

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

Date: February 9, 2016  
Courtroom Deputy: Emily Buchanan  
FTR Technician: Kathy Terasaki

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Civil Action No. 15-cv-02822-RPM

Counsel:

JILL JONES-BIRD,

James Howard Thigpen

Plaintiff,

v.

ALLSTATE FIRE & CASUALTY  
INSURANCE COMPANY,

Benjamin Kapnik  
Terence Ridley

Defendant.

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**COURTROOM MINUTES**

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**MOTION HEARING**

**9:46 a.m. Court in session.**

Plaintiff's Motion for Leave to Amend Complaint Pursuant to Fed. R. Civ. P. 15 is directly related to Defendant Allstate Fire and Casualty Insurance Company's Partial Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6).

Mr. Thigpen answers Court's questions regarding Plaintiff's Motion for Leave to Amend Complaint Pursuant to Fed.R.Civ.P. 15, Plaintiff's Amended Complaint and Jury Demand, the loss being claimed, claims, and the statute of limitations.

Mr. Kapnik responds regarding when the common law claim accrued.

**ORDERED:** Court holds the statutory claim to be a penalty and barred by the one-year statute of limitations. Plaintiff's third claim for relief, Statutory Liability due to Violation of C.R.S. §10-3-1115 and C.R.S. §10-3-1116, is **DISMISSED**.

**ORDERED:** Plaintiff's Motion for Leave to Amend Complaint Pursuant to Fed.R.Civ.P. 15 (Doc. No. 17) is **GRANTED**. Plaintiff's Amended Complaint and Jury Demand

(Doc. No. 17-3) is accepted for filing.

**ORDERED:** Defendant Allstate Fire and Casualty Insurance Company's Partial Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) (Doc. No. 15) is **DENIED** with the date for accrual of the second claim to be determined at trial. Defendant shall file an answer.

**9:59 a.m. Court in recess.**

Hearing concluded. Total time: 13 minutes.