

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ADVANCE AMERICA, CASH ADVANCE	:	
CENTERS, INC., <i>et al.</i> ,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	Civil Action No. 14-953 (GK)
	:	
FEDERAL DEPOSIT INSURANCE	:	
CORPORATION, <i>et al.</i> ,	:	
	:	
Defendants.	:	

ORDER

Before the Court is Plaintiffs’ Motion to Amend their Proposed Discovery Plan and to Commence Discovery Immediately [Dkt. No. 84]. In a conference shortly after the Court issued its Memorandum Opinion of September 25, 2015 [Dkt. No. 63], the Court indicated that once it had disposed of Defendants’ Second Motion to Dismiss, then discovery should begin. Transcript of Status Conference at 16:13-16 (October 22, 2015) (“Transcript”). On December 12, 2016, the Court did resolve the Second Motion to Dismiss by ruling that CFSA lacked standing [Dkt. No. 97], and Plaintiffs have amended their Complaint to add additional Plaintiffs. See Third Amended Complaint, February 7, 2017 [Dkt. No. 124].

Defendants strongly oppose Plaintiffs’ desire to proceed with discovery as soon as possible. However, the Court indicated that it would do so when the Second Motion to Dismiss was ruled upon. That Motion has now been resolved and, therefore, the Court will proceed to set forth the schedule for discovery.

On May 26, 2017, the Parties submitted a Joint Discovery Plan [Dkt. No. 162]. That document was accompanied by Plaintiffs' Proposed Scheduling Order [Dkt. No. 162-1] and Defendants' Proposed Discovery Schedule [Dkt. No. 162-2]. Since there were some difference of opinion, the Court will first set forth the issues they agreed on:

Now that the Government's dispositive motions have been resolved [Dkt. No. 165], both Parties are prepared to proceed with discovery at this time. The Parties do not anticipate that any additional parties will be joined or the pleadings be amended. They also agree that any further amendments to pleadings more than 60 days after the start of fact discovery or any joinder of additional parties should not be permitted except upon good cause. The Parties do not believe that any of the outstanding factual and legal issues can be agreed upon or narrowed.

The Parties agree that there is no real probability of settling the case, and do not believe that the case would benefit from the Court's Alternative Dispute Resolution procedures. The Parties agree that the case should not be assigned to a Magistrate Judge for all purposes, but they do agree that individual discovery disputes may be submitted to a Magistrate Judge.

The Parties believe the case can be resolved on Cross-Motions for Summary Judgment and propose the following schedule:

- Filing of Cross-Motions for Summary Judgment: 45 days after close of discovery.
- Filing of Oppositions to the Motions for Summary Judgment: 45 days after filing of the Motions for Summary Judgment.
- Filing of Replies to Oppositions: 30 days after filing of Oppositions.

The Parties have agreed to stipulate to dispense with the initial disclosures required by Rule 26(a)(1). The Parties believe that a Protective Order is appropriate in this case and will develop one

to propose to the Court. The Parties propose a limit of 10 party depositions and a limit of 25 interrogatories to be directed to each party. That Order shall be submitted within 14 days of the start of discovery.

Defendants believe that discovery should proceed in two phases with the first phase lasting eight months and the second phase lasting four months. The Court disagrees with Defendants' position and concludes that it will be more efficient to have all discovery done in one continuing phase.

The Parties will work together to develop a protocol for ESI discovery. Within two weeks of the start of discovery, the Parties will exchange their proposed ESI discovery protocol. The Parties reserve the right to assert any privilege they believe to be applicable, as well as the right to claw back any inadvertently produced materials and to challenge any privilege they believe to be inappropriate.

The Parties propose the following schedule for expert disclosures:

- Disclosures of experts and reports are due 30 days after the close of fact discovery.
- Rebuttal expert disclosures and reports are due 30 days thereafter.
- Expert depositions are to be completed within 30 days of the deadline for rebuttal.

The date for the Pretrial Conference shall take place 30 to 60 days before the trial.

If the case is not resolved at the summary judgment stage, the Parties agree that a trial date, should one be needed, be set at the Pretrial Conference.

WHEREFORE, it is this 6th day of June, 2017, hereby

ORDERED, that Plaintiffs' Motion to Amend Their Proposed Discovery Plan and to Commence Discovery Immediately is **granted in part and denied in part**; and it is further

ORDERED, that Discovery shall commence 14 days after issuance of this Order; and it is further

ORDERED, that the Parties shall be limited to no more than 25 interrogatories per party; and it is further

ORDERED, that the Parties shall be limited to no more than 10 party depositions per side; and it is further

ORDERED, that the Parties shall exchange their ESI discovery protocols within 14 days of the start of discovery and within 14 days of the exchange, shall respond to the other side's proposal; and it is further

ORDERED, that fact discovery shall be closed within 9 months of the commencement of discovery; and it is further

ORDERED, that expert disclosures and reports shall be due 30 days after the close of fact discovery; rebuttal expert disclosures and reports shall be due 30 days after the deadline for expert disclosures and reports; and it is further

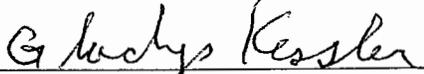
ORDERED, that the deadline for expert depositions, and the close of discovery, shall be 30 days after the deadline for rebuttal expert disclosures and reports; and it is further

ORDERED, that Cross-Motions for Summary Judgment shall be due 45 days after the close of discovery; Oppositions to Motions for Summary Judgment shall be due 45 days after the filing

of the Cross-Motions for Summary Judgment; and Replies to Oppositions shall be due 30 days after the filing of Oppositions; and it is further

ORDERED, that a Pretrial Conference shall be held 30 days after completion of discovery or 60 days after the resolution of all Motions for Summary Judgment; and it is further

ORDERED, that all items listed above are to be complied with by the Parties.


Gladys Kessler
United States District Judge

Copies via ECF to all counsel of record