

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

Civil Action No. 14-cv-00143-REB-MJW

DEMETRIUS MOORE,

Plaintiff,

v.

RICHARD BANTA and CRABTREE AMUSEMENT, INC.,

Defendants.

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**ORDER RE: RECOMMENDATIONS OF UNITED STATES MAGISTRATE JUDGE**

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**Blackburn, J.**

The matters before me are (1) the magistrate judge's **Report and Recommendation on Plaintiff's Opposed Motion To Strike Defendants' Designation of Non-Party at Fault (Docket No. 50) [#54]**,<sup>1</sup> filed December 9, 2014; (2) **Defendants' Objection to Magistrate Judge's Recommendation on Plaintiff's Opposed Motion To Strike Defendants' Designation of Non-Party at Fault [#59]**, filed December 24, 2014; and (3) the magistrate judge's **Report and Recommendation on Defendants Richard Banta and Crabtree Amusement, Inc.'s Motion To File Supplemental Designation of Nonparty at Fault (Docket No. 63) [#72]**, filed January 29, 2015, to which no timely objection has been filed. I overrule the objection, adopt the recommendations, and grant plaintiff's motion to strike the non-party designation and deny defendants' motion to supplement their designation.

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<sup>1</sup> "[#54]" is an example of the convention I use to identify the docket number assigned to a specific paper by the court's case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

As required by 28 U.S.C. § 636(b), I have reviewed *de novo* all portions of the recommendations to which objections have been filed, and have considered carefully the recommendations, objections, and applicable caselaw. Both recommendations are detailed and well-reasoned. It appears that much of the confusion that gave rise to these motions may be cleared up at the show cause hearing the magistrate judge has scheduled for March 12, 2015. (**See Report and Recommendation on Defendants Richard Banta and Crabtree Amusement, Inc.’s Motion To File Supplemental Designation of Nonparty at Fault (Docket No. 63)** at 4 [#72], filed January 29, 2015, **as amended by Minute Order** [#75], filed February 4, 2015.) As matters currently stand, however, I concur with the magistrate judge that defendants’ attempt to use §13-21-111.5(3), C.R.S., to designate Tivoli Manufacturing, Ltd. – a putative party to this lawsuit – as a nonparty at fault is improper.

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 magistrate judge’s **Report and Recommendation on Plaintiff’s Opposed Motion To Strike Defendants’ Designation of Non-Party at Fault (Docket No. 50)** [#54], filed December 9, 2014 is **APPROVED** and **ADOPTED** as an order of this court;

2. That the magistrate judge’s **Report and Recommendation on Defendants Richard Banta and Crabtree Amusement, Inc.’s Motion To File Supplemental**

**Designation of Nonparty at Fault (Docket No. 63) [#72]**, filed January 29, 2015, is **APPROVED** and **ADOPTED** as an order of this court;

3. That the objections stated in **Defendants' Objection to Magistrate Judge's Recommendation on Plaintiff's Opposed Motion To Strike Defendants' Designation of Non-Party at Fault [#59]**, filed December 24, 2014, are **OVERRULED**;

4. That **Plaintiff's Opposed Motion To Strike Defendant's [sic] Designation of Non-Party at Fault [#50]**, filed November 5, 2014, is **GRANTED**;

5. That **Defendants Richard Banta and Crabtree Amusement, Inc.'s Designation of Nonparty at Fault [#20]**, filed April 20, 2014, is **STRICKEN**; and

6. That **Defendants Richard Banta and Crabtree Amusement, Inc.'s Motion To File Supplemental Designation of Nonparty at Fault [#63]**, filed January 8, 2015, is **DENIED WITHOUT PREJUDICE**.

Dated February 25, 2015, at Denver, Colorado.

**BY THE COURT:**



Robert E. Blackburn  
United States District Judge