

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:10-CT-3166-BO

CHAD BUMGARNER, et al.,)
)
 Plaintiffs,)
)
 v.)
)
 NORTH CAROLINA DEPARTMENT OF)
 CORRECTION, et al.,)
)
 Defendants.)

ORDER

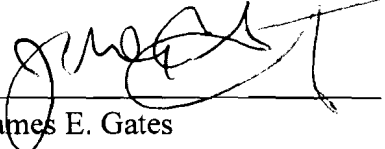
This case comes before the court on three motions filed by plaintiff class member Boyce Moneyhan (“Moneyhan”) who is proceeding *pro se*: (1) a motion to amend or alter the class certification order (D.E. 38); (2) a motion for settlement negotiations accommodation (D.E. 49); and (3) a motion for consideration of revised regulations under Title II of the Americans with Disabilities Act (D.E. 42). No response has been filed by any party to these motions. A settlement conference is scheduled in this case for 30 October 2012. (D.E. 51). For the reasons set forth below, all three motions will be DENIED.

In his motion to amend, Moneyhan moves to amend the class certification order in this case to expressly include the claims of the plaintiffs in another case pending in this district, *Moneyhan v. Keller*, 5:10-CT-3053-BO, in which Moneyhan is a plaintiff. He also asks the court to delay judgment on any settlement in this action until plaintiffs from the *Moneyhan v. Keller* case have an opportunity to object. In the motion for settlement negotiations accommodation, he similarly requests that the participants in the settlement negotiations in the instant case be required to notify the plaintiffs in *Moneyhan v. Keller* of settlement offers and proposals, and to allow the plaintiffs in *Moneyhan v. Keller* to participate in those negotiations.

The court is aware that discovery in *Moneyhan v. Keller* has been stayed pending the outcome of the settlement negotiations in this case. (See, e.g., *Moneyhan v. Keller* (D.E. 76)). However, the two actions have not been consolidated and Moneyhan has not demonstrated that amendment of the certification order is warranted. Nor has he established an entitlement of the *Moneyhan v. Keller* plaintiffs to participate in and be kept advised of the details of settlement negotiations in this matter. For these reasons, Moneyhan's motions to amend (D.E. 38) and for settlement negotiations accommodations (D.E. 49) are hereby DENIED.

In his third motion, Moneyhan urges the court to consider revisions to Title II of the Americans with Disabilities Act of 1990 in connection with conditions at Pender Correctional Facility, which he contends may not be encompassed by settlement negotiations in the instant matter. The court is cognizant of its legal obligations and is certain that the parties will address all matters relevant to the complaint in this action as part of settlement negotiations. The court will not require settlement negotiations to include other matters outside of the pleadings. For these reasons, Moneyhan's motion for consideration of revised regulations (D.E. 42) is DENIED.

SO ORDERED, this the 29th day of October 2012.


James E. Gates
United States Magistrate Judge