

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge William J. Martínez**

Civil Action No. 10-cv-02306-WJM-KMT

RK MECHANICAL, INC., a Colorado corporation,

Plaintiff,

v.

TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA, a Connecticut corporation,

Defendant.

ORDER REGARDING JOINT STATUS REPORT

This matter comes before the Court on the parties' Joint Status Report (ECF No. 15) filed on February 24, 2011. Given the content of and request contained in the Joint Status Report, and in furtherance of judicial efficiency, said Status Report is construed and deemed by the Court as a Joint Motion to Amend the Scheduling Order. In support of this request, the parties state:

As discussed in Section 6.f of the Scheduling Order, the parties have discussed and have considered the possibility that Plaintiff and Defendant will agree to a stipulated set of facts in this matter and submit the matter to the Court on cross motions for summary judgment in lieu of proceeding through the normal course of formal discovery and trial (the "Cross Motions Procedure"). Since the Proposed Scheduling Order was submitted to the Court, the parties have discussed in further detail the Cross Motions Procedure and the parties are in agreement that the Cross Motions Procedure is the most cost and time efficient manner in which to resolve the pending dispute. This case involves a fairly discreet insurance coverage issue and, as such, the parties believe that the Cross Motions Procedure is an appropriate mechanism to resolve this dispute and one which will conserve resources for the parties as well as for the Court.

Accordingly, the parties proposed the following briefing schedule:

April 15, 2011 – the parties submit their respective Cross Motions

May 13, 2011 – the parties submit their respective Responses

The parties are in agreement that no replies will be filed by either party.

The parties will prepare a stipulation of undisputed facts to be used in connection with the Cross Motion Procedure which will incorporate those facts contained in the Scheduling Order as well as the additional facts the parties have agreed upon.

(ECF No. 15 at 4.)

The Court requests that the parties consider agreeing to a partial consent to allow Magistrate Judge Kathleen M. Tafoya to decide these referenced cross motions for summary judgment by Order instead of recommendation. See 28 U.S.C. § 636. Accordingly, the Court directs the parties to file, on or before March 31, 2011, a notice indicating whether they consent to Magistrate Judge Tafoya deciding the parties' cross motions for summary judgment by Order. If such consent is not obtained, the Court will in any event refer these motions to Magistrate Judge Tafoya for a recommended disposition.

Accordingly, it is hereby ORDERED:

- 1) The parties' Joint Status Report (ECF No. 15), which has been construed and deemed a Joint Motion to Amend the Scheduling Order, is GRANTED;
- 2) The parties will file, on or before March 31, 2011, a notice indicating whether they agree to a partial consent, under 28 U.S.C. § 636(c)(1), to allow Magistrate Judge Tafoya to decide the parties cross motions for

summary judgment by Order instead of recommended disposition;

- 3) The parties will submit cross motions for summary judgment on or before April 15, 2011;
- 4) The parties will submit their respective responses on or before May 13, 2011;
- 5) No reply brief will be accepted from either party; and
- 6) The parties will prepare a stipulation of undisputed facts to be used in connection with the above cross motion procedure.

It is SO ordered.

Dated this 24th day of March, 2011.

BY THE COURT:



William J. Martinez
United States District Judge