

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-00043-WYD-KLM

BITUMINOUS CASUALTY CORPORATION, an Illinois corporation,

Plaintiff,

v.

HARTFORD CASUALTY INSURANCE COMPANY,

Defendant.

MINUTE ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Plaintiff's **Renewed Motion for Protective Order Regarding Fed.R.Civ.P. 30(b)(6) Deposition of Plaintiff** [#199]¹ ("Plaintiff's Motion") and **Defendant Hartford Casualty Insurance Company's Motion to Compel Plaintiff Bituminous Casualty Corporation to Appear for Its July 2, 2014 Deposition, or in the Alternative, Agreed Motion to Amend Scheduling Order to Reschedule the Final Pretrial Conference and to Reschedule Plaintiff's Deposition** [#202] ("Defendant's Motion").

On February 25, 2014, the Court held a telephonic hearing at which the Court ordered the parties to submit briefs regarding Plaintiff's Motion for a Protective Order regarding Rule 30(b)(6) deposition. *See Courtroom Minutes/Minute Order* [#158] at 1. Thereafter, the Court extended the deadline for taking the Fed. R. Civ. P. 30(b)(6) deposition of Plaintiff outside of the Discovery Deadline [##146, 163, 183, 197]. The most recent Minute Order regarding the Fed. R. Civ. P. 30(b)(6) deposition of Plaintiff made clear that the deposition of Plaintiff on July 2, 2014 was "subject to the Court's order on Plaintiff's Motion for Protective Order." *Minute Order* [#197] at 1. The Court has not ruled on Plaintiff's Motion for a Protective Order.

In Plaintiff's Motion, Plaintiff renews its Motion for a Protective Order "out of an abundance of caution . . . because [Defendant] has advised [Plaintiff] of its intent to

¹ "[#199]" is an example of the convention I use to identify the docket number assigned to a specific paper by the Court's case management and electronic case filing system (CM/ECF). I use this convention throughout this Minute Order.

proceed with Plaintiff's 30(b)(6) deposition notwithstanding Plaintiff's Motion for Protective Order and D.C.COLO.LCivR 30.2" *Plaintiff's Motion* [#199] at 3. Defendant's Motion seeks to compel the Fed. R. Civ. P. deposition of Plaintiff or, in the alternative, to amend the Scheduling Order to reschedule the Final Pretrial Conference and the Rule 30(b)(6) deposition of Plaintiff so that Defendant is not "prejudiced as a result of [Plaintiff's] representation that it will not appear at the July 2, 2014 deposition based on its pending Motion for a Protective Order". *Defendant's Motion* [#202] at 2-3.

Pursuant to D.C.COLO.LCivR 30.2, "[p]ending resolution of a motion or request for relief under Fed. R. Civ. P. 26(c) or 30(d), the discovery to which the motion or request is directed shall be stayed unless otherwise ordered." Here, the Motion for a Protective Order triggered a stay of the Fed. R. Civ. P. 30(b)(6) deposition of Plaintiff. Therefore, until the Motion for Protective Order is resolved, the deposition is stayed. Accordingly,

IT IS HEREBY **ORDERED** that Defendant's Motion [#202] is **GRANTED in part** and **DENIED in part**. To the extent Defendant's Motion asks the Court to compel Plaintiff to appear for its Fed. R. Civ. P. 30(b)(6) deposition on July 2, 2014, it is **DENIED**. To the extent Defendant's Motion requests that the Scheduling Order be amended to reset the Final Pretrial Conference and to allow for the Fed. R. Civ. P. 30(b)(6) deposition of Plaintiff to be taken at a date after July 2, 2014, it is **GRANTED**. Accordingly,

IT IS FURTHER **ORDERED** that the Final Pretrial Conference set for July 22, 2014 at 10:00 a.m. is **VACATED** and **RESET** to **October 9, 2014 at 10:00 a.m.** in Courtroom C-204, Second Floor, Byron G. Rogers United States Courthouse, 1929 Stout Street, Denver, Colorado.

IT IS FURTHER **ORDERED** that the proposed pretrial order shall be submitted on or before **October 2, 2014**. The proposed pretrial order to be submitted to the Magistrate Judge under the ECF Procedures may be submitted in WordPerfect or pdf format and shall be emailed to the Magistrate Judge at *Mix_Chambers@cod.uscourts.gov*.

Attorneys and/or pro se parties not participating in ECF shall submit their proposed pretrial order on paper to the Clerk's Office. However, if any party in this case is participating in ECF, it is the responsibility of that party to submit the proposed pretrial order pursuant to the District of Colorado ECF Procedures.

The parties shall prepare the proposed pretrial order in accordance with the form which may be downloaded from the Forms section of the court's website at <http://www.cod.uscourts.gov/CourtOperations/RulesProcedures/Forms.aspx>.

IT IS FURTHER **ORDERED** that, subject to the Court's order on Plaintiff's Motion for Protective Order, *see Courtroom Minutes/Minute Order* [#158] at 1, which is pending, the Fed. R. Civ. P. 30(b)(6) deposition of Plaintiff may be taken on or before **August 29, 2014**, outside of the Discovery Deadline.

IT IS FURTHER **ORDERED** that Plaintiff's Motion [#199] is **DENIED as moot**.

Dated: June 30, 2014