

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
NO. 5:14-cv-136-GCM**

TOMMY R. COMBS,

Plaintiff,

v.

THE COUNTY OF ASHE, *et al.*,

Defendants.

ORDER

THIS MATTER is before the Court on the Second Motion for Pre-Trial Conference and Scheduling Order filed by Defendants County of Ashe and GARCO, Inc. (herein, “Defendants”) (Doc. No. 108). Plaintiff has filed a response in opposition, and Defendants have filed a reply.

Plaintiff filed his complaint on August 15, 2014. The Honorable Richard L. Voorhees issued an opinion on July 6, 2016, dismissing a number of Plaintiff’s claims and dismissing all claims with respect to several defendants. After Defendants made multiple unsuccessful attempts to hold an attorneys’ conference, Defendants requested a pre-trial conference to enter a scheduling order on February 16, 2017. The Court denied that motion, however, as Plaintiff opted into the PSAP Program. After the parties reached an impasse in the mediated settlement conference, Plaintiff filed a motion for leave to intervene and to amend complaint. On August 15, 2017, the Honorable David S. Cayer, U.S. Magistrate Judge, denied Plaintiff’s motion and issued a notice to conduct initial attorneys’ conference.

On September 1, 2017, this case was reassigned to the Honorable Judge Graham C. Mullen. This Court affirmed the decision of the magistrate judge on November 20, 2017.

Plaintiff then appealed the denial of his motion to the Fourth Circuit. On June 14, 2018, the Fourth Circuit affirmed the decision of this Court, and the mandate of the Court of Appeals was entered on July 5, 2018.

As a result, this case has been pending for nearly four years and no scheduling order has yet been entered. Plaintiff argues that this Court should not hold a conference at this time because his time to appeal the Fourth Circuit's decision to the Supreme Court of the United States has not yet expired. However, the Court finds that it has the authority to hold a conference and issue a scheduling order at this time because the Fourth Circuit's decision dismissed the appeal, the mandate returned the matter to this Court on July 5, 2018, and no stay has been entered.

The Court **THEREFORE ORDERS** that a pre-trial conference be held in Courtroom 2-2 of the Charlotte Courthouse on Thursday, August 2, 2018, at 2:00pm.

SO ORDERED.

Signed: July 25, 2018

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

