

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**Magistrate Judge Craig B. Shaffer**

Civil Action: 12-cv-02320-RM-CBS  
Date: October 28, 2013

FTR - Reporter Deck - Courtroom A402  
Courtroom Deputy: Courtni Covington

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Parties:

Counsel:

KATHRYN MCKELLAR,

Joshua D. Stoll

Plaintiff,

v.

VENTANA APARTMENTS, LLC, *et al.*,

Christian S. Monson  
Amber F. Ju

Defendants.

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**COURTROOM MINUTES/MINUTE ORDER**

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**HEARING: MOTION HEARING**

**Court in session: 1:30 p.m.**

Court calls case. Appearances of counsel.

This matter is before the court regarding **Plaintiff's Motion to Amend Complaint and Jury Demand to Include Exemplary Damages** [Doc. No. 46].

Counsel for Plaintiff presents oral argument and engages in discussion with the court. Relevant case law cited.

Counsel for the Ventana Defendants presents oral argument and engages in discussion with the court.

Counsel for Defendant GREP Southwest, LLC presents oral argument and engages in discussion with the court.

The court advises counsel for Plaintiff that if his Motion is granted, it will be required to move discovery deadlines to accommodate the Defendants, vacate the currently set Final Pretrial Conference, and the matter will go to trial at a later date.

The court cites relevant decisions and case law.

Defense counsel present further argument and engage in discussion with the court regarding what additional discovery would be needed by the parties and whether any costs would be shifted to the Plaintiff for the reopening of that discovery. The court notes costs would not be shifted until it was determined if the additional discovery was necessary.

The court cites relevant case law.

**2:16**            **Court is in recess.**

**2:17**            **Court is in session.**

The court makes findings. For the reasons stated on the record,

**ORDERED:**            Plaintiff's Motion to Amend Complaint and Jury Demand to Include Exemplary Damages [Doc. No. 46, filed 9/16/2013] is **GRANTED in part** and **DENIED in part**. The Motion is granted to the extent it seeks to amend Plaintiff's prayer for relief to include punitive damages and denied to the extent it seeks to add a separate claim for relief predicated on the Colorado Exemplary Damages Statute.

The court emphasizes that while granting motion, it is not in any way suggesting a prediction of what District Judge Moore will do when it comes before him either at trial or in motion under Rule 56.

Further discussion regarding the moving of discovery deadlines and type of discovery to be pursued. The court clarifies that discovery shall be reopened for the limited purpose of addressing the issue of willful and wanton conduct. Counsel for Defendants request additional time to confer with their clients regarding the reopening of discovery.

**ORDERED:**            A Telephonic Status Conference is set for **1:30 p.m. on November 4, 2013**. At that hearing, the parties shall be prepared to address how much additional discovery is needed, if any, and the time required to conduct that discovery. Once determined, the court will set new discovery deadlines.

The court addresses Plaintiff's counsel regarding expectation of when the case will go to trial. Discussion between the court and the parties regarding the claims in the case.

**2:36**            **Off the record.**

HEARING CONCLUDED.

**Court in recess:      2:40 p.m.**

Total time in court:    01:09

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