

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Senior District Judge Richard P. Matsch

Civil Action No. 07-cv-02563-RPM

JETAWAY AVIATION, LLC, a Colorado Limited Liability Company,

Plaintiff,

v.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF MONTROSE,  
COLORADO;  
MONTROSE COUNTY BUILDING AUTHORITY, a Colorado Nonprofit Corporation;  
JET CENTER PARTNERS, LLC, a Colorado Limited Liability Company;  
BLACK CANYON JET CENTER LLC, a Colorado Limited Liability Company;  
WILLIAM PATTERSON;  
KEVIN EGAN; and  
JAMES RUMBLE,

Defendants.

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ORDER DENYING MOTIONS FOR SUMMARY JUDGMENT, GRANTING MOTION FOR  
CLARIFICATION OR AMENDMENT OF ORDER, DIRECTING DISCOVERY TO PROCEED  
AND FOR SCHEDULING CONFERENCE

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On June 3, 2010, a hearing was held on motions for summary judgment filed by The Board of County Commissioners of the County of Montrose, Colorado, and the Montrose County Building Authority [87], a motion for summary judgment filed by William Patterson [88] and a motion for summary judgment filed by Black Canyon Jet Center LLC, Kevin Egan, Jet Center Partners, LLC, and James Rumble. At that hearing, the Court granted the plaintiff's motion under Fed.R.Civ.P. 56(f) for discovery relating to the statements made in the affidavit of Steve Stuhmer.

On August 27, 2010, the plaintiff filed a motion for a clarification or amendment of the order to proceed with discovery, submitting a copy of the deposition of David White, taken August 17, 2010, and attachments. The plaintiff in that motion requests the taking of depositions of Kevin Scott, Gary Ellis, Alan Belt, Jeff Precup, Scott Brownlee, James Patterson, Kevin Egan and James Rumble or alternatively to deny the motions for summary judgment and

open discovery. The defendants filed opposition to the motion and the plaintiff filed a reply on September 24, 2010.

Viewing the papers filed and particularly after reading the deposition of David White, the Court finds and concludes that his testimony is sufficient to deny the motions for summary judgment, reserving the issue of the applicability of the Local Government Antitrust Act, and to proceed with discovery, initially as proposed in the plaintiff's motion, after which a scheduling conference will be convened to determine what additional discovery by all parties is required to proceed with this matter. Accordingly, it is now

ORDERED that the motions for summary judgment [87, 88 & 89] are denied. The plaintiff's motion to amend or modify the Court's oral order [105] is granted, the parties will proceed with the depositions identified in the plaintiff's motion, and upon conclusion of those depositions, the parties shall notify the Court of the readiness to proceed with a scheduling conference under Fed.R.Civ.P. 16.

DATED: September 28<sup>th</sup>, 2010

BY THE COURT:

s/Richard P. Matsch

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Richard P. Matsch, Senior Judge