

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:14 CV 169**

MYKHAILO RADCHYSHYN,)	
)	
Plaintiff)	
)	
v)	<u>ORDER</u>
)	
ALLSTATE INDEMNITY COMPANY,)	
)	
Defendant.)	

THIS MATTER has come before the undersigned pursuant to a Certification and Report of F.R.C.P. 26(f) Conference and Discovery Plan (#12). LCvR 16.1 provides as follows:

LCvR 16.1 PRETRIAL CONFERENCES

(A) *Initial Attorney’s Conference.* As soon as is practicable, and in any event not later than fourteen (14) days from joinder of the issues (as defined in Section (D) below), the parties or their counsel shall confer as provided by Fed.R.Civ.P. 26(f), and conduct an “Initial Attorney’s Conference” (“IAC”). In addition, counsel shall also discuss at such conference consent to magistrate judge jurisdiction. See LCvR 73.1(C).

(B) *Deadline for Filing the Certification of Initial Attorney’s Conference.* Within five (5) days of the IAC, the parties shall complete and file the Certification of Initial Attorney’s Conference (“CIAC”), which shall include a proposed discovery plan. The CIAC shall serve as a guideline for the Court in issuing a Scheduling Order as provided by Fed.R.Civ.P. 16(b). If the parties choose to stipulate out of, or object to, the mandatory initial disclosure procedure

required by Fed.R.Civ.P. 26(a)(1), they must so indicate in the discovery plan.

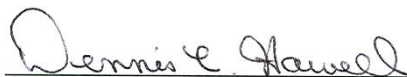
(D) Joinder of the Issues. For the limited purpose of these Local Rules, “joinder of the issues” occurs when the final answer to a complaint, third-party complaint, or cross claim or the final reply to counterclaim has been filed, or the time for doing so has expired. Rule 12 motions contained in an Answer, but not supported by a brief, act as placeholders and do not prevent joinder of the issues. Where Rule 12 motions are filed and briefed, issues will not join until such motions are resolved by the court, unless otherwise ordered by Court.

After the parties were provided with notice that they should conduct the initial attorneys conference, there was filed by the Plaintiff, a Motion to Amend the Complaint, which at the present time is pending before the Court. As a result, issues have not joined and the undersigned will decline to enter a scheduling order until after the Motion to Amend the Complaint has been addressed by the Court.

ORDER

IT IS, THEREFORE, ORDERED that the Court declines to enter a Pretrial Order and Case Management Plan in this matter and the Certification (#12) is **DENIED**.

Signed: September 30, 2014



Dennis L. Howell
United States Magistrate Judge

