

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION
2:14 CV 29**

GEORGE W. SHOPE,)
)
 Plaintiff)
)
 v)
)
 FRONTIER COMMUNICATIONS)
 CORPORATION, et al.,)
)
 Defendants.)

ORDER

THIS MATTER has come before the undersigned pursuant to a Certification F.R.C.P. 26(f) Conference (#28) which has been filed by the Plaintiff and a number of the defendants. LCvR 16.1(A) provides as follows:

LCvR 16.1 PRETRIAL CONFERENCES

(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).

Subsection (D) states:

(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.

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 Court.

An examination of the file in this matter shows that a motion has been filed by Hewitt Associates, LLC to set aside an entry of default entered on January 29, 2015 against Hewitt Management Company, LLC who is a party in this matter. A ruling has not been made on the motion to set aside the entry of default and thus joinder of the issues has not occurred in this case at the present time. For that reason the undersigned will deny the request to enter a scheduling order in this matter. After the motion to set aside the entry of default has been addressed the parties are to submit a new Certification within 10 days of the filing of the Order.

ORDER

IT IS, THEREFORE, ORDERED that the request by the Plaintiff and some of the Defendants to enter a Pretrial Order and Case Management Plan (#28) is **DENIED** as a result of issues not having been joined in this matter.

Signed: March 3, 2015



Dennis L. Howell
United States Magistrate Judge

