Dewey et al v. Lauer Doc. 57

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-01734-WYD-KLM

JASON DEWEY, and ALICIA DEWEY,

Plaintiff,

٧.

DANIEL LAUER,

Defendant.

ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Defendant Lauer's Motion for Entry of Case Statement Order [Docket No. 46; Filed February 1, 2009] (the "Motion"). The Court has reviewed the Motion, Plaintiffs' Response [Docket No. 51; Filed February 12, 2009], and Defendant's Reply [Docket No. 52; Filed February 15, 2009].

Defendant moves this Court for entry of a Case Statement Order, a model order apparently set forth in the Manual for Complex Litigation. *Motion* [#46] at 1; Ex. A. Entry of a Case Statement Order would apparently require that Plaintiffs restate their claims, as set forth in their First Amended Complaint [Docket No. 28; Filed November 17, 2008], in the form set forth by the Case Statement Order.

The Court's research has not found, and the parties have not cited, any Tenth Circuit decisions which directly address the issues raised in the pending motion. In fact, the authority of the Court to require a Case Statement Order in civil RICO cases has not been established in most jurisdictions. *See Manual for Complex Litigation* § 35.31 (4th ed.).

In the absence of any controlling precedent, the Court will be guided by common sense and

the admonition to construe and apply the Federal Rules of Civil Procedure in a manner "to

secure the just, speedy, and inexpensive determination of every action." Fed. R. Civ. P.

1.

Defendants have filed a motion to dismiss Plaintiffs' amended complaint based on

Rules 8(a)(2), 9(b) and 12(b)(6). The adequacy of the amended complaint will be resolved

through consideration of that motion. A Case Management Order is not necessary.

IT IS HEREBY ORDERED that Defendant Lauer's Motion for Entry of Case

Statement Order [Document No. 46] is **DENIED.**

Dated: March 24, 2009

BY THE COURT:

_s/Kristen L. Mix__

United States Magistrate Judge