

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Craig B. Shaffer

Civil Action: 13-cv-02435-RM-CBS
Date: November 18, 2013

FTR - Reporter Deck-Courtroom A402
Courtroom Deputy: Courtni Covington

Parties:

Counsel:

ADDISON INSURANCE COMPANY,

Jerad A. West

Plaintiff,

v.

THEBEAU ENTERPRISES, INC., *et al.*,

Noah H. Klug (*appearing by phone*)

Defendants.

COURTROOM MINUTES/MINUTE ORDER

HEARING: RULE 16(b) SCHEDULING CONFERENCE

Court in session: 9:59 a.m.

Court calls case. Appearances of counsel.

The court addresses counsel regarding the parties' **Proposed Scheduling Order** [Doc. No. 15], Defendants' **Motion to Stay Action or, in the Alternative, to Dismiss Plaintiff's First Claim for Relief** [Doc. No. 16], and **Motion for Ruling Concerning Due Date for Answer** [Doc. No. 17].

Discussion held between the court and counsel for Plaintiff regarding the claims in the Complaint, duty to defend and duty to indemnify, and their position with respect to discovery in the case.

Discussion between the court and Defense counsel regarding their position related to discovery, the filing of amended claims, and the potential for prejudice in the underlying state case. Counsel states in the event of an Amended Complaint by Plaintiff, they would anticipate counterclaims.

Discussion held regarding the filing of an Amended Complaint. The court notes an Amended Complaint would effectively moot Defendants' currently pending *Motion to Stay or in the Alternative, to Dismiss* as it would no longer be directed to the operative pleading in the case.

Counsel for Plaintiff notes his concern with briefing a motion that will be rendered moot. Discussion between the court and counsel regarding a more efficient way to proceed.

Discussion between the court and counsel for Defendants regarding Defendant's *Motion for Ruling*

Concerning Due Date for Answer.

The court proposes a stay of all discovery in the case pending the filing of an Amended Complaint and that Defense counsel withdraw Defendants' current motions without prejudice in anticipation of such a filing.

Counsel for both Plaintiff and Defendants have no objection.

ORDERED: Plaintiff is directed to file an Amended Complaint on or before **December 9, 2013**. All discovery shall be **STAYED** pending the filing of an Amended Complaint and the setting a further Scheduling Conference.

The court notes it will treat Defense counsel's comments on the record as an oral Motion to Withdraw Without Prejudice *Motion to Stay or in the Alternative, to Dismiss* and *Motion for Ruling Concerning Due Date for Answer*.

ORDERED: Defense counsel's oral Motion to Withdraw Without Prejudice is **GRANTED**. *Motion to Stay Action or, in the Alternative, to Dismiss Plaintiff's First Claim for Relief* [Doc. No. 16, filed 11/12/2013], and *Motion for Ruling Concerning Due Date for Answer* [Doc. No. 17, filed 11/12/2013] are **WITHDRAWN without prejudice**.

A Scheduling Order will not be entered at this time.

HEARING CONCLUDED.

Court in recess: 10:21 a.m.

Total time in court: 00:22

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