

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Senior District Judge Richard P. Matsch

Civil Action No. 14-cv-01163-RPM

PENSION BENEFIT GUARANTY CORPORATION,

Plaintiff,

v.

ENDODONTIC SPECIALISTS OF COLORADO, P.C.

Defendant and Third-Party Plaintiff,

v.

TPA SERVICES, INC.,

Third-Party Defendant.

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ORDER DISMISSING THIRD PARTY COMPLAINT WITHOUT PREJUDICE

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In this civil action to enforce a filed agency determination filed under 5 U.S.C. § 706, the defendant filed a Third Party Complaint against TPA Services, Inc. seeking damages for breach of contract and negligence. The third party defendant filed a motion to dismiss for lack of jurisdiction.

The plaintiff filed a motion to sever the third party claims from its APA action. The third party complaint raises the same claims as a pending state court action in the District Court, Arapahoe County, Colorado.

There is no diversity between Endodontic Specialists of Colorado, P.C. and TPA Services, Inc. The exercise of supplemental jurisdiction over the dispute between these parties would interfere with this APA case which will be determined on the administrative record. Accordingly, it is

ORDERED, that the Third Party Complaint is dismissed without prejudice pursuant to Fed.R.Civ.P. 12(b)(1).

DATED: September 19<sup>th</sup>, 2014

BY THE COURT:

s/Richard P. Matsch

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Richard P. Matsch, Senior Judge