

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:17 CV 169**

**TIFFANY AGUILERA and DIANETT)
KARDOCH,)
)
Plaintiffs)
)
v)
)
DAVID & ANNE TRUFANT, INC., d/b/a)
CAMP KAHDALIA & CHOSTAONGA,)
DAVID TRUFANT, and ANNE TRUFANT,)
)
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 (#11). An examination of the file in this matter shows that the parties have failed to comply with LCvR 16.1(A) or (D).

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.

An examination of the file in this matter shows that an Amended Answer and Counterclaim (#10) was filed by the Defendants on September 5, 2017. The Plaintiff, Dianett Kardoch, as of yet, has not filed a reply to the counterclaim, nor has the time for her to do so expired. It would thus appear that the filing of the Certification is premature and for that reason, the undersigned will not enter a scheduling order in this matter, but will direct the parties to file a Certification and Report of their conference and discovery plan within the time limits as provided by LCvR 16.1(A).

ORDER

IT IS, THEREFORE, ORDERED that the Court considers the Certification and Report of F.R.C.P. 26(f) Conference and Discovery Plan (#11) as a motion requesting that the Court enter a Pretrial Order and Case Management Plan and the Court **DENIES** such motion and directs the parties to file a Certification and Report of Fed.R.Civ.P. 26(f) Conference and Discovery Plan within the time limits as provided by LCvR 16.1(A).

Signed: September 14, 2017

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

