

Juan Carlos Gil, Plaintiff )  
v. ) Civil Action No. 16-23020-Civ-Scola  
Winn Dixie Stores, Inc., Defendant )


### **Order on the Defendant's Motion to Deem Admissions**

This matter is before the Court on the Plaintiff's Motion to Deem Admissions (ECF No. 40). The Plaintiff has requested that the Court deem the Plaintiff's Amended Requests for Admissions admitted because the Defendant did not respond within the thirty days required by Federal Rule of Civil Procedure 36(a)(3).

As an initial matter, the Court notes that pre-trial motions were due on February 14, 2017. The Plaintiff did not file his motion until April 4, 2017. Nevertheless, the Plaintiff's motion would fail even if it were timely. As the Defendant notes in its opposition to the Plaintiff's motion (ECF No. 41), under the version of the Federal Rules of Civil Procedure that were in effect when the Plaintiff served his Amended Requests for Admissions, a party was afforded three additional days after service by electronic means in order to respond. See Fed. R. Civ. P. 6(d)(2014) and advisory committee's note to 2016 amendment. Since the Plaintiff served the Amended Requests for Admissions on November 1, 2016, the Defendant's response was due on December 5, 2016. Discovery in this case closed on December 2, 2016, and pursuant to Local Rule 26.1(d), "written discovery requests must be served in sufficient time that the response is due on or before the discovery cutoff date. Failure by the party seeking discovery to comply with this paragraph obviates the need to respond or object to the discovery. . . ."

Accordingly, the Court **denies** the Plaintiff's Motion to Deem Admissions (ECF No. 40).

**Done and ordered**, at Miami, Florida, on April 7, 2017.

  
Robert N. Scola, Jr.  
United States District Judge