

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-23798-CIV-ROSENBAUM/SELTZER

GRACE D. SOLIS,

Plaintiff,

v.

CLIENT SERVICES, INC., CITIBANK (SOUTH
DAKOTA), N.A., PATRICK A. CAREY, P.A.,
PATRICK A. CAREY, ROBERT J. RIVERA,
MAIRIM A. MORALES,

Defendants.

**ORDER DENYING PLAINTIFF'S MOTION TO STRIKE DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT**

This matter is before the Court on Plaintiff's Motion to Strike Defendants Patrick A. Carey, P.A., Patrick A. Carey, Robert J. Rivera, and Mairim Morales's Motion for Summary Judgment [D.E. 113]. Plaintiff seeks to strike Defendants' Motion for Summary Judgment [D.E. 110] on the basis that Defendants failed to provide complete and timely discovery to Plaintiff.¹

Rule 56(b), Fed. R. Civ. P., and this Court's amended Scheduling Order permit a summary judgment motion to be filed *at any time* prior to the deadline set by the Court. Nothing in the Federal Rules of Civil Procedure or this Court's Local Rules or Orders requires summary judgment motions


¹ Plaintiff has also filed an Amended Motion to Compel Discovery [D.E. 111] and a Motion to Extend the Summary Judgment Deadline [D.E. 112]. The Motion to Compel is under consideration by the Honorable Barry S. Seltzer, Chief Magistrate Judge. The Motion to Extend the Summary Judgment Deadline will be considered by this Court after the discovery issue is resolved.

to be filed after discovery. Similarly, no rule permits the Court to strike a motion for summary judgment merely because it has been served prior to discovery having been provided.

If the absence of this discovery prevents Plaintiff from having the facts necessary to oppose Defendants' Motion, Plaintiff can file an affidavit or declaration under Rule 56(d), Fed. R. Civ. P., setting forth the specific reasons why she cannot oppose Defendants' Motion. The Court can then grant appropriate relief under the circumstances. However, the failure of Defendants to provide timely discovery responses by itself does not provide a basis for striking their Motion for Summary Judgment.

Accordingly, it is **ORDERED and ADJUDGED** that Plaintiff's Motion to Strike Defendants Patrick A. Carey, P.A., Patrick A. Carey, Robert J. Rivera, and Mairim Morales's Motion for Summary Judgment [D.E. 113] is **DENIED**.

DONE and ORDERED at Fort Lauderdale, Florida, this 26th day of October 2012.


ROBIN S. ROSENBAUM
UNITED STATES DISTRICT JUDGE

Copies to:

Grace D. Solis, *pro se*
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Via U.S. Mail

Counsel of record