

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer

Civil Action No. 05-cv-02513-PAB-KLM

JOHN T. SCHIMMER,

Plaintiff,

v.

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,

Defendant.

ORDER

On August 15, 2006, the Court ordered that this action stayed “until such time that the Plaintiff advises the Court that he has elected to proceed on his own behalf in this action, rather than as a member of the putative class in *Clark v. State Farm*, Civil Action No. 00-cv-01841-LTB-KLM (D.Colo.)” [Docket No. 44 at 12–13]. Over two years have passed and plaintiff has not yet advised the Court of his intent. On September 18, 2007, Judge Babcock denied class certification in the *Clark* case and the issue is now on appeal before the Tenth Circuit [Case Nos. 07-1454, 07-1466]. Although oral argument before the court of appeals is scheduled for March 9, 2009, there is no indication that the case will be decided in the near future. Therefore, it is

ORDERED that this case is administratively closed pursuant to D.C.COLO.LCivR 41.2, but may be reopened upon a motion by any party. A motion to reopen, or a motion to extend the deadline, must be filed within 30 days of a decision on the class certification issue by the Tenth Circuit in the *Clark* case [Case Nos. 07-1454, 07-1466], or January 9, 2010, whichever is later. If no such motion is filed by that date, this case shall be dismissed without prejudice, without further notice.

DATED February 9, 2009.

BY THE COURT:

s/Philip A. Brimmer

PHILIP A. BRIMMER
United States District Judge