

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:15-CV-00591-RJ

H/S WILSON OUTPARCELS, LLC,)
)
 Plaintiff/Counter Defendant,)
)
 v.)
)
KROGER LIMITED PARTNERSHIP I,)
)
)
 Defendant/Counter Claimant.)

ORDER

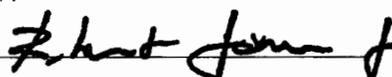
This matter is before the court on Plaintiff's motion to strike Defendant's motion for summary judgment and pretrial disclosures [DE-40] and for the purpose of case management.

Under the initial Case Management Order entered by the court, discovery was due to be completed by September 30, 2016, dispositive motions were due by November 15, 2016, and a final pretrial conference was scheduled for January 11, 2017. [DE-14]. On October 19, 2016, the court allowed in part a motion to extend discovery, specifically providing 45 days to complete certain limited discovery. [DE-33]. Defendant interpreted the court's order as implicitly extending the motions deadline by 45 days, but Plaintiff did not understand the motions deadline to be extended and filed a notice of pretrial disclosures on December 14, 2016. [DE-35]. On December 18, 2016, Defendant filed a motion for summary judgment [DE-36] and a notice seeking clarification that the motions deadline had been extended [DE-38]. Plaintiff responded that it did not believe the deadlines had been extended and, resultantly, that (1) Defendant's summary judgment motion was untimely, (2) Defendant did not timely file its pretrial disclosures, and (3) Defendant had waived objections to Plaintiff's pretrial disclosures. [DE-39]. Plaintiff also filed (1) a motion to strike

Defendant's summary judgment motion and pretrial disclosures [DE-40] and (2) a proposed pretrial order [DE-41]. Defendant, thereafter, filed notices regarding its pretrial disclosures and objections to Plaintiff's disclosures [DE-42, -43]. The court terminated the final pretrial conference and stayed all deadlines, including briefing on pending motions, pending a scheduling and status conference [DE-44], which was held on the date even herewith [DE-45].

For the reasons stated more fully during the telephonic scheduling and status conference, the motion to strike [DE-40] is denied. The court finds that the deadline for filing dispositive motions was extended pursuant to Local Civil Rule 7.1(a). Thus, Defendant's summary judgment motion was timely. Furthermore, pretrial preparations, including disclosures and the drafting of a proposed pretrial order, are premature given the posture of the case. The court will set a final pretrial conference after ruling on summary judgment and pretrial preparations shall proceed at that time in accordance with Local Civil Rule 16.1. Defendant has expressed interest in participating in court-hosted settlement conference. The court finds that resolution of the motion for summary judgment may enhance settlement prospects. Either party may request court-hosted settlement after the court's ruling on summary judgment. Accordingly, the briefing deadlines regarding Defendant's motion for summary judgment are as follows: Defendant shall file a separate Statement of Material Facts in support of the motion for summary judgment as required by Local Civil Rule 56.1 within seven (7) days; Plaintiff shall have fourteen (14) days from the filing of Defendant's Statement of Material Facts to respond to the summary judgment motion; and Defendant shall have fourteen (14) days from the filing of Plaintiff's response to make any reply.

SO ORDERED, the 12th day of January 2017.



Robert B. Jones, Jr.

United States Magistrate Judge