

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:22-cv-00142-MR-WCM

THE NORTH CAROLINA HUMAN )  
RELATIONS COMMISSION )  
*on behalf of* )  
Kathleen Bird )

Plaintiff, )

v. )

FORREST HILLS )  
INVESTMENTS, LLC, )  
JAMIE HOPE, )  
TERESA SCHENK, )  
DRS REALTY COMPANY, and )  
DRS COMMUNITIES, )

Defendants. )

**ORDER**

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This matter is before the Court on the parties’ “Consent Motions for Judicial Settlement Conference and for Remote Means” (the “Motion for Judicial Settlement Conference” Doc. 16), by which the parties request that a judicial settlement conference be conducted (by remote means) by February 28, 2023.

The Pretrial Order and Case Management Plan (the “Pretrial Order”), which was entered in this matter on October 6, 2022, set a deadline of November 2, 2022 for the parties to designate a mediator and a deadline of May 30, 2023 for the parties to complete a mediated settlement conference.

Doc. 12.

Subsequently, on October 21, 2022, Defendants filed a Motion to Dismiss which seeks the dismissal of the third and fourth claims of Plaintiff-Intervenor Kathleen Bird. Doc. 14. That Motion to Dismiss remains pending.

The parties did not file by the November 2 deadline a notice identifying the mediator they had selected, or a report describing the reasons they had been unable to agree on a mediator. Instead, on that date, the parties filed the Motion for Judicial Settlement Conference. Consequently, it appears that the parties now request that the Court conduct a settlement conference (either in lieu of or in addition to) the mediation referenced by the Pretrial Order.

The Pretrial Order directs that the parties conduct a mediated settlement conference before a specific deadline; it does not prohibit them from engaging in mediation immediately or on multiple occasions prior to the deadline. The parties are, of course, also free to discuss settlement without the assistance of a mediator, and it appears that they have already been doing so as the Motion for Judicial Settlement Conference states that the parties believe “there is a real possibility of reaching a mediated settlement in this case” and that they “have already exchanged a proposed consent decree in an effort to jump start such a settlement.” Doc. 16 at 2.

Using limited judicial resources for the purpose of conducting a judicial settlement conference, however, is not warranted in these circumstances.

**IT IS THEREFORE ORDERED THAT:**

1. The Consent Motions for Judicial Settlement Conference and for Remote Means (Doc. 16) are **DENIED**.
2. The parties are **DIRECTED** to file a notice identifying the mediator they have selected, or a report describing why they have been unable to agree on a mediator, as referenced by the Pretrial Order, no later than November 14, 2022.

Signed: November 4, 2022



W. Carleton Metcalf  
United States Magistrate Judge

