

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO. 3:16-CV-701-RJC-DCK**

**MARSHALL O. LOWERY,** )

**Plaintiff,** )

**v.** )

**UNITED STATES OF AMERICA,** )

**Defendant.** )

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**ORDER**

**THIS MATTER IS BEFORE THE COURT** *sua sponte* regarding scheduling concerns. The parties have consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c), and immediate review is appropriate.

Having reviewed the record in this case and the “Pretrial Order And Case Management Plan” (Document No. 10), the undersigned observes that the parties have failed to file a report identifying their chosen mediator. See (Document No. 10, p.5). Defendant did file a “...Report Regarding The Selection Of A Mediator” (Document No. 12) on March 9, 2017, stating that “[t]he United States objects to mediation prior to the completion of discovery,” and that the “issues are not ripe for mediation, and thus, mediation would be costly and unproductive at this time.” (Document No. 12, p.1).

It appears that Defendant is confused by the requirements of the “...Case Management Order.” The parties were not required to file a Mediation Report by March 9, 2017; rather, they were required to “**select and agree upon a mediator** and shall file with the Court a report stating the identity of the mediator selected, or a report stating that they have been unable to agree upon a mediator and the reasons for such inability.” (Document No. 10, p.5) (emphasis added); see also

(Document No. 10, p.1). The current deadline to file a report on the *results* of mediation is August 4, 2017, the same date as the discovery completion deadline. Id.

The undersigned further notes that the Rules of this Court require that “[a]ll parties to civil actions are required to attend a Mediated Settlement Conference unless otherwise ordered by the Court.” Local Rule 16.2 (A).

**IT IS, THEREFORE, ORDERED** that the parties shall file a report with the Court identifying their chosen mediator on or before **June 13, 2017**.

**IT IS FURTHER ORDERED** that the deadline for filing a Mediation Report on the results of mediation is **August 18, 2017**.

**SO ORDERED.**

Signed: June 1, 2017

  
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David C. Keesler  
United States Magistrate Judge

