

**IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:15 CV 31**

**FIRST CITIZENS BANK & TRUST** )  
**COMPANY,** )  
 )  
**Plaintiff** )  
 )  
**v** )  
 )  
**ROBERT C. MALT, SR., C. RICHARD** )  
**MALT, and DAVID G. MALT,** )  
 )  
**Defendants.** )

**ORDER**

**THIS MATTER** has come before the undersigned pursuant to a Certification and Report of F.R.C.P. 26(f) Conference and Discovery Plan (#14). In the certification, the parties request that the undersigned enter a Pretrial Order and Case Management Plan.

An examination of the file in this matter shows that on June 30, 2015 Defendants filed a Third-Party Complaint (#12) against Parkwoods II NC, LLC and a summons was issued on such date to the Third-party Defendant, Parkwoods II NC, LLC.

LCvR 16.1(A) states as follows:

**(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”).

Joinder of issues is defined in LCvR 16.1(D) as follows:

**(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.

Due to the filing of the Third-Party Complaint, joinder of issues has not occurred in this matter and will not occur until the final Answer to the Third-Party Complaint or any cross-claim or a final reply to a counter-claim has been filed, or the time for doing so has expired. As a result, the undersigned will deny the request to enter a Pretrial Order and Case Management Plan in this matter. The parties will be directed to present a Certification of Initial Attorneys Conference and Discovery Plan within ten (10) days after there has been “joinder of issues” in this matter.

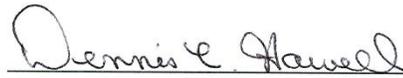
### **ORDER**

**IT IS, THEREFORE, ORDERED** that the Certification and Report of F.R.C.P. 26(f) Conference and Discovery Plan (#14) will be **DENIED** and the Court will not enter a Pretrial Order and Case Management Plan at this time. The parties are ordered and directed to, within ten (10) days after joinder of issues has

occurred in this matter, file a Certification of Initial Attorneys Conference and

Discovery Plan entered into between all parties in this matter.

Signed: July 9, 2015



Dennis L. Howell  
United States Magistrate Judge

