

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

Civil Action No. 12-cv-02973-PAB-BNB

ALAN DEATLY,  
NAPI (Colorado) LLC, a Washington limited liability company, and  
15 CORPORATIONS, INC., a Washington limited liability company,

Plaintiffs,

v.

KEYBANK NATIONAL ASSOCIATION, an Ohio corporation,

Defendant.

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**ORDER**

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This matter was set for a final pretrial conference to occur this morning at 9:30 a.m. Counsel for the defendant appeared, but plaintiffs' counsel neither appeared nor contacted the court in any way. I am informed, however, that plaintiffs' counsel participated in the preparation of the proposed pretrial order and authorized defense counsel to file the proposed pretrial order.

I have entered the parties' proposed pretrial order. In doing that, I note that the plaintiffs state that they "have no witnesses to call" and "are not introducing any exhibits. . . ." The plaintiffs bear the burden of proof, however, and they cannot meet that burden without introducing evidence. It would be a waste of resources and an inconvenience to potential jurors to empanel a jury only to have the plaintiffs rest without evidence and the defendant prevail on a motion made under Fed. R. Civ. P. 50.

The plaintiffs' disclosure that they will introduce no evidence constitutes good cause to amend the scheduling order to allow a motion for summary judgment to be filed by the

defendant. That motion shall be filed, if at all, on or before September 1, 2014.

IT IS ORDERED that the case schedule is modified to extend the deadline for the defendant to file a motion for summary judgment to and including September 1, 2014.

Dated July 10, 2014.

BY THE COURT:

s/ Boyd N. Boland  
United States Magistrate Judge