

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

DAVID E. BARTINE and JUDITH S.
BARTINE,

Plaintiffs,

v.

Case No: 6:18-cv-1364-Orl-40TBS

DIAMOND RESORTS MANAGEMENT,
INC. and FIRST AMERICAN TITLE
INSURANCE COMPANY,

Defendants.

ORDER

Plaintiffs' Motion to File an Amended Complaint in Response to Both Motions to Dismiss by October 31 Given the Different Dates of Motion Filings and the Amendment Rule at Rule 15(a)(1)(B) (Doc. 25), is **GRANTED**. Plaintiff has through October 31, 2018 to file an amended complaint rather than a response to the pending motions to dismiss.

It is apparent from the briefing that counsel did not comply with Local Rule 3.01(g) before the motion was filed. Local Rule 3.01(g) provides that before filing most motions in a civil case, the moving party shall confer with the opposing party in a good faith effort to resolve the issues raised by the motion, and shall file with the motion a statement certifying that the moving party has conferred with the opposing party, and that the parties have been unable to agree on the resolution of the motion. **The term "confer" in Rule 3.01(g) requires a substantive conversation in person or by telephone in a good faith effort to resolve the motion without court action and does not envision an email, fax or letter.** Counsel who merely "attempt" to confer have not "conferred." A certification to the effect that opposing counsel was unavailable for a conference before filing a motion is

insufficient to satisfy the parties' obligation to confer. See Local Rule 3.01(g). Counsel must respond promptly to inquiries and communications from opposing counsel. Board of Governors of the Florida Bar, Ideals and Goals of Professionalism, ¶ 6.10 and Creed of Professionalism ¶ 8 (adopted May 16, 1990), available at www.floridabar.org (Professional Practice Henry Latimer Center for Professionalism). A party who, due to time constraints, must file a motion before complying with Rule 3.01(g), is under a duty to contact opposing counsel expeditiously after filing the motion and supplement the motion promptly with a completed Rule 3.01(g) certificate. Going forward, the Court expects counsel to comply with Local Rule 3.01(g).

DONE and ORDERED in Orlando, Florida on October 19, 2018.



THOMAS B. SMITH
United States Magistrate Judge

Copies furnished to Counsel of Record