

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

ZURICH RE (UK) LIMITED

PLAINTIFF

VS.

CASE NO. 4:11-cv-4122

DONN WOLF, et al

DEFENDANTS

ORDER

Before the Court are Plaintiff's Motion for Summary Judgment (ECF No. 23) and Defendant Advantage Food Group, Advantage Sales, Sonny Brubach, Ron Decker, Steve Lovellette, Donn Wolf's Motion for Summary Judgment (ECF No. 34). This is an action seeking a declaratory judgment as to the rights and obligations of the parties pursuant to an insurance policy issued by Plaintiff. Plaintiff seeks a declaration from the Court regarding its contractual obligations to defend and indemnify Defendant-Insureds in *Kolbek, et al. v. Twenty First Century Holiness Tabernacle Church, et al.*, No. 4:10-cv-04124.

Since the filing of the Second Amended Complaint (ECF No. 17) and motions for summary judgment, the composition of this case has changed dramatically. The Defendant-Insureds who were parties in *Kolbek, et al. v. Twenty First Century Holiness Tabernacle Church, et al.*, No. 4:10-cv-04124 have had the claims against them settled and/or dismissed. The final dismissal of all claims in *Kolbek, et al. v. Twenty First Century Holiness Tabernacle Church, et al.*, No. 4:10-cv-04124 was affirmed by the Eighth Circuit Court of Appeals on September 11, 2014. Thus, there appear to be no claims against the Defendant-Insureds in an underlying suit that would implicate Plaintiffs' insurance policies.

In light of these developments, the Court finds that updated motions are necessary. Accordingly, Advantage Food Group, Advantage Sales, Sonny Brubach, Ron Decker, Steve Lovellette, Donn Wolf's Motion for Summary Judgment (ECF No. 34) is hereby **DENIED WITHOUT PREJUDICE** and Plaintiff's Motion for Summary Judgment (ECF No. 23) is **DENIED WITHOUT PREJUDICE**.

Any motions for summary judgment must be filed on or before October 14, 2014. The Court asks that the parties explicitly address the current disposition of each underlying cause of action referenced in the Second Amended Complaint as well as any newly filed actions that may implicate Plaintiff's insurance policies. The Court also requests that the parties fully discuss, with supporting law, whether a justiciable controversy still exists as to the insurance coverage of Defendant-Insureds whose claims in the underlying suit(s) have been settled and/or dismissed.¹

IT IS SO ORDERED, this 16th day of September, 2014.

/s/ Susan O. Hickey
Susan O. Hickey
United States District Judge

¹It is worth noting that similar declaratory judgment actions against some of the same Defendant-Insureds have been voluntarily dismissed in light of the settlement agreement reached in *Kolbek, et al. v. Twenty First Century Holiness Tabernacle Church, et al.*, No. 4:10-cv-04124. See *Cameron Mutual Insurance Company v. Steve Johnson, et al.*, No. 4:11-cv-4051; *National Liability & Fire Insurance Company v. Desiree Kolbek, et al.*, No. 4:12-cv-4126.