

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Raymond P. Moore**

Civil Action No. 12-cv-03077-RM-KLM  
(Consolidated with Civil Action No. 13-cv-01217-RM-KLM)

FIDELITY NATIONAL TITLE INSURANCE COMPANY, a California corporation,

Plaintiff,

v.

PITKIN COUNTY TITLE, INC.

Defendant.<sup>1</sup>

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**ORDER**

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This matter is before the Court on: (1) the Order and Recommendation of United States Magistrate Judge (“Recommendation”) (ECF No. 112); and (2) Defendant/Third-Party Plaintiff Fidelity National Title Insurance Company’s “Corrected Motion for Leave to File Motion for Summary Judgment” (ECF No. 119) and accompanying Motion for Summary Judgment (ECF No. 116). The Court has reviewed these filings, the case file, the applicable law, and is otherwise fully advised. For the reasons set forth below, the Recommendation that this case be closed administratively is rejected as moot, and Fidelity’s motions are denied without prejudice.

In the Recommendation, upon motion filed by Fidelity and joined by Defendant Pitkin County Title, Inc., Magistrate Judge Kristen L. Mix ordered the case be stayed until further order

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<sup>1</sup> Originally, Third-Party Plaintiff and Third-Party Defendant, respectively.

of the court and recommended the case be administratively closed pursuant to D.C.COLO.LCivR 41.2, subject to reopening for good cause after resolution of a pending underlying “State Court Action.” Fidelity filed a Motion for Reconsideration (ECF No. 114) of the Recommendation, requesting the Magistrate Judge to deny Fidelity’s requested stay as moot. By Order (ECF No. 131) dated October 1, 2014, the Magistrate Judge concluded that Fidelity’s claims against Pitkin may to some extent be contingent on the outcome of the State Court Action. Based on this factor, and others, the Magistrate Judge denied Fidelity’s Motion for Reconsideration and ordered the parties to notify the Court of the resolution of the State Court Action after it is resolved. The Magistrate Judge further ordered that such notice shall constitute good cause for lifting the stay in this case. No party has objected to the Order and the time for any objection has passed.

The parties have advised that trial in the State Court Action is set for March 23-27, 2015. In light of the impending trial date, the Court finds that the recommendation this case be administratively closed was proper when made but that closure is now unnecessary. Fidelity’s Motion for Leave to File Motion for Summary Judgment and Motion for Summary Judgment were filed notwithstanding the stay of this action. In light of the stay, these motions are denied without prejudice. It is therefore

**ORDERED** that, in light of the impending trial date in the State Court Action, the Order and Recommendation (ECF No. 112) as to the recommendation that this action be administratively closed is **REJECTED as moot**; and

**FURTHER ORDERED** that the “Corrected Motion for Leave to File Motion for Summary Judgment” (ECF No. 119) and Motion for Summary Judgment (ECF No. 116) are **DENIED without prejudice** because this action is stayed.

DATED this 15th day of January, 2015.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Raymond P. Moore", written over a horizontal line.

RAYMOND P. MOORE  
United States District Judge