

**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: December 29, 2010**

**FTR - Reporter Deck - Courtroom A402  
Courtroom Deputy: Geneva D. Mattei**

LARIVIERE, GRUBMAN & PAYNE, LLP,

Herbert Delap  
Chris G. Baumgartner  
Miles Buckingham

Plaintiff,

v.

EDWARD H. PHILLIPS,

Shelley B. Don  
Mark Saliman

Defendants.

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**COURTROOM MINUTES/MINUTE ORDER**

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**MOTIONS HEARING**

**Court in session: 11:03 a.m.**

Court calls case. Appearances of counsel.

Pending before the court are two motions, Doc.#431 and Doc.#435.

Argument by Mr. Don on the defendant Edward H. Phillips' motion to dismiss or strike LGP'S third amended complaint.

Rebuttal argument by Mr. Delap.

**ORDERED: DEFENDANT EDWARD H. PHILLIPS' motion to dismiss or strike LGP's third amended complaint [Doc. #431; filed 12/13/10] is DENIED for reasons stated on the record.**

**ORDERED: PLAINTIFF/COUNTERCLAIM DEFENDANT LARIVIERE, GRUBMAN & PAYNE, LLP'S delayed motion for extension of time to file third amended complaint [Doc. #435; filed 12/18/10] is GRANTED for reasons stated on the record. The third amended complaint is being filed as of today's date. Response due date will run from today's date.**

The court has reviewed the status report filed by plaintiff and Counter claimant LGP also status report by defendant Phillips.

Discussion regarding the parties failure to explain in their status report why discovery wasn't

done before now.

**ORDERED: Defendant Edward H. Phillips may file a motion, if at all, to reopen discovery, fact discovery, and seek an extension of deadlines for completing expert discovery on or before January 7, 2011. Plaintiff/Counterclaim Lariviere, Grubman & Payne, LLP's response due on or before January 14, 2011. Defendant Edward H. Phillips' reply due on January 21, 2011.**

To the extent that the parties disagree about what discovery is supposed to do and how discovery will be completed, the court wants to give defendant Phillips and his counsel the opportunity to speak to the issue how this court should apply and to what extent this court should apply Fed.R.Civ.16(b). Once the court receives these submissions the court will get everyone together to set deadlines and set a final pretrial conference.

HEARING CONCLUDED.

**Court in recess:** 11:46 a.m.

**Total time in court:** 00:43

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