

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01631-MSK-MJW

NAHUM RAND,

Plaintiff,

v.

INFONOW CORPORATION, *d/b/a Channelinsight*,
DOES I through X, and
ROE CORPORATIONS I through X,

Defendants.

MINUTE ORDER

Entered by Magistrate Judge Michael J. Watanabe

It is hereby ORDERED that Plaintiff's Amended Motion for Jury Demand (Docket No. 25) is DENIED, for the following reasons.

Federal Rule of Civil Procedure 81(c) governs the applicability of the Federal Rules of Civil Procedure to removed actions; Rule 81(c)(3) provides specific rules for jury demands. Plaintiff rests his argument on the second sentence of Rule 81(c)(3)(A), which states:

If the state law did not require an express demand for a jury trial, a party need not make one after removal

Fed. R. Civ. P. 81(c)(3)(A). If that section applies, Plaintiff can make his demand at any time allowed by the Court. If not, the 14-day deadlines that exist elsewhere in the Rules apply. *W. Ridge Grp., L.L.C. v. First Trust Co. of Onaga*, 2008 WL 5156437, at *2 (D. Colo. Dec. 9, 2008) *objections overruled*, 2009 WL 641268 (D. Colo. Mar. 10, 2009), and *aff'd on this point*, 414 F. App'x 112, 115-17 (10th Cir. 2011).

Plaintiff argues that Rule 81(c)(3)(A)'s second sentence applies because Nevada law does not require an express jury demand until the first order setting a trial date. But as Defendant correctly points out, Nevada law does require an express demand, even if the deadline is comparatively late. Thus, the second sentence of Rule 81(c)(3)(A) does not apply. See, e.g., *Gonzales v. Shotgun Nevada Investments, LLC*, 2014 WL 5410777 (D. Nev. Oct. 23, 2014); *Nascimento v. Wells Fargo Bank*, 2011 WL 4500410 (D. Nev. Sept. 27, 2011); *Kaldor v. Skolnik*, 2010 WL 5441999 (D. Nev. Dec. 28, 2010).

There is no dispute here that Plaintiff failed to comply with any applicable 14-day deadline. Further, Plaintiff makes no argument for a discretionary jury trial under Federal Rule of Civil Procedure 39(b). Accordingly, Plaintiff's motion is denied. If this case proceeds to trial, it will be a bench trial.

Date: October 26, 2015
