

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

Civil Action No. 1:14-cv-01896-RPM

DMITRY KATSEL and  
HELENA KATSEL,

Plaintiffs,

v.

ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY,  
an Illinois company,

Defendant.

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ORDER ON EVIDENTIARY ISSUE PRESENTED BY  
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

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The defendant filed a motion for summary judgment requesting that the plaintiffs be precluded from using an estimate of Summit Restoration dated December 5, 2014, but first produced to the defendant in this litigation on January 15, 2015, to support their claim for total repair costs of their property from two storms. The motion is not considered under Rule 56 because it seeks an evidentiary ruling. It can be considered as a motion *in limine*. Because the estimate was first received during the discovery process in this case it is irrelevant to the claim of unreasonable delay or denial of benefits under both the common law and statutory law. Whether the estimate may be received as evidence of the extent of damage and cost to repair is an issue to be discussed at a pretrial conference.

Accordingly, it is

ORDERED that the admissibility of the estimate is limited to the factual question of the amount of the damage and cost of repair; it is

FURTHER ORDERED that the defendant's motion for summary judgment [Doc. #27] is moot. A pretrial conference will be scheduled.

Dated: July 23, 2015

BY THE COURT:

s/Richard P. Matsch

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Richard P. Matsch, Senior Judge