

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

AMELIA STAPLER,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACT. NO. 3:21-cv-437-ECM
)	[WO]
AUTOMATIC FOOD SERVICE, INC.,)	
)	
Defendant.)	

ORDER

Pending before the Court is the Defendant’s motion for summary judgment (doc. 11), the Plaintiff’s motion for extension of time to file response (doc. 15), and the Plaintiff’s response in opposition to the Defendant’s motion for summary judgment (doc. 16).

Federal Rule of Civil Procedure 56 governs the procedure for motions for summary judgment. Rule 56(d) provides: “If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may . . . deny [the motion].” In her response, the Plaintiff argues that the Defendant’s motion for summary judgment is premature; that the Plaintiff cannot adequately oppose the motion because no discovery has been conducted, and thus the Plaintiff has not had the opportunity to depose the Defendant’s affiant and has not had access to the Defendant’s business records; and that the Defendant’s motion should be denied and the case allowed to proceed to discovery. (Doc. 16 at 1, 3–5). The Plaintiff also submitted a declaration in accordance with Rule 56(d). (Doc. 16-1). Upon consideration of the motion and response, the Court finds that the motion for summary judgment is premature.

Upon consideration of the motions and the Plaintiff's response, and for good cause, it is

ORDERED as follows:

1. The Defendant's motion for summary judgment (doc. 11) is DENIED without prejudice as premature;

2. On or before **September 22, 2021**, the Defendant shall file an answer or a motion in accordance with Federal Rule of Civil Procedure 12;

3. The Plaintiff's motion for extension of time (doc. 15) is DENIED as moot.

Done this 8th day of September, 2021.

/s/ Emily C. Marks
EMILY C. MARKS
CHIEF UNITED STATES DISTRICT JUDGE