

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-00868-WJM-MJW

SAFEHOUSE PROGRESSIVE ALLIANCE FOR NONVIOLENCE, INC., a Colorado
nonprofit corporation, and
ANNE TAPP,

Plaintiff(s),

v.

ALLIANCE OF NONPROFITS FOR INSURANCE, RISK RETENTION GROUP, INC.,
a Vermont corporation,

Defendant(s).

MINUTE ORDER

Entered by Magistrate Judge Michael J. Watanabe

It is hereby ORDERED that Plaintiff's Motion for Leave to Amend Complaint (docket no. 137) is GRANTED for the reasons stated in the subject motion (docket no. 13) and in the interest of justice as outlined in Fed. R. Civ. P. 15(a)(2). The Amended Complaint (docket no. 14) is accepted for filing as of the date of this minute order.

As to Defendant's futility argument, Judge Ebel has previously addressed that issue in the case of General Steel Domestic Sales, LLC v. Steel Wise, LLC, 2008 WL 2520423 (D. Colo. 2008). In the General Steel case, Judge Ebel stated, in pertinent part: ". . . Defendants' futility argument seems to place the cart before the horse. Rather than force a Rule 12(b)(6) motion into a Rule 15(a) opposition brief, the defendants may be better served by waiting to assert Rule 12 motions until the operative complaint is in place." Furthermore, this motion (docket no. 13) is timely. The deadline to amend the pleadings or join additional parties was on September 30, 2013. See Rule 16 Scheduling Order dated August 12, 2013 at paragraph 9a (docket no. 12). This motion (docket no. 13) was filed with this court on September 26, 2013. In addition, Defendant has not demonstrated any real prejudice, noting that the deadline to complete discovery is February 14, 2014; the deadline to file dispositive motions is March 14, 2014; and the Final Pretrial Conference is set on May 21, 2014. Any potential prejudice can be cured by an amended to the Rule 16 Scheduling Order (docket no. 12).

Date: October 21, 2013
