

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya**

Civil Action No. 09-cv-02369-MSK-KMT

FTR

Date: April 13, 2010

Debra Brown, Deputy Clerk

MADISON SERVICES COMPANY, LLC

Denise D. Riley

Plaintiff.

v.

JOHN GORDON

Defendant.

Paul Gordon
Steven Porter

COURTROOM MINUTES / MINUTE ORDER

MOTIONS HEARING

Court in Session: 10:28 a.m.

Court calls case. Appearances of counsel. Also present is Defendant, John Gordon.

Defendant's [37] MOTION to Supplement [#32] Administrative Record and [38] MOTION for Leave to Conduct Discovery Regarding Administrative Claims at issue.

Argument by Counsel.

ORDERED: Defendant's [38] MOTION for Leave to Conduct Discovery Regarding Administrative Claims is **GRANTED**. Discovery is limited to issues concerning the Administrator's conflict of interest and may include evidence regarding John Gordon's departure from the company and the Administrator's interpretation of the term "general release" as the term is used in the Plan. Discovery pursuant to this Order shall not include inquiry into misappropriation of funds, if any, by Bryan Gordon.

ORDERED: Discovery on the Administrative Record will be concluded sixty days from the date of this Order.

ORDERED: Defendant's [37] MOTION to Supplement [32] Administrative Record is **DENIED without prejudice**. A renewed Motion to Supplement the Administrative Record may be filed on or before June 14, 2010 with specific justification for each requested supplement and its specific relation to the conflict of interest of the Plan Administrator. Any response to the renewed Motion shall be filed on or before July 5, 2010 and any Reply on or before July 19, 2010.

ORDERED: The Briefing Schedule on the Declaratory Judgment claims and associated counterclaims is amended as follows: Plaintiff's Opening Brief filed on or before **August 19, 2010**; Response Brief filed on or before **September 13, 2010**; Reply Brief filed on or before **October 12, 2010**. No other modification of the current discovery schedule are allowed.

Plaintiff's [52] MOTION to Stay Discovery and Disclosure Pending Determination of Subject Matter Jurisdiction and Standing. and Defendant's [54] MOTION for Extension of Time to Respond to Defendant's Requests for Production of Documents at issue.

Argument by Counsel.

ORDERED: Plaintiff's [52] MOTION to Stay Discovery and Disclosure Pending Determination of Subject Matter Jurisdiction and Standing Issues is **GRANTED in part and DENIED in part as follows:**

The Motion is DENIED and discovery will proceed as noted herein with respect to Plaintiff's Declaratory claims and Defendant's Counterclaims 3 and 4.

The Motion is DENIED and discovery will proceed as set forth in the Scheduling Order with respect to Defendant's Counterclaims 1 and 2 concerning Defendant's employment with Plaintiff.

The motion is GRANTED and discovery is stayed as to Defendant's Counterclaims 5 through 8, the derivative claims as to which a motion to dismiss for lack of subject matter jurisdiction is pending.

ORDERED: The parties shall file a status report with the court within five days of any ruling on this motion to dismiss or any other motion to dismiss which might affect the discovery in this matter, including rulings in the state matter.

ORDERED: Defendant's [54] MOTION for Extension of Time to Respond to Defendant's Requests for Production of Document is **GRANTED in part to May 03, 2010**. Defendant shall notify the Plaintiff in writing on or before April 16, 2010 of any discovery request the Defendant concedes is barred by the stay on counterclaims 5 through 8.

Court in recess: 11:45 a.m.

Total In-Court Time 1:17; hearing concluded

*To obtain a transcript of this proceeding, please contact Avery Woods Reporting at (303) 825-6119.