

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

E.C., a minor, by and through Tyler
Carr and Audra Carr

Plaintiff,

v.

Case No: 2:16-cv-285-FtM-99CM

WILLIAMS-SONOMA STORES,
INC.,

Defendant.

ORDER

Before the Court are Defendant's Motion for Extension of Time to Respond to Complaint (Doc. 7) and Defendant's Motion for Extension of Time to Respond to Discovery (Doc. 8), both filed on April 20, 2016. For the reasons set forth below, the motions are denied as moot.

Plaintiff, a minor, by and through his guardians and natural parents, filed this action in the Circuit Court in and for Lee County, Florida alleging a negligence claim against Defendant. Doc. 6 at 7. While this case was pending in state court, Defendant filed the present motions for extensions. Doc. 7, 8. On April 19, 2016, Defendant removed this case to this Court. Doc. 1. The motions were not ruled on before this case was removed. Accordingly, the motions now are pending before this Court.

Federal Rule of Civil Procedure 81(c)(2) allows Defendant seven days after the notice of removal is filed to answer or present other objections or defenses if no answer

was filed before the removal. Fed. R. Civ. P. 81(c)(2). Because this case was removed on April 19, 2016, Defendant has up to and including April 26, 2016 to respond to the Complaint. Should Defendant require additional time, Defendant may file a motion with the Court in compliance with the Local Rules, including Local Rule 3.01(g) which requires that the parties confer prior to filing any motion in a civil case. M.D. Fla. R. 3.01(g).

Moreover, Defendant's motion for extension to respond to discovery also is denied as moot. Federal Rule of Civil Procedure 26(d)(1) provides that "[a] party may not seek discovery from any source before the parties have conferred as required by rule 26(f)." Fed. R. Civ. P. 26(d)(1). The rules, however, will allow a party to serve early rule 34¹ requests as long as the request is served more than twenty-one days after the summons and complaint are served on a party. Fed. R. Civ. P. 26(d)(2). While the Court recognizes that this discovery was filed in state court, because this case now is pending in this Court, the federal rules apply. Fed. R. Civ. P. 81(c)(1). Therefore, because this case recently was removed on April 19, 2016, discovery in this matter is premature. Thus, the motion for extension to respond also is premature and is denied as moot.

¹ Rule 34 allows a party to serve on any other party a request to produce or to inspect documents or other tangible things. Fed. R. Civ. P. 34(a).

ACCORDINGLY, it is hereby

ORDERED:

1. Defendant's Motion for Extension of Time to Respond to Complaint (Doc. 7) is **DENIED as moot**.

2. Defendant's Motion for Extension of Time to Respond to Discovery (Doc. 8) is **DENIED as moot**.

DONE and ORDERED in Fort Myers, Florida on this 21st day of April, 2016.


CAROL MIRANDO
United States Magistrate Judge

Copies:
Counsel of record