

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

Civil Action No. 08-cv-01265-RPM

LUIS IRENE and  
GRETCHEN IRENE,

Plaintiffs,

v.

ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY and  
ALLSTATE INSURANCE COMPANY,

Defendants.

---

ORDER DENYING PLAINTIFFS' MOTION FOR ENTRY OF FINAL JUDGMENT AND FOR  
STAY

---

On July 8, 2009, the plaintiffs filed a Motion for Entry of Final Judgment on Summary Judgment and Stay of Proceedings, requesting that this Court certify under Fed.R.Civ.P. 54(b) its ruling denying plaintiffs' Motion for Partial Summary Judgment or Determination of Question of Law at the hearing held on May 21, 2009, which also concerned the defendants' Motion for Partial Summary Judgment. Because that ruling did not dispose of a claim for relief or make an adjudication of the rights and liabilities of the parties, it is not within the scope of Rule 54(b). To explicate this Court's view of the issue presented, it was and is limited to a determination that repeated and persistent smoking of methamphetamine by occupants of the rented premises does not constitute vandalism or malicious mischief under Colorado law. That ruling does not resolve any of the claims and defenses in this case. It does not resolve the scope of the exclusion for vapors, fumes, *etc.*, under Paragraph 14 or contamination under Paragraph 15 of the coverage provisions of the subject policy nor does it resolve the issue of predominant cause of loss under

Paragraph 23. It is inappropriate for this Court to seek a ruling on an abstract principle of law by the Colorado Supreme Court under C.A.R. 21.1. Accordingly, it is

ORDERED that the plaintiffs' motion, filed July 8, 2009, (Doc. 53), is denied.

Dated: July 14<sup>th</sup>, 2009

BY THE COURT:

s/Richard P. Matsch

---

Richard P. Matsch, Senior District Judge