

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:17 CV 52**

EFA PROPERTIES, LLC,)
)
 Plaintiff)
)
 v)
)
 LAKE TOXAWAY COMMUNITY)
 ASSOCIATION, INC.,)
)
 Defendant.)

ORDER

This matter is before the undersigned pursuant to a Certification and Report of Initial Attorneys’ Conference (#15). The usual procedure is for this Court to now enter a Pretrial Order and Case Management Plan, however, for the reasons set forth below, the undersigned will decline to do so.

Local Rule of Civil Procedure 16.1(A) and (D) 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”).

(D) Joinder of the Issues. For the limited purpose of these Local |Civil 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 the Court.

In this matter, it does not appear that there has been a joinder of issues as of the present time. On August 4, 2017 Defendant Lake Toxaway community Association, Inc., filed a Motion for Leave to Join Additional Parties and Claims(#13). The time for Plaintiff to respond to the motion has not expired and thus there is now an issue that has not yet been determined about whether or not there will be additional parties in this matter. If the undersigned were to enter a Pretrial Order and Case Management Plan in this case, it could well result in additional costs and expense if other parties were later allowed to join in the action after such discovery had commenced.

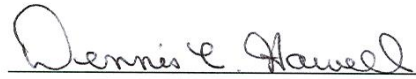
For this reason, the undersigned will enter this Order declining to enter a Pretrial Order and Case Management Plan and will consider the Certification and Report of Initial Attorneys' Conference (#15) as a motion for that purpose.

ORDER

IT IS, THEREFORE, ORDERED that the Court **DECLINES** to enter and Pretrial Order and Case Management Plan pursuant to the Certification and Report of Initial Attorneys' Conference (#15). The undersigned will enter further orders after the resolution of Motion for Joinder by the Defendant Lake Toxaway

Community Association, Inc. has been determined.

Signed: August 28, 2017



Dennis L. Howell
United States Magistrate Judge

