

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Action No. 13-cv-02431-REB-BNB

CARIBE SERVICIOS DE INFORMACION DOMINICANA, S.A.,

Plaintiff,

v.

BERRY AGENCY LLC,

Defendant.

**ORDER OVERRULING OBJECTIONS TO AND ADOPTING
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Blackburn, J.

The matters before me are (1) the **Recommendation of United States Magistrate Judge** [#27],¹ filed December 19, 2013; and (2) **Defendant Berry Agency LLC's Objections to Recommendation of United States Magistrate Judge** [#33], filed January 2, 2014. I overrule the objections, adopt the recommendation, and deny the apposite motion to dismiss.

As required by 28 U.S.C. § 636(b), I have reviewed *de novo* all portions of the recommendation to which objections have been filed. Thus, I have considered carefully the recommendation, objections, and applicable caselaw. The recommendation is detailed and well-reasoned. I concur with the magistrate judge's conclusion that the plain meaning of the disputed contract provision seems to supports plaintiff's claim, or

¹ "[#27]" is an example of the convention I use to identify the docket number assigned to a specific paper by the court's electronic case filing and management system (CM/ECF). I use this convention throughout this order.

alternatively, that the provision is, at a minimum, ambiguous. **See Test Services, Inc. v. Princeton Review, Inc.**, 2005 WL 3211594 at * 5 (D. Colo. Nov. 29, 2005) (“[I]f the contract is found to be ambiguous, a motion for summary judgment – much less a motion to dismiss – on a breach of contract claim is improper.”) (citation and internal quotation marks omitted). I thus find and conclude that the arguments advanced, authorities cited, and findings of fact, conclusions of law, and recommendation proposed by the magistrate judge should be approved and adopted.

THEREFORE, IT IS ORDERED as follows:

1. That the **Recommendation of United States Magistrate Judge** [#27], filed December 19, 2013, is **APPROVED** and **ADOPTED** as an order of this court;
2. That the objections stated in **Defendant Berry Agency LLC’s Objections to Recommendation of United States Magistrate Judge** [#33], filed January 2, 2014, are **OVERRULED**; and
3. That **Defendant’s Motion To Dismiss** [#12], filed October 15, 2013, is **DENIED**.

Dated February 10, 2014, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge