

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 09-cv-02053-CMA-MJW

AMERICAN NATIONAL PROPERTY AND CASUALTY COMPANY,
a Missouri corporation,

Plaintiff,

v.

JEFFERY H. USCIER, an individual,
JEFF USCIER AGENCY, INC., a Colorado corporation,
KENNETH R. FARRAR, an individual, and
TEAM INSURANCE COLORADO, LLC, a Colorado limited liability company,

Defendants.

**ORDER DISMISSING PLAINTIFF'S CLAIMS AGAINST
DEFENDANT TEAM INSURANCE COLORADO, LLC
AND ADMINISTRATIVELY CLOSING CASE**

This matter is before the Court *sua sponte*. Plaintiff American National Property and Casualty Company initiated this action on August 27, 2009 by filing a Verified Complaint. (Doc. # 1.) On November 11, 2010, Plaintiff filed a Motion for Entry of Default Against Defendant Team Insurance Colorado (Doc. # 76), and the Clerk of the Court filed an Entry of Default (Doc. # 88) against Defendant Team Insurance on March 14, 2011. However, Plaintiff never filed a motion requesting default judgment, and on October 24, 2012, this Court entered a Text Entry Order to Show Cause (Doc. # 89), ordering Plaintiff to file a motion for default judgment against Defendant Team Insurance no later than November 7, 2012. To date, Plaintiff has not filed a motion for default judgment or otherwise responded to this Court's Order to Show Cause.

Under Federal Rule of Civil Procedure 41(b), a district court may dismiss a case *sua sponte*. See *Rogers v. Andrus Transp. Servs.*, 502 F.3d 1147, 1161 (10th Cir. 2007) (dismissing *sua sponte* under Rule 41(b) for failure to prosecute).

On November 8, 2010, pursuant to a Suggestion of Bankruptcy (Doc. # 74), filed November 3, 2010, Magistrate Judge Watanabe issued a Minute Order (Doc. # 75) staying this case as to Defendant Farrar.

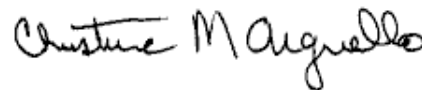
On December 10, 2010, this Court approved the Settlement Agreement between Plaintiff and Defendants Jeffery H. Uscier and Jeff Uscier Agency, Inc., terminating the Uscier Defendants as parties in this case (Doc. # 82).

Accordingly, IT IS ORDERED that Plaintiff's claims against Defendant Team Insurance Colorado are DISMISSED WITHOUT PREJUDICE, pursuant to Rule 41(b) for Plaintiff's failure to prosecute.

IT IS FURTHER ORDERED that this case be ADMINISTRATIVELY CLOSED, subject to reopening by Plaintiff upon filing with this Court either (1) an order from the United States Bankruptcy Court for the District of Colorado (Case No. 10-37788-MER) granting relief from the automatic stay OR (2) a notice that the bankruptcy case has been dismissed without a discharge of this obligation having been granted.

DATED: November 16, 2012

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge