NOT INTENDED FOR PUBLICATION
UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN THE MATTER OF:	:	**CASE NUMBERS**
	:	
YONGCHUL CHOI,	:	BANKRUPTCY CASE
	:	NO. 04-90252-WHD
Debtor.	:	
_____	:	
	:	
DEBORAH CHOI,	:	ADVERSARY PROCEEDING
	:	NO. 04-6048
Plaintiff,	:	
	:	
v.	:	
	:	
YONGCHUL CHOI,	:	IN PROCEEDINGS UNDER
	:	CHAPTER 7 OF THE
Defendant.	:	BANKRUPTCY CODE

O R D E R

Before the Court is a Motion to Compel Discovery filed by the plaintiff, Deborah Choi (hereinafter the "Plaintiff"), in the above-captioned adversary proceeding. The Plaintiff seeks to compel the defendant, Yongchul Choi (hereinafter the "Defendant"), to respond to the Plaintiff's discovery requests. The Defendant has objected to the Plaintiff's motion.

The original discovery period in this case expired on or about June 19, 2004. *See* BLR 7026-1. On July 6, 2004, the Court extended the discovery period until September 3, 2004 upon the Defendant's motion. The Plaintiff's attorney had taken a significant leave of absence, and the Defendant contended that he had not been granted a full three months in

which to conduct his discovery. On September 3, 2004, the Defendant filed a second motion to extend discovery, in which the Defendant stated that, although he had served the Plaintiff with discovery requests as early as April and May 2004, the Plaintiff had failed to make adequate responses to his requests. The Defendant requested an extension of time for discovery, as well as an order compelling the Plaintiff to respond. On October 4, 2004, the Court granted the Defendant's motion by directing the Plaintiff to respond to the Defendant's request for admissions, and produce the documents requested within thirty days from the date of the entry of the order and extended the discovery period an additional sixty days from the date of the entry of the order.

Despite the Court's October 4th Order, the Plaintiff served her discovery responses upon the Defendant on November 19, 2004, more than thirty days after the entry of the Court's October 4th Order. On November 24, 2004, the Plaintiff served her first discovery requests upon the Defendant. The Defendant objects to the Plaintiff's discovery requests as being untimely filed.

As the Defendant points out, the Court's local rules require that parties initiate discovery "sufficiently early in the discovery period to permit the filing of answers and responses thereto within the time limitations of the existing discovery period." BLR 7026-1(a). Additionally, the local rules require a party seeking to compel discovery to file such a motion prior to the expiration of the discovery period or, "if longer, within the ten days after service of the discovery responses upon which the objection is based." BLR 7037-2(d).

First, the Court agrees with the Defendant that the Plaintiff's discovery requests were

untimely. The Plaintiff had plenty of time during the extended discovery period to prepare and serve her discovery requests upon the Defendant, but chose to wait until very close to the end of the discovery period. In doing so, the Plaintiff left the Defendant without a suitable amount of time in which to respond. Second, the local rules required the Plaintiff to file her motion to compel discovery prior to the close of the discovery period, which was December 4, 2004, or within ten days of the service of the Defendant's responses and objections on December 17, 2004. The Accordingly, the Plaintiff's motion to compel was due, by the latest, on December 30, 2004.

In most discovery disputes, the Court will overlook a party's noncompliance with the requirements of the local rules. However, the Plaintiff has not diligently prosecuted this case. While the Court is cognizant of the fact that much of the earlier delay was caused by the unfortunate illness and passing of the Plaintiff's original counsel, the Plaintiff has had substitute counsel in this case since October 4, 2004. The Court ordered the Plaintiff to produce her discovery responses within thirty days, and she did not do so. The Court extended the discovery period until December 4, 2004 with the expectation that the parties would diligently complete all of their discovery within that time frame. It does not appear that the Plaintiff took advantage of this opportunity. The Defendant has rightfully objected to the Plaintiff's motion to compel additional discovery. Accordingly, the Plaintiff's Motion to Compel Discovery is **DENIED**.

IT IS SO ORDERED.

At Atlanta, Georgia, this _____ day of February, 2005.

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W. HOMER DRAKE, JR.

UNITED STATES BANKRUPTCY JUDGE