

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

PATRICIA KENNEDY,

Plaintiff,

v.

Case No: 6:17-cv-605-Orl-41GJK

**RHODA SOLANO and SOLANO
ENTERPRISES, INC.,**

Defendants.

REPORT AND RECOMMENDATION

The matter before the Court comes on for consideration after the parties' case management conference before the undersigned pursuant to Federal Rule of Civil Procedure 16. Doc. No. 41. On April 5, 2017, Plaintiff filed a complaint against Defendants, requesting injunctive relief under the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.* Doc. No. 1. On April 10, 2017, United States District Judge Carlos E. Mendoza issued a scheduling order (the "Scheduling Order") staying discovery except for the limited discovery provided therein. Doc. No. 6 at 2. The Scheduling Order also required the parties to participate in mediation. *Id.* On August 29, 2017, the parties attended a mediation but reached an impasse. Doc. No. 30.

Since their mediation, the parties have had a dispute regarding the setting of case management deadlines. Doc. No. 34 at 2 n.1; Doc. No. 36 at 2 n.1. Plaintiff proposes a discovery deadline of April 1, 2018, while Defendants propose a discovery deadline of a date between July 15, 2018 and August 31, 2018. *Id.* Plaintiff proposes a trial term of October 2018, while Defendants propose a trial term of January 2019. *Id.* Both parties later filed unilateral case management reports, which prompted Judge Mendoza to order a Rule 16 conference before the undersigned. Doc. No.

38. On November 15, 2017, the undersigned ordered the parties to meet and confer in person as to their case management deadlines and jointly file a case management report by November 22, 2017. Doc. No. 39 at 2. The parties did not file their case management report by that date.

On November 29, 2017, the undersigned held a Rule 16 conference and addressed the parties' failure to file a case management report and all other issues that are delaying the progress of this case. Doc. No. 41. When addressing whether they have engaged in formal discovery, the parties stated that they have engaged in the limited discovery provided in the Scheduling Order. The parties, however, were under the impression that the Scheduling Order's stay of discovery was in effect until the Court issued a case management and scheduling order. Thus, in order to facilitate the progress of this case, it is recommended that the Court immediately lift the Scheduling Order's stay on formal discovery and issue a case management and scheduling order with the deadlines stated herein.

Considering the foregoing, it is **RECOMMENDED** that the Court:

- 1) Immediately lift the Scheduling Order's stay on formal discovery; and
- 2) Issue a case management and scheduling order with the following case management deadlines:
 - a) **Plaintiff's Expert Disclosure Deadline:** April 2, 2018
 - b) **Defendants' Expert Disclosure Deadline:** April 23, 2018
 - c) **Discovery Deadline:** June 15, 2018
 - d) **Dispositive and *Daubert* Motions Deadline:** July 13, 2018
 - e) **Deadline to Meet in Person to Prepare Joint Final Pretrial Statement:** October 5, 2018
 - f) **Deadline to File Joint Final Pretrial Statement:** October 15, 2018

g) **All Other Motions Deadline (Including Motions in Limine and Trial Briefs):** November 13, 2018

h) **Trial Term Begins:** January 7, 2019.¹

NOTICE TO PARTIES

A party has fourteen days from this date to file written objections to the Report and Recommendation's factual findings and legal conclusions. A party's failure to file written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. *See* 11th Cir. R. 3-1. **In order to expedite the final disposition of this matter, if the parties have no objections to this report and recommendation, they may promptly file a joint notice of no objection.**

Recommended in Orlando, Florida on November 29, 2017.



GREGORY J. KELLY
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:
Presiding District Judge
Counsel of Record
Unrepresented Party
Courtroom Deputy

¹ Both parties agreed to a five-day jury trial. Doc. No. 34 at 2; Doc. No. 36 at 2.