

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
MAGISTRATE JUDGE MICHAEL E. HEGARTY

Civil Action No. 09-cv-02681-REB-MEH  
Courtroom Deputy: Cathy Coomes

Date: November 19, 2010  
**FTR – Courtroom C203**

DAWNMARIE FIECHTNER,  
  
Plaintiff,

Barry Dunn  
Josua Proctor  
Marc Levy  
Scot Kreider

v.

AMERICAN FAMILY MUTUAL INSURANCE COMPANY,  
  
Defendant.

Daniel Williams  
Jacy Rock  
Michael McCarthy  
Suzanne Lambdin

**COURTROOM MINUTES/MINUTE ORDER**

**MOTIONS HEARING**

**Court in session: 8:09 a.m.**

The Court calls case. Appearances of counsel.

Discussion and argument regarding the pending Motions to Compel.

- ORDERED:**
1. Plaintiff Dawnmarie Fiechtner’s Motion to Compel Re: Deposition Testimony of John Haberland (Doc. #134, filed 11/2/2010) is GRANTED in part and DENIED in part as stated on the record. Plaintiff may question John Haberland regarding internal policies of American Family. Plaintiff may also ask Mr. Haberland if he functions as a claims adjuster after a lawsuit is filed.
  2. Plaintiff’s Motion to Compel Complete Claim File (Doc. #135, filed 11/3/2010) is GRANTED in part and DENIED in part as stated on the record. Defendant represents that the complete claim file has been produced, and that anything not produced out of the claim file is on a privilege log.
  3. Plaintiff’s Motion to Compel the Continued Deposition of Defendant’s Expert Art Downey (Doc. #156, filed 11/15/2010) is GRANTED in part and DENIED in part as stated on the record. The Court will allow

Plaintiff an additional two hours to depose Mr. Downey, based on documents that were not previously available to Plaintiff

4. Plaintiff's Motion to Compel Re: Plaintiff's Second Set of Interrogatories and Second Set of Requests for Production of Documents (Doc. #146, filed 11/9/2010) is GRANTED in part and DENIED in part as follows:
  - As to Interrogatory #2 and #3, and Request for Production of Documents #7, the motion is denied.
  - As to Request for Production of Documents #3, is granted, contingent upon whether there "quarterly reviews" for claims from 2005 to the present. Before producing the documents to Plaintiff, Defendant is granted leave to redact the names of individual claimants or Plaintiffs.
  - As to Request for Productions of Documents #8, the motion is granted to the extent that Defendant shall produce the "medical reviews" done by Pamela O'Hara from the year prior to the date of the document in this case.
  - As to Request for Production of Documents #9, the motion is granted to the extent that Defendant shall produce the information for the two claims adjusters for the five years preceding the filing of this lawsuit.
  - As to Request for Production of Documents #12, the motion is granted to the extent that Defendant will produce the documents requested from 2005 to 2010, if any such documents exist.
5. The Final Pretrial Conference is RESET to **December 17, 2010, at 10:00 a.m.** In addition to filing a PDF copy with the Clerk of the Court, counsel should **e-mail** the proposed Final Pretrial Order in **Word or WordPerfect format** to Magistrate Judge Hegarty's chamber's email account at [Hegarty\\_Chambers@cod.uscourts.gov](mailto:Hegarty_Chambers@cod.uscourts.gov) **one week prior to the conference.**
6. The discovery deadline has passed. The Court will permit discovery only on an as-ordered basis. Any motion regarding discovery **shall be filed on or before November 22, 2010. The Court will strike any motion regarding discovery received after November 22, 2010.**

**Court in recess: 9:38 a.m. (Hearing concluded)**

**Total time in Court: 1:29**