

**IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:16 CV 306**

**B&W FIBER GLASS, INC.,** )  
 )  
 **Plaintiff** )  
 )  
 **v** )  
 )  
 **KERNS TRUCKING, INC., ELE** )  
 **LOGISTICS, INC., EXPRESS** )  
 **BROKERAGE, INC., and PL TRUCKING,** )  
 **INC.,** )  
 )  
 **Defendants.** )

**ORDER**

There has been received by the Court a Certification and Report of F.R.C.P. 26(f) Conference and Discovery Plan (#12). In the Certification, the parties B&W Fiber Glass, Inc. as Plaintiff and Kerns Trucking, Inc., ELE Logistic, Inc. and Express Brokerage, Inc. requests that the Court issue a Pretrial Order and Case Management Plan. The Court finds that the parties have not complied with LCvR 16.1(A) or (D) and will deny the request for issuance of the discovery plan.

LCvR 16.1(A) provides 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”). In addition, counsel shall also

discuss at such conference consent to magistrate judge jurisdiction. See LCvR 73.1(C).

LCvR 16.1(D) provides 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.

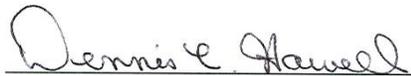
In the Complaint, the Plaintiff presents allegations against the Defendant PL Trucking, Inc.. An examination of the file in this matter does not show that the Defendant PL Trucking, Inc. has been served, has filed an answer, or that a default has been taken against that Defendant. As a result, the “final answer” as described in the above referenced Local Rules, has not been filed. For that reason, the Certification and Report (#12) considered by the undersigned as a motion for the entry of a Pretrial Order and Case Management Plan will be denied.

### **ORDER**

**IT IS, THEREFORE, ORDERED** that the Certification and Report of F.R.C.P. 26(f) Conference and Discovery Plan (#12) is **DENIED**. It is further directed that the Plaintiff shall, on or before, **December 8, 2016**, file a report with this Court describing whether or not the Plaintiff has had a summons served upon PL Trucking, Inc.; what has happened to the summons; and if a summons and complaint was served upon Defendant PL Trucking, Inc.; and, the time for filing

answer has expired, why the Plaintiff has not filed a motion for entry of default or other request for other appropriate relief.

Signed: November 23, 2016

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Dennis L. Howell  
United States Magistrate Judge

