. 3) until the Fed. R. Civ. P. 16(b) scheduling conference with the court. In support of this motion, Plaintiff states:

1. Plaintiff filed a motion for class certification with the complaint to avoid the risk of mootness, in accordance with the Seventh Circuit’s decision in *Damasco v. Clearwire Corp.*, 662 F.3d 891 (7th Cir. 2011).
2. In *Damasco*, the Seventh Circuit held that a settlement offer made to a putative class representative prior to a motion for class certification may moot the class representative’s claim. *Damasco*, 662 F.3d at 895-96. The Seventh Circuit expressly stated that class plaintiffs should file their motions for class certification with their complaints to avoid mootness from an individual settlement offer made to the named plaintiff:

A simple solution to the buy-off problem that *Damasco* identifies is available, and it does not require us to forge a new rule that runs afoul of Article III: Class-action plaintiffs can move to certify the class at the same time that they file their complaint. The pendency of that motion protects a putative class from attempts to buy off the named plaintiffs. *Damasco* argues that this solution would provoke plaintiffs to move for certification

prematurely, before they have fully developed or discovered the facts necessary to obtain certification. But this objection is unpersuasive. If the parties have yet to fully develop the facts needed for certification, then they can also ask the district court to delay its ruling to provide time for additional discovery or investigation. In a variety of other contexts, we have allowed plaintiffs to request stays after filing suit in order to allow them to complete essential activities.

Id. at 896 (internal citations omitted).

3. Considering that this District's local rules provide for an automatic briefing schedule, that Defendant has not been served yet, and that some discovery is likely to be necessary before the Court rules on the Motion for Class Certification, the Court should not rule on this Motion for Class Certification until all parties have been served, Defendant has answered the Complaint, and the parties have had the opportunity to conduct initial discovery.

4. In many similar actions before Courts of this District, the Court has stayed motions for class certification that are filed with the complaint until the Rule 16(b) scheduling conference.

5. Plaintiff brings this motion to stay on an expedited basis pursuant to Civil L.R. 7(h).

WHEREFORE, Plaintiff respectfully requests that the Court stay the class certification motion until the date of the Fed. R. Civ. P. 16(b) scheduling conference.

Respectfully submitted,

Plaintiff JEREMY MEYERS, individually, and on behalf
of all others similarly situated,

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