

STATE OF NORTH CAROLINA
MECKLENBURG COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
19 CVS 23648

KEVIN QUIDORE,

Plaintiff,

v.

ALLIANCE PLASTICS, LLC,

Defendant.

**ORDER DENYING DEFENDANT'S
MOTION TO EXTEND DISCOVERY
PERIOD**

1. **THIS MATTER** is before the Court on Defendant Alliance Plastics, LLC's ("Alliance") Motion to Extend Discovery Period (the "Motion") in the above-captioned case. (ECF No. 59.)¹ In the exercise of its discretion, the Court rules on the Motion without a hearing. *See* BCR 7.4.

2. Alliance seeks additional time to subpoena documents from third parties it claims were identified for the first time in deposition testimony taken by Plaintiff Kevin Quidore ("Quidore") on December 4, 2020 (of Alliance) and December 10, 2020 (of Troy Wolf) and by Alliance on December 9, 2020 (of Quidore). (Def.'s Mot. Extend Disc. Period, ECF No. 59.) Alliance identifies two purposes for the requested extension: (i) "to subpoena documents from a prior employer of Plaintiff, sued under circumstances similar to those in the present action[.]" (Def.'s Mot. Extend Disc. Period), and (ii) to conduct discovery of Cardinal Trust, Evergreen Trust, and Forte

¹ The Motion does not comply with Business Court Rule ("BCR") 7.3, but after emailing the parties, the Court determined that Defendant consulted with Plaintiff prior to filing the Motion and that Plaintiff opposes the Motion.

One, (Def.'s Reply Pl.'s Resp. Opp'n Def.'s Mot. Extend Disc. Period 2 [hereinafter "Def.'s Reply"], ECF No. 61).

3. Quidore contends that the Motion should be denied because Alliance has failed to show good cause for its requested extension or show it has pursued discovery diligently and because the requested extension would prejudice Plaintiff. (Pl.'s Resp. Opp'n Def.'s Mot. Extend Disc. Period 5–7, ECF No. 60.) The Court agrees with Plaintiff and denies the Motion for the reasons set forth below.

4. BCR 10.4(a) addresses a motion to extend the discovery period and requires that any such motion “explain the good cause that justifies the relief sought” and “demonstrate that the parties have pursued discovery diligently.” After carefully considering the parties opening and supplemental submissions, the Court concludes that Alliance’s Motion does not meet the requirements of BCR 10.4 and should therefore be denied.

5. First, Alliance has failed to show that it diligently pursued relevant discovery within the discovery period. Although Alliance makes much of its inability to timely produce documents due to “systemic shortcomings in Alliance’s email server[,]” (Def.'s Reply 2), that failure has limited bearing on Alliance’s diligent pursuit of discovery from Quidore and third parties. Of far more relevance, Alliance received Quidore’s responses to Alliance’s written discovery requests and document production on September 8, 2020 yet elected not to take Quidore’s deposition until December 9, 2020, (*see* Not. Dep. Kevin Quidore, ECF No. 57), choosing a deposition date less than two weeks before the close of the discovery period. And having

scheduled Quidore's deposition with limited time remaining in the discovery period to conduct follow-up discovery, Alliance offers no evidence to show that it then responded to Quidore's testimony by subpoenaing or otherwise seeking documents from Quidore's prior employer, Cardinal Trust, Evergreen Trust, or Forte One after Quidore's deposition. It appears Alliance took no action after Quidore's deposition and simply waited until the day before the close of discovery to file the Motion.

6. Nor has Alliance shown that the discovery it seeks would lead to the discovery of admissible evidence. Indeed, Alliance does not specify in its Motion the specific documents or testimony it seeks and offers no explanation or evidence to suggest that any of the identified third parties have information relevant to this action. Alliance does not even identify in its Motion or briefs Quidore's former employer from whom it seeks discovery.

7. Moreover, the information Alliance does advance to support its Motion fails to show that the requested discovery is relevant. First, Alliance does not challenge Quidore's assertion that the discovery Alliance seeks from Quidore's prior employer involves a lawsuit Quidore filed over a separation agreement nearly twenty years ago. (Pl.'s Resp. Opp'n Def.'s Mot. Extend Disc. Period 6 n.3.) Why this information, so distant in time, is relevant to this action Alliance does not say. Next, not only does Alliance fail to explain why information held by Cardinal Trust and Evergreen Trust is relevant, but Alliance also admits that these entities are affiliated with Alliance or its manager and member, Ronald Grubbs, (Def.'s Resp. Pl.'s Second Set Interrogs. & Reqs. Produc., at Resps. 5-6, ECF No. 62.1), strongly suggesting that Alliance has

access to their information without the need for formal discovery. Finally, it appears that Forte One is an entity for which Quidore consulted after his termination by Alliance, (Pl.'s Sur-reply Opp'n Def.'s Mot. Extend Disc. Period 2 n.1, ECF No. 62); again, Alliance fails to explain what relevant information this entity may possess.

8. The Court further concludes that to permit Alliance an extension of the discovery period on its spare showing offered here, particularly when Quidore has conducted all discovery he deemed necessary in accordance with the deadlines set in the Court's Case Management Order, (ECF No. 27), would unfairly prejudice Quidore for his timely compliance and reward Alliance for its delay. *See Bohn v. Black*, 2018 NCBC LEXIS 50, at *10 (N.C. Super Ct. May 16, 2018) (noting that the nonmoving party had a "right to expect that having been set, the case management deadlines would be honored." (internal quotation marks and citation omitted)).²

9. **WHEREFORE**, the Court, in the exercise of its discretion, hereby **DENIES** the Motion.

SO ORDERED, this 28th day of December, 2020.

/s/ Louis A. Bledsoe, III
Louis A. Bledsoe, III
Chief Business Court Judge

² While the Court has been quite lenient in granting extensions related to delays created by COVID-19 in cases on its docket during 2020, it does not appear to the Court that COVID-19 played any role in Alliance's delay in scheduling Quidore's deposition until December 9, 2020 or in Alliance failing to issue third party subpoenas thereafter. Thus, any concerns related to COVID-19 do not militate in favor of granting the Motion on the facts of record here.