

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
MAGISTRATE JUDGE NINA Y. WANG

Civil Action: 13-cv-03452-MSK-NYW Date: March 2, 2015
Courtroom Deputy: Brandy Simmons FTR: NYW COURTROOM C-205

Parties

Counsel

THE GREEN EARTH WELLNESS CENTER, LLC,

Robert Dale Green

Plaintiff,

v.

ATAIN SPECIALTY INSURANCE COMPANY,

*Lauren Petrash Shannon
Melissa A. Ogburn*

Defendant.

COURTROOM MINUTES/MINUTE ORDER

MOTION HEARING

Court in Session: 8:59 a.m.

Appearance of counsel.

Argument held on Plaintiff Green Earth Wellness Center, LLC's Motion to Amend Scheduling Order (Doc. #22) and Motion for Leave to Amend Complaint (Doc. #1) [53] filed December 31, 2014. Green Earth concedes that as of Defendant Atain's discovery responses dated July 18, 2014, it knew that Atain intended to deny coverage for certain marijuana inventory due to the "contraband" exclusion in the policy. Green Earth also admits that as of August 2014, it had taken the Rule 30(b)(6) deposition of Defendant Atain Specialty Insurance Company, who confirmed the reason for denial. Green Earth did not file the pending Motion to Amend until two months after the close of discovery and one month after the deadline for filing dispositive motions.

The court finds that Plaintiff's Motion [53] is untimely and there is no good cause shown pursuant to Rule 16 for the amendment of the Scheduling Order. The court further finds that Plaintiff's proposed claims of promissory estoppel and fraudulent misrepresentation would be futile because they are based solely on the statements contained in the written policy, and they

are not unambiguous statements upon which Green Earth could base either claim. For the reasons stated on the record, it is

ORDERED: Plaintiff Green Earth Wellness Center, LLC's Motion to Amend Scheduling Order (Doc. #22) and Motion for Leave to Amend Complaint (Doc. #1) [53] is DENIED.

Argument held on Atain Specialty Insurance Company's Motion to Compel Rule 26(a)(1) Disclosures and Discovery Responses [38] filed November 6, 2014.

The court finds that Green Earth has sufficiently stated its claims related to structural damage per incident and need not further specify its damages.

For the reasons stated on the record, it is

ORDERED: Atain Specialty Insurance Company's Motion to Compel Rule 26(a)(1) Disclosures and Discovery Responses [38] is GRANTED IN PART and DENIED IN PART. Plaintiff shall provide, no later than March 9, 2015, a supplement including a breakdown of items covered by the claimed losses that comprise "Stock," through both a supplemental Rule 26(a)(1) disclosure and supplemental responses to Interrogatory Nos. 2-4.

Court in Recess: 9:33 a.m.

Hearing concluded.

Total time in Court: 00:34