

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Civil Action No. 10-cv-01932-PAB-BNB

CENTURY SURETY COMPANY, an Ohio corporation,

Plaintiff,

v.

ENVIRONMENTAL PROPERTY INVESTIGATIONS, INC., a Colorado corporation,
RONALD G. WEST, a natural person,
MUSCANTO, LLC, a Colorado limited liability company, and
BONGIL HO, a natural person,

Defendants.

ORDER

The parties appeared this afternoon for a scheduling conference. They had submitted previously a proposed scheduling order. In the proposed scheduling order, the parties state:

The parties agree that in this declaratory judgment action the threshold determination in this case is whether the subject insurance policy provides coverage, and hence any duty to defend the underlying action, given the facts alleged in the underlying lawsuit. This threshold issue is a question of law for the Court to decide based on the pleadings in the underlying lawsuit and the material terms of the insurance policy. In these circumstances, discovery will not aid the Court in making this threshold determination of insurance coverage. Accordingly, based on considerations of judicial economy, fact discovery in this action shall be stayed until after the Court rules on Plaintiff's motion for summary judgment on the duty to defend issue, which motion must be filed with the Court by the deadline indicated below in Section 9(c) of this Scheduling Order.

Proposed Scheduling Order [Doc. # 16, filed 11/24/2010] at pp. 6-7. The parties also agree that plaintiff shall file a motion for summary judgment on the issue of the duty to defend on or before January 18, 2011. *Id.* at p. 7. At the request of the parties and because the proposed procedure

advances the interests of judicial economy and conservation of the parties' resources,

IT IS ORDERED:

(1) The plaintiff shall file a motion for summary judgment on the issue of the duty to defend on or before **January 18, 2011**;

(2) Discovery is stayed pending further order of the court; and

(3) The parties shall file a status report on the earlier of **August 1, 2011**, or 10 days after a ruling on the motion concerning the duty to defend addressing the status of the case and any pretrial proceedings which should be scheduled.

Dated December 1, 2010.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge