

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Broadcast Music, Inc.; et al.,

Civil No. 15-CV-3440 (SRN/LIB)

Plaintiffs,

ORDER

v.

**Cadillac's Northstar Grille, LLC,
d/b/a Cadillac's Northstar Grille,
et al.,**

Defendants.

Emily M. Wessels, Linda Nguyen, and William D. Schultz, Merchant & Gould, PC, 80 South Eighth Street, Suite 3200, Minneapolis, Minnesota 55402, for Plaintiffs.

Jeffer Ali, Carlson Caspers Vandenburg Lindquist & Schuman, PA, 225 South Sixth Street, Suite 4200, Minneapolis, Minnesota 55402, for Defendants.

SUSAN RICHARD NELSON, United States District Court Judge

On November 10, 2016, Defendants obtained pro bono legal representation in this matter through the Federal Bar Association's Pro Se Project. (Notice of Appearance [Doc. No. 31].) On November 23, 2016, Plaintiffs filed their Motion for Summary Judgment Against Defendant Schulman and Default Judgment Against Cadillac Northstar Grille, LLC [Doc. No. 33], currently scheduled to be heard before this Court on March 31, 2017 [Doc. No. 43].

Also on November 23, Defendants' counsel, Jeffer Ali, expressed concerns to

Magistrate Judge Leo I. Brisbois about the approaching discovery deadline of December 1, 2016, given that Defendants had only recently obtained Mr. Ali's representation. (Defs.' Letter of 11/23/16 [Doc. No. 40].) Plaintiffs responded, expressing their opposition to any modification to the pretrial scheduling order. (Pls.' Letter of 11/23/16 [Doc. No. 41].) The magistrate judge then directed the parties to submit letter briefing on the question of whether or not an amended scheduling order should issue [Doc. No. 42].

The parties submitted their respective positions [Doc. Nos. 44 & 46], and on December 16, 2016, Magistrate Judge Brisbois issued an amended scheduling order. (Am. Pretrial Sched. Order [Doc. No. 50].) The Amended Pretrial Scheduling Order provides a June 30, 2017 deadline for the completion of all discovery. (Id. at 2.) Any dispositive motions are also to be scheduled by the same date. (Id. at 5.) In addition, the order provides that the parties should attempt to schedule dispositive motions after the completion of all discovery. (Id. at 5 n.5.) All dispositive motions are to be scheduled for the same hearing. (Id.) Also in the amended order, Magistrate Judge Brisbois observed that Plaintiffs' summary judgment and default judgment motion is scheduled for hearing before the undersigned judge on March 31, 2017. (Id. at 6 n.6.) He deferred to the undersigned judge regarding the effect of the Amended Pretrial Scheduling Order on the March 31 hearing date. (Id.)

Prior to the issuance of the Amended Pretrial Scheduling Order, Mr. Ali informed this Court that the parties' efforts at settlement had proven to be unsuccessful. (Defs.' Letter of 11/30/16 at 1 [Doc. No. 45].) Because the possible modification of the

scheduling order was then under consideration by the magistrate judge, Defendants' counsel requested that the deadline for Defendants to file their responsive memorandum in opposition to Plaintiffs' dispositive motions be held in abeyance. (Id. at 2.)

In light of the fact that Defendants' counsel has not had sufficient opportunity to engage in discovery and because new deadlines remain in place pursuant to the Amended Pretrial Scheduling Order, the Court denies without prejudice Plaintiffs' Motion for Summary Judgment Against Defendant Schulman and Default Judgment Against Cadillac Northstar Grille, LLC. Finally, pursuant to the Amended Pretrial Scheduling Order, the parties are scheduled to appear before Magistrate Judge Brisbois for a settlement conference on January 30, 2017, at 9:30 a.m., in Courtroom 3, Gerald W. Heaney Federal Building and U.S. Courthouse, 515 W. First St., Duluth, Minnesota.

THEREFORE, IT IS HEREBY ORDER THAT

1. Plaintiffs' Motion for Summary Judgment Against Defendant Schulman and Default Judgment Against Cadillac Northstar Grille, LLC [Doc. No. 33] is

DENIED WITHOUT PREJUDICE.

Dated: December 20, 2016

s/Susan Richard Nelson
SUSAN RICHARD NELSON
United States District Court Judge