IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

NORTHSTAR ALARM SERVICES, LLC, Plaintiff, v. ALDER HOME PROTECTION, d/b/a ALDER HOLDINGS, LLC, Defendant.	**MEMORANDUM DECISION AND ORDER DENYING SUMMARY JUDGMENT MOTION WITHOUT PREJUDICE** Case No. 2:17-cv-01097-DN District Judge David Nuffer

Plaintiff NorthStar Alarm Services LLC ("NorthStar") filed a Motion for Summary Judgment (the "MSJ")[1] against Defendant Alder Home Protection ("Alder"). In response, Alder requested an extension of time to conduct discovery under Fed. R. Civ. P. 56(d).[2] This request was granted, and the deadline for Alder to file an amended response to the MSJ was set for December 12, 2018.[3] At the parties' request, this deadline was extended through June 28, 2019.[4] At the parties' later request, this deadline was then "stayed."[5] And now the parties are again asking to extend this deadline—this time through September 15, 2020.[6]

[1] Docket no. 27 ("MSJ"), filed August 31, 2018; *see* Appendix of Evidence Supporting Plaintiff's Motion for Summary Judgment, docket no. 28, filed August 31, 2018; Memorandum Opposing Motion for Summary Judgment, docket no. 45, filed October 12, 2018; NorthStar's Reply Memorandum in Support of Motion for Summary Judgment, docket no. 50, filed October 26, 2018.

[2] Defendant's Rule 56(d) Motion, docket no. 36, filed September 28, 2018.

[3] Order Granting Defendant's Rule 56(d) Motion, docket no. 61, filed December 4, 2018; *see* Docket Text Order Vacating Order Granting Defendant's Rule 56(d) Motion, docket no. 64, filed December 5, 2018.

[4] Docket Text Order Granting Joint Motion for Extension of Time to File Amended Response to NorthStar's Motion for Summary Judgment, docket no. 67, filed December 13, 2018.

[5] *See* Order Staying Case Deadlines, docket no. 77, filed May 1, 2019.

[6] Stipulated Motion for Entry of Discovery Plan, docket no. 79, filed July 8, 2019.

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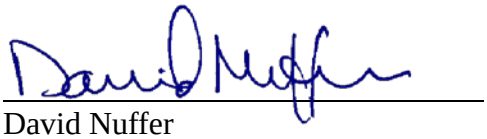
Based on a thorough review of the MSJ, the memoranda submitted in connection with it, the parties' repeated requests for additional time to conduct discovery in connection with it, and the existing record in this case,[7] it is apparent that the MSJ is premature and will, at the close of fact discovery, likely need to be entirely revamped to address, among other things, the nature of NorthStar's relationship and dealings with MX Security LLC. Although the nature of NorthStar's relationship and dealings with MX Security is material to all of Alder's claims against NorthStar, the MSJ does not adequately address this issue. Therefore, for good cause appearing,

IT IS HEREBY ORDERED that the MSJ[8] is DENIED without prejudice, pending the completion of all fact discovery in this case, in accordance with Fed. R. Civ. P. 56(d)(1).

Signed July 11, 2019.

BY THE COURT:



David Nuffer
United States District Judge

[7] *See, e.g.*, Declaration of Jason Hull in Support of Defendant's Rule 56(d) Motion, at 12, docket no. 36, filed September 28, 2018 (setting forth specified reasons why Alder cannot present facts essential to justify its opposition to the MSJ without additional discovery); Memorandum Decision and Order Denying Motion to Dismiss Counterclaim, docket no. 68, filed January 9, 2019 (discussing issues regarding the nature of NorthStar's relationship and dealings with MX Security); Memorandum Decision and Order Denying MX Security's Motion to Dismiss, docket no. 78, filed June 24, 2019 (same).

[8] Docket no. 27, filed August 31, 2018.