

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:15cv242**

RITA KOTSIAS,)
)
 Plaintiff,)
)
 v.)
)
 CMC II, LLC et al.,)
)
 Defendants.)
 _____)

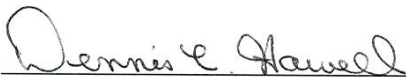
ORDER

Pending before the Court is the Motion for Extension of Time [# 33]. Plaintiff brought this action on October 23, 2015. Defendant ESIS filed its Answer on December 15, 2015; Defendant ESIS did not file a motion to dismiss at the time. After the Pro Se Settlement Assistance Program failed to settle this case, the Court entered the Pretrial Order on May 10, 2016. Plaintiff then served Defendant ESIS with discovery requests on July 5, 2016.

Approximately three months after the Court entered the Pretrial Order and a month after Plaintiff served her discovery requests, Defendant ESIS moved to dismiss the claims asserted against it. Defendant ESIS now moves to stay the deadline for responding to Plaintiff's discovery requests until the Court rules on the pending Motion to Dismiss. Plaintiff does not consent to the motion.

Defendant ESIS had the opportunity to have the Court rule on any motion to dismiss prior to the opening of discovery by moving to dismiss the Complaint rather than filing its Answer. Had Defendant ESIS done so, the Court would not have entered the Pretrial Order until the Court resolved any pending motions to dismiss. Defendant ESIS, however, made the decision to answer the Complaint and wait nearly a year from the date the Complaint was filed to move to dismiss the claims asserted against it. Having made the decision to delay filing the Motion to Dismiss until months after the entry of the Pretrial Order, Defendant ENIS will have to respond to Plaintiff's discovery requests in a timely manner. As a practical matter, this Court cannot delay discovery pending a ruling on the Motion to Dismiss at such a late date. Accordingly, the Court **DENIES** the motion [# 33]. Defendant ESIS shall have ten (10) days from the entry of this Order to fully respond to Plaintiff's discovery requests.

Signed: August 11, 2016



Dennis L. Howell
United States Magistrate Judge

