

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

JANES, INC. and
LOREN JANES.

PLAINTIFFS

v.

Case No. 2:13-CV-02049

WILLIAM J. MOATES;
SUNAMERICA ASSET MANAGEMENT CORP.
f/k/a AIG SUN AMERICA ASSET MGT. CORP.; and
SUNAMERICA CAPITAL SERVICES, INC.
f/k/a AIG SUNAMERICA CAPITAL SERVICES, INC.

DEFENDANTS

ORDER

Before the Court is a joint motion to hold scheduling order in abeyance (Doc. 41) filed by Plaintiffs and Defendants SunAmerica Asset Management Corp., f/k/a AIG SunAmerica Asset Management Corp.; and SunAmerica Capital Services, Inc., f/k/a AIG SunAmerica Capital Services, Inc. (collectively “SunAmerica”). The moving parties request that the Court hold the amended initial scheduling order (Doc. 38) in abeyance until the Court has ruled on the pending motion to dismiss (Doc. 31) filed by SunAmerica. In their motion, they note that Plaintiffs filed a “Partial Response in Opposition to Defendants’ Motion to Dismiss and Motion for Extension of Time to Fully Respond” (Doc. 39). Under Local Rule 7.2, any motion for an extension of time should have been filed as a separate motion. SunAmerica filed a motion for leave (Doc. 40) to file a reply on September 6, 2013, which was granted by the Court via text-only order on the same day. As of the date of this order, SunAmerica has yet to actually file a reply with the Court.¹

¹ Although SunAmerica attached a proposed reply as an exhibit to their motion for leave (Doc. 40-1), this does not qualify as having filed the reply itself.

The instant motion to hold scheduling order in abeyance was filed on October 8, 2013, one day after the October 7, 2013 deadline for the parties to hold their Rule 26(f) conference. Pursuant to the amended initial scheduling order, the parties' Rule 26(f) report is due on October 22, 2013. Although the moving parties did not explicitly state that they held their conference on or before the specified deadline, the Court will assume that they complied with the court's order. In support of their request to hold the initial scheduling order in abeyance, the parties point out that the Court's ruling on the motion to dismiss may affect the issues discussed at the conference. The Court agrees; however, this does not justify delaying the filing of a Rule 26(f) report.

Accordingly, the joint motion to hold scheduling order in abeyance (Doc. 41) is DENIED.

IT IS SO ORDERED this 16th day of October, 2013.

P. K. Holmes, III

P.K. HOLMES, III
CHIEF U.S. DISTRICT JUDGE