

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

FIDDLER'S CREEK, LLC,

Plaintiff,

v.

Case No: 2:14-cv-379-FtM-29CM

NAPLES LENDING GROUP LC,  
DANIEL CARTER and MMA  
REALTY CAPITAL LLC,  
Respondent,

Defendants.

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**ORDER**

This matter comes before the Court upon assignment of the case and referral of three pending discovery motions (Docs. 55, 58, 65) to the undersigned on January 16, 2015. Discovery in this case has been stayed since August 8, 2014, pending a determination of the Court's jurisdiction. Doc. 69. On January 13, 2015, the Court determined that it had jurisdiction; lifted the stay to the extent that the Clerk shall issue the standard standing order, track two notice, and interested persons order so that the case may proceed; and directed the parties to file a case management report within the time provided by the track two notice and the local rule. Doc. 74. The discovery motions were filed prior to the stay, in June and July 2014, and as a result one of the motions has not yet been fully briefed. Doc. 65.

Upon review of the filings and the history of this case, the Court finds it appropriate to deny the discovery motions without prejudice at this time to allow the parties to meet and confer and refile the motions, if necessary, once discovery re-

commences.<sup>1</sup> The Court reaches this conclusion for several reasons. First, with regard to Defendants' Motion for Leave to File Motion to Compel in Excess of Twenty-Five Pages (Doc. 58), at the time that Defendants sought leave to file such a motion to compel, Plaintiff stated that it had not yet responded to the discovery requests at issue. Doc. 59 at 2. Thus, the motion to compel was premature. Second, with respect to Plaintiff's Renewed and Amended Motion to Compel Production of Documents from Non-Party MMA Realty Capital ("MMA") (Doc. 55), MMA's response states that MMA is willing to work with Plaintiff and has offered to produce a privilege log in an effort to reach a resolution of the issues raised. Doc. 66. Finally, Plaintiff's Motion to Compel Mirror Images of Defendants' ESI Systems (Doc. 65) is not yet fully briefed, although filed six months ago. The parties should meet and confer again regarding the issues raised, as they will be conducting the case management conference to discuss the discovery deadline and discovery plan.<sup>2</sup>

ACCORDINGLY, it is hereby

**ORDERED:**

1. Plaintiffs' Renewed and Amended Motion to Compel Production of Documents from Non-Party MMA Realty Capital (Doc. 55) is **DENIED WITHOUT PREJUDICE**.

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<sup>1</sup> Pursuant to Local Rule 3.05(c)(2)(B), unless otherwise ordered by the Court, a party may not seek discovery from any source prior to the case management conference.

<sup>2</sup> Moreover, the Joint Mediation Status Report (Doc. 51) states that the mediator in this matter has not yet declared an impasse and the parties continue settlement discussions.

2. Defendants' Motion for Leave to File Motion to Compel in Excess of Twenty-Five Pages (Doc. 58) is **DENIED WITHOUT PREJUDICE**.

3. Plaintiff's Motion to Compel Mirror Images of Defendants' ESI Systems (Doc. 65) is **DENIED WITHOUT PREJUDICE**.

**DONE** and **ORDERED** in Fort Myers, Florida on this 22nd day of January, 2015.

  
CAROL MIRANDO  
United States Magistrate Judge

Copies:  
Counsel of record