

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge John L. Kane

Civil Action No. **12-cv-02395-JLK**

SUMMIT BANK & TRUST, a Colorado Corporation,

Plaintiff,

v.

AMERICAN MODERN HOME INSURANCE COMPANY, an Ohio Corporation,

Defendant.

ORDER FOR STAY

Kane, J.

This insurance bad-faith action has a companion case in front of Judge Richard P. Matsch, Case No. 12-cv-1370. Although parties filed a related case notice and the case before Judge Matsch predates the instant action, Judge Matsch declined to take on this one. As I read them, the claims in the Complaints are identical. The cases differ in that City Center is the sole plaintiff in the Judge Matsch action and both City Center and Summit Bank and Trust brought the action before me, though I have since dismissed Summit, as discussed below. The impetus for the filing of the action before me is presumably because the case before Judge Matsch was dismissed because Judge Matsch held that Summit could not assign its rights to City Center. That ruling was recently overturned by the Tenth Circuit.

I have dismissed City Center, holding that it is unable to state a claim for lack of an insurable interest. The bottom line is that the same substantive legal dispute is currently postured as two cases, one before Judge Matsch with only City Center as plaintiff, and one before me with only Summit as plaintiff.

The case before me is currently in discovery regarding remaining plaintiff Summit. Given the Tenth Circuit's reversal of Judge Matsch's dismissal, I deem it most efficient to stay this case until such a time as there is a dispositive ruling in the case before Judge Matsch. I wish to avoid the real risk of inconsistent judgments if both cases proceed in parallel fashion.

IT IS ORDERED that this action, 12-cv-2395-JLK, is stayed pending a dispositive ruling in 12-cv-1370-RPM.

DATED: February 13, 2014

BY THE COURT:

s/John L. Kane

John L. Kane, U.S. Senior District Judge