

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
NORTHERN DIVISION  
No. 2:14-CV-12-BO

DANNY DAVIS )  
Plaintiff, )  
v. )  
GREGORY POOLE EQUIPMENT )  
COMPANY, )  
Defendant. )

**ORDER**

This matter is before the Court on defendant's motion for protective order. Plaintiff has responded and the motion is ripe for ruling. For the reasons discussed below, defendant's motion is denied.

**BACKGROUND**

Plaintiff filed his complaint alleging retaliatory and wrongful discharge, hostile work environment, and negligent supervision or retention in violation of Title VII of the Civil Rights Act of 1964 and North Carolina state law. The Court denied defendant's motion to dismiss [DE 18], defendant answered plaintiff's complaint, and a scheduling order was entered setting the discovery deadline for April 1, 2015, and the dispositive motion filing deadline for May 1, 2015. [DE 22]. On April 1, 2015, plaintiff filed a motion to extend the discovery deadline. [DE 29]. The motion was granted over objection of defendant by order entered April 22, 2015, and the discovery deadline was extended to May 1, 2015.<sup>1</sup> Prior to the granting of plaintiff's motion to extend the discovery deadline, defendant filed the instant motion for protective order. Defendant seeks an order finding that plaintiff's discovery requests served on the closing of discovery untimely and confirming that defendant need not respond to plaintiff's discovery requests.

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<sup>1</sup> Local Civil Rule 7.1(a) provides that upon extension of the discovery deadline the dispositive motion filing is automatically extended for thirty days unless otherwise ordered.


### DISCUSSION

While plaintiff's requests for discovery were served on the day discovery originally closed, April 1, 2015, plaintiff also filed a timely motion for extension of the discovery deadline which was granted. With a discovery closing date of May 1, 2015, plaintiff's requests served on defendant on April 1, 2015, were no longer untimely and defendant had the appropriate time within which to respond. In light of the foregoing, though the Court does not favor plaintiff having served its request for discovery on the final day of the discovery period, it finds no basis on which to deny plaintiff his requested discovery. Defendant's motion for protective order is therefore denied.

### CONCLUSION

Defendant's motion for protective order [DE 31] is DENIED. Defendant shall respond to plaintiff's discovery requests served April 1, 2015, within thirty days of the date of entry of this order. The period for filing dispositive motions is hereby extended to August 24, 2015. Defendant's motion for summary judgment [DE 35] is therefore DENIED WITHOUT PREJUDICE with permission to refile at the close of the dispositive motions period. Defendant may incorporate its prior motion by reference if appropriate.

SO ORDERED, this 23 day of June, 2015.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE