

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-02772-MSK-MJW

AMERICAN FAMILY MUTUAL INSURANCE COMPANY,

Plaintiff,

v.

BARRY G. GUSTAFSON,

Defendant.

MINUTE ORDER

Entered by Magistrate Judge Michael J. Watanabe

It is hereby ORDERED that Plaintiff and Counterdefendant American Family Mutual Insurance Company's Motion for Protective Order Regarding Deposition of Kathy Chaney, Esquire (docket no. 113) is GRANTED for the following reason. On January 28, 2010, Magistrate Judge Watanabe issued a Report and Recommendation that recommended that Plaintiff American Family **not be** allowed to add "advice of counsel" as an affirmative defense (docket no. 111) to Defendant Gustafson's counterclaims. Based upon this Report and Recommendation (docket no. 111), any deposition of Ms. Chaney is now irrelevant to Defendant Gustafson's counterclaims for breach of contract and bad faith breach of an insurance contract based on the denial of Defendant Gustafson's defense tendered. Accordingly, Defendant Gustafson shall not be permitted to take the deposition of Plaintiff's counsel Kathy Chaney. However, if the Report and Recommendation (docket no. 111) is **not accepted** by Judge Krieger, then Defendant Gustafson is granted leave to file a motion seeking the deposition of Ms. Chaney.

Date: March 2, 2010
