

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

LATASHA FRAZIER

PLAINTIFF

V.

NO. 4:17-cv-128-DMB-JMV

**EVANS REALTY, INC. AND
GREENVILLE, LLC**

DEFENDANTS

ORDER

This matter is before the court on motion [4] of defendant, Evans Realty Inc., to stay discovery in this case until the case management conference is held. Defendant cites in support of its motion FED.R.CIV.P. 16(b), 26(d), and 26(f). However, these rules do not so dictate. Instead, discovery is not permitted prior to the Rule 26(f) conference (not the date of the case management conference under FED.R.CIV.P. 16(b)), except requests for production may be served 21 days after service of the summons and complaint. However, such requests for production are not considered served for purposes of calculating the due date until the date of the Rule 26(f) conference (not the date of the case management conference under FED.R.CIV.P. 16(b)). However, if discovery under Rules 31, 33 or 36 was served before removal of a case to federal court, and the party served has not yet responded, the discovery is considered to have been served at the case management conference.

Further, while counsel is correct that a motion to remand for lack of jurisdiction will result in a stay of certain proceedings under the court's local rules, no such motion has been filed. Accordingly, the motion to stay is denied as made, and discovery should proceed as dictated by the Federal Rules of Civil Procedure.

SO ORDERED, this the 22nd day of September, 2017.

/s/ Jane M. Virden
U. S. MAGISTRATE JUDGE