

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
HONORABLE MARCIA S. KRIEGER**

Courtroom Deputy: Patricia Glover
Court Reporter: Paul Zuckerman

Date: July 21, 2009

Civil Action No. 08-cv-01119-MSK-KLM

Parties:

Counsel Appearing:

TONY’S TAPS, LLC, d/b/a Pagosa Brewing Company,
Inc.,

Reid Browne Kelly

Plaintiff /Counterclaim Defendant,

v.

PS ENTERPRISES, INC., d/b/a Pagosa Pub Works
Brewpub,

Jesus Vazquez, Jr.

Defendant/Counterclaimant/
Crossclaim Plaintiff,

v.

RICHARD ANTHONY SIMMONS, a/k/a Tony Simmons,

Crossclaim Defendant.

COURTROOM MINUTES

HEARING: Motions

4:08 p.m. Court in session.

This hearing was originally set as a final pretrial conference but has been converted to a motions hearing.

The Court addresses Motion to Dismiss Defendant’s counterclaim (**Doc. #43**).

Statement by Mr. Kelly.

ORDER: Motion to Dismiss Defendant's Counterclaim (**Doc. #43**) is **WITHDRAWN**.

The Court addresses plaintiff's Motion for Partial Summary Judgment (**Doc. #58**) and Defendant PS Enterprises' Motion to Supplement its Summary Judgment Response (**Doc. #103**)

Argument by counsel.

ORDER: Defendant PS Enterprises' Motion to Supplement its Summary Judgment Response (**Doc. #103**) is **GRANTED**.

ORDER: Plaintiff's Motion for Partial Summary Judgment (**Doc. #58**) is **DENIED**.

The Court addresses Defendants' Motion for Partial Summary Judgment on Plaintiffs' Colorado Consumer Protection Act Claim (**Doc. # 77**)

No further argument.

ORDER: Defendants' Motion for Partial Summary Judgment on Plaintiffs' Colorado Consumer Protection Act Claim (**Doc. #77**) is **GRANTED. This claim is DISMISSED**.

The Court addresses Defendant PS Enterprises' Motion for Partial Summary Judgment on Plaintiff's Claim for Attorney's Fees (**Doc. #78**),

No further argument.

ORDER: The Defendant PS Enterprises' Motion for Partial Summary Judgment on Plaintiff's Claim for Attorney's Fees (**Doc. #78**) is **DENIED without prejudice**. Defendant may re-raise this issue if and when plaintiff receives a verdict in its favor on the Lanham Act Claim and requests an award of attorneys fees under that claim.

The Court addresses Tony's Taps' and Mr. Simmons' Motion to Dismiss Amended Counterclaim/Crossclaim (**Doc. #91**)

Argument by counsel Kelly.

ORDER: Plaintiff Tony's Taps and Simmons' Motion to Dismiss Amended Counterclaim/Crossclaim (**Doc. #91**) is **DENIED**.

The Court addresses defendant PS Enterprises' Counsel's Motion to Withdraw (**Doc. #96**).

Statement from Mr. Vazquez.

ORDER: The Court withdraws its referral to Magistrate Judge Mix of defendant PS Enterprises' Counsel's Motion to Withdraw (**Doc. #96**). Defendant will renew or supplement the motion by **July 27, 2009**.

The Court addresses what deadlines need to be complied with pursuant to the scheduling order.

Statements from counsel.

ORDER: Final pretrial conference is set **October 14, 2009, at 2:00 p.m.**, in Courtroom A901, 901 19th Street, Denver, CO. **Attendance of the parties is required.**

5:32 p.m. Court in recess.

Total Time: 1 hour 24 minutes.
Hearing concluded.