

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

STUART C. IRBY COMPANY,

Plaintiff,

v.

Case No: 2:16-cv-211-FtM-99CM

WESTERN SURETY COMPANY,
BROOKS & FREUND, L.L.C. and
BC POWER, INC.,

Defendants.

ORDER

This matter comes before the Court upon review of BC Power, Inc.'s *ex parte* Motion to Defer Mediation (Doc. 47) filed on November 23, 2016 and Motion to Defer Mediation (Doc. 48) filed on the same day. BC Power, Inc. ("BC Power") first filed its *ex parte* motion (Doc. 47), then immediately filed the identical motion (Doc. 48) in the public file. Because the motions are identical, BC Power *ex parte* Motion to Defer Mediation (Doc. 47) is due to be denied as moot. For the foregoing reasons, BC Power's Motion to Defer Mediation (Doc. 48) is due to be denied without prejudice.

The parties have scheduled a mediation to take place on December 8, 2016. Doc. 48 at 4. BC Power, Inc. ("BC Power") requests the Court to defer mediation to a later date so that it can first resolve BC Power's "impending Motion to Set Aside the Assignment," that it intends to file. *Id.* at 2.

Local Rule 3.01(g), United States District Court, Middle District of Florida, requires that each motion filed in a civil case, with certain enumerated exceptions

not at issue here, contain a statement “stating whether counsel agree on the resolution of the motion.” M.D. Fla. R. 3.01(g). The Court notes that the motion does not include a certification pursuant to Rule 3.01(g) that BC Power conferred with opposing counsel in good faith prior to filing the motion and whether opposing counsel agrees to the requested relief. Accordingly, the Court will deny without prejudice BC Power’s motion for failure to comply with the local rules.

ACCORDINGLY, it is hereby

ORDERED:

1. BC Power, Inc.’s *ex parte* Motion to Defer Mediation (Doc. 47) is **DENIED as moot.**

2. BC Power, Inc.’s Motion to Defer Mediation (Doc. 48) is **DENIED without prejudice.**

DONE and ORDERED in Fort Myers, Florida on this 28th day of November, 2016.


CAROL MIRANDO
United States Magistrate Judge

Copies:
Counsel of record