

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Judge John L. Kane

Civil Action No. **08-cv-00391-JLK**

THE NEW SALIDA DITCH COMPANY, INC., a Colorado corporation,

Plaintiff,

v.

UNITED FIRE & CASUALTY INSURANCE COMPANY, an Iowa corporation,

Defendant.

MEMORANDUM OPINION AND ORDER

Kane, J.

On December 18, 2009, as part of my order granting summary judgment in favor of United Fire (Doc. 113), I ordered New Salida to show cause why it should not be assessed United Fire's attorney fees incurred in defending against New Salida's Colorado Unfair Claims-Deceptive Practices Act ("UCDPA") claim. Pursuant to New Salida's Unopposed Motions for Extension of Time, I extended this deadline first to January 18, 2010, then to January 19, 2010. Upon review of New Salida's Response to Order to Show Cause Regarding Plaintiff's Assertions of Alleged Violations of the UCDPA (Doc. 123), I found that New Salida failed to adequately justify its claims under the UCDPA.

In order to allow New Salida to specifically address the arguments I found most lacking in justification, however, I clarified my Order and ordered that New Salida offer a rational argument based on the evidence or the law as to why, as a third-party claimant, it believed §§

1115 and 1116 provided it with a private cause of action against United Fire (Doc. 127).

Upon review of New Salida's Response to January 21, 2010 (Amended) Minute Order Clarifying Order to Show Cause, I find that New Salida has offered substantial justification for its belief that §§ 1115 and 1116 provided it with a private cause of action against United Fire. Accordingly, all parties are to bear their own costs.

Dated: February 4, 2010

s/John L. Kane
SENIOR U.S. DISTRICT JUDGE