

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya**

Civil Action No: 12-cv-03160-CMA-KMT
Courtroom Deputy: Sabrina Grimm

Date: October 4, 2013
FTR: Courtroom C-201

Parties:

Counsel:

IRONSTONE CONDOMINIUMS AT STROH RANCH
OWNERS ASSOCIATION, INC. a/k/a IRONSTONE
CONDOMINIUM ASSOCIATION AT STROH
RANCH, a non-profit Colorado corporation,

Stuart Anderson

Plaintiff,

v.

PEERLESS INDEMNITY INSURANCE COMPANY,
an Illinois corporation,

Troy Olsen
Lyndsay Arundel

Defendant.

COURTROOM MINUTES

Motion Hearing

1:32 p.m. Court in session.

Court calls case. Appearances of counsel.

Also present and seated in the gallery, William McLoughlin.

The matter is before the Court on Defendant's Motion to Preclude William McLoughlin, Any Employee or Representative of Plaintiff and Public Adjusters of Colorado, LLC, and Any Expert Endorsed by Plaintiff from Supervising, Attending, or Otherwise Participating in Any Manner With Peerless's Retained Experts' Inspection of the Property And Request for Expedited Briefing Schedule and Hearing [37] and Plaintiff's Motion to Compel Pursuant to F.R.C.P. 37 [34].

Mr. Olsen states he is not prepared to argue Plaintiff's Motion to Compel [34]. Discussion regarding relevancy of underwriter's file, insurance claims, loss ratio, policy renewal, premiums, property inspections, and notice of non-renewal,

Mr. Olsen states the notice of non-renewal was sent to the property management company.

Court states its understanding of the issues pertaining to Motion [37].

Discussion regarding inspection, liability, exposure, liability insurance, inspections issues such as paint, signs, light fixtures, and windows.

Court notes that the scheduling order anticipates a 5 day jury trial however both sides agree that the anticipated trial will take longer.

ORDERED: Defendant's Motion to Preclude William McLoughlin, Any Employee or Representative of Plaintiff and Public Adjusters of Colorado, LLC, and Any Expert Endorsed by Plaintiff from Supervising, Attending, or Otherwise Participating in Any Manner With Peerless's Retained Experts' Inspection of the Property And Request for Expedited Briefing Schedule and Hearing [37] is GRANTED, as stated on record.

Defendant's property inspections will occur by November 14, 2013. Counsel for defendant is directed to contact Mr. Anderson and provide notification of when an inspection will be occurring and the approximate location of the inspection within the complex. Defendant's counsel will provide assurances that all inspectors have liability insurance in place. Counsel is to work together to schedule the Defendant's inspections during times when Mr. McLoughlin's presence is not otherwise required on the property, for instance for warrant or other building inspections.

Mr. McLoughlin is directed to vacate the property while Defendant's inspectors are present on the property. If Mr. McLoughlin requires access to the property during that time, he is directed to notify Mr. Anderson. Mr. Anderson is then directed to contact defendant's counsel, at which time they will notify their inspectors who may vacate the premises if they choose. If Mr. McLoughlin should inadvertently observe any of Defendant's inspections while underway, he will not be allowed to present testimony in any form about those observations, at trial or at any hearing, nor may any expert or other witness testify about anything Mr. McLoughlin may have told them about his inspection observations.

The court anticipates that Plaintiffs will accommodate the inspections whenever possible because of the large number of inspections which must be performed in a very limited time frame.

The term "Mr. McLoughlin" refers to William McLoughlin, employees of Mr. McLoughlin, and the home owner's association for the property. Maintenance workers are allowed to be present during the course of normal work and should not be monitoring the inspections while they occur.

Discussion regarding awarding costs for unnecessary disruption and extending expert disclosure deadlines.

Court advises that if there are any problems with executing the order, parties are directed to contact chambers.

2:46 p.m. Court in recess.

Hearing concluded.

Total in-court time 01:14

*To obtain a transcript of this proceeding, please contact Avery Woods Reporting at (303) 825-6119.