

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01828-MSK-MJW

COPPER OAKS MASTER HOME OWNERS ASSOCIATION, a Colorado corporation,

Plaintiff,

v.

AMERICAN FAMILY MUTUAL INSURANCE COMPANY, a corporation,

Defendant.

MINUTE ORDER

Entered by Magistrate Judge Michael J. Watanabe

It is hereby ORDERED that Plaintiff's Motion for Order Enforcing Appraisal Under the Insurance Policy and for Stay of Litigation Pending Appraisal Award (docket no. 31) is GRANTED as follows for the following reasons.

After reviewing the legal authority cited by the parties in the subject motion (docket no. 31), the responses (docket nos. 34 and 36), and the reply (docket no. 39) and the applicable policy provisions as outlined in the moving papers, the court finds that Judge Babcock's reasoning in *Auto-Owners Ins. Co. v. Summit Park Townhome Assn.*, 2015 WL 1740818 (D. Colo. April 14, 2015), should be followed in the case. The record presented in the moving papers and the language used in the applicable policy provisions as cited by the parties support this court's analysis that this court should instruct the appraisers to determine the "amount of the loss" caused by hail or wind as required under the applicable policy provisions. By doing so, the appraisers will necessarily exclude loss or damage caused solely by a cause other than hail or wind. Such instruction by this court to the appraisers would be consistent with the applicable policy provisions that were drafted by Defendant American Family Mutual Insurance Company and consistent with the case law cited above.

Accordingly, it is FURTHER ORDERED:

1. That the appraisers shall determine the "amount of loss," *i.e.*, the extent of damages caused by the hail and wind;
2. That this case is STAYED pending completion of the appraisal process, but this court reserves jurisdiction to appoint an umpire if the appraisers cannot agree;

3. That the parties shall file a joint written status report on the status of the appraisal process on or before January 15, 2016; and
4. That each party shall pay their own attorney fees and costs for this motion.

Date: December 1, 2015
