

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Magistrate Judge Craig B. Shaffer**

**Civil Action No.: 07-cv-01723-WYD-CBS**  
**Date: July 27, 2009**

**FTR - Reporter Deck - Courtroom A402**  
**Courtroom Deputy: Linda Kahoe**

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LARIVIERE, GRUBMAN & PAYNE, LLP,

Herbert Anthony Delap  
Chris G. Baumgartner  
Miles Leachman Buckingham

Plaintiff,

v.

EDWARD H. PHILLIPS,

Mark Enger Saliman  
Shelley B. Don

JOHN C. HERMAN, *et al.*,

B. Lawrence Theis  
James N. Phillips

M. SHANE EDGINGTON, *et al.*,

Francine M. Mugge  
Michael Lloyd Hutchinson

Defendants.

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**COURTROOM MINUTES/MINUTE ORDER**

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**HEARING: MOTION HEARING**

**Court in session: 1:30 p.m.**

Court calls case. Appearances of counsel.

Discussion and arguments regarding pending motions. The court states that Objections to rulings from the bench may be filed within 10 days from today's date.

For the reasons as stated on the record, it is

**ORDERED:** LaRiviere, Grubman & Payne, LLP's Motion to Preserve Registry Funds (doc #[71], filed 9/26/2008) is **GRANTED**. The registry funds currently being held in 97-cv-00212-MSK-CBS shall now be held under case number 07-cv-01723-WYD-CBS. The funds shall remain in the registry of the U.S. District Court pending a resolution of the bankruptcy proceedings.

**ORDERED:** LGP's Motion to Strike Response of Edward Phillips to HKE's Motion for Protective Order [111] (doc #[116], filed 2/16/2009) is **DENIED**.

**ORDERED:** LaRiviere, Grubman & Payne, LLP's Motion for Determination Regarding Registry Funds, (doc #[129], filed 3/6/2009) is **MOOT**.

**ORDERED:** Defendant/Counter Claimant Edward H. Phillips' Motion to Stay Effect of the Magistrate Judge's March 6, 2009, "Superseding Protective Order" Pending the Court's Resolution of Objections to that Order (doc #[140], filed 3/20/2009) is **DENIED AS MOOT**.

The court suggests that in light of the ruling on doc #140, Defendant Phillips should file a Motion to Withdraw doc #139 and ask Judge Daniel's staff to take judicial notice of the arguments framed in doc #139 when they are addressing the more recently filed counterpart.

**ORDERED:** LGP's Motion to Compel Discovery Responses from Defendant and Counter-Claimant Edward Phillips Pursuant to Fed.R.Civ.P. 37, (doc #[176], filed 5/7/2009) is **GRANTED IN PART and DENIED IN PART**. To the extent there are discovery requests subsumed in this motion that are not treated by stipulation, those requests are granted. The part of the motion specifically seeking additional interrogatory responses from Mr. Phillips is denied and, subject to and without waiving, Mr. Phillips' obligation to supplement under Rule 26(e).

**ORDERED:** LGP's Motion to Compel Discovery Responses from Defendant Duane Morris, LLP Pursuant to Fed.R.Civ.P. 37, (doc #[179], filed 5/11/2009) is **DENIED WITHOUT PREJUDICE**.

Mr. Hutchinson makes an oral motion to withdraw the Motion to Compel (doc #180).

**ORDERED:** HKE Defendants' Motion to Compel and for Entry of Second Protective Order, (doc #[180], filed 5/11/2009) is **WITHDRAWN**.

**ORDERED:** LGP's Motion to Compel Discovery Responses from Defendant Hensley, Kim & Edgington, LLC Pursuant to Fed.R.Civ.P. 37, (doc #[181], filed 5/11/2009) is **GRANTED**. HKE is required to produce the documents requested in discovery.

**ORDERED:** LGP's Motion to Amend Answer to Counterclaims of Edward Phillips, (doc #[218], filed 6/9/2009) is **GRANTED**. The Amended Answer [218-2] is deemed filed as of today's date.

**ORDERED:** LGP's Motion to Amend Complaint (doc #[223], filed 6/12/2009) is **GRANTED**. The Amended Complaint [223-2] is deemed filed as of today's date.

**ORDERED:** Defendant/Counter Claimant Edward H. Phillips' Motion to Stay or Modify Section 8(d)(3) and Section 8(d)(5) of the Scheduling Order, (doc #[228], filed 6/18/2009) is **DENIED AS MOOT**.

**ORDERED:** Defendant/Counter Claimant Edward H. Phillips' Motion to Stay Effect of the Magistrate Judge's March 6, 2009, "Superseding Protective Order" as Amended

June 16, 2009, Pending the Court's Resolution of Objections to that Order, (doc #[235], filed 6/12/2009) is **DENIED**. The Superceding Protective Order, as amended, will remain in effect and the parties shall comply with the terms and conditions of that Order.

**ORDERED:** Defendant/Counter Claimant Edward H. Phillips' Motion to Supplement His June 18, 2009, Motion to Stay or Modify Section 8(d)(3) and Section 8(d)(5) of the Scheduling Order, (doc #[255], filed 7/20/2009) is **GRANTED**. The deadline for designating affirmative experts is extended to **AUGUST 20, 2009**. The deadline for designating rebuttal experts is extended to **SEPTEMBER 17, 2009**. The court on its own motion will set a discovery deadline of **OCTOBER 30, 2009**. The dispositive motion deadline is extended to **NOVEMBER 30, 2009**. This matter is set for a **Status Conference** on **DECEMBER 9, 2009** at 9:15 a.m. for the purpose of setting a Final Pretrial Conference.

HEARING CONCLUDED.

**Court in recess: 3:36 p.m.**  
Total time in court: 02:06

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