

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

BOARDWALK APARTMENTS, L.C.,)
)
 Plaintiff,)
)
 vs.)
)
 STATE AUTO PROPERTY AND)
 CASUALTY INSURANCE CO.,)
)
 Defendant.)
 _____)

Case No.: 11-cv-2714-JAR-KMH

ORDER STRIKING FIRST AMENDED ANSWER

On May 16, 2012, Defendant filed its First Amended Answer and Counterclaim (Doc. 20). Defendant did not seek leave from the Court to file the amended answer nor did it provide the Court with Plaintiff’s written consent for the amended answer.

Under Federal Rule of Civil Procedure 15, a party may amend its answer once as a matter of course within 21 days after serving it on the opposing party or within 21 days after service of a motion under Rule 12(b), (e), or (f). If the amendment falls outside of that period of time, Rule 15 provides that the party may only amend with leave of the court or with the opposing party’s written consent.

Defendant filed its Answer on February 27, 2012. Plaintiff filed its motion under Rule 12(f) to strike Defendant’s affirmative defenses on March 19, 2012. Thus, Defendant has not filed its First Amended Answer and Counterclaim within the time allowed for amending as a matter of course. Thus, Defendant is required to seek leave from the Court or obtain Plaintiff’s written consent. Because Defendant did neither, the Court strikes the amended answer from the record. The Court directs Defendant to file a motion for leave to file an amended answer, explaining whether Plaintiff opposes the amendment and attaching the proposed amended

answer to its motion for leave.¹ Defendant must file the motion for leave to amend by May 25, 2012.

IT IS THEREFORE ORDERED BY THE COURT that Defendant's First Amended Answer and Counterclaim (Doc. 20) is STRICKEN from the record.

IT IS FURTHER ORDERED that Defendant must file the motion for leave to file an amended answer by May 25, 2012.

IT IS SO ORDERED.

Dated: May 18, 2012

S/ Julie A. Robinson
JULIE A. ROBINSON
UNITED STATES DISTRICT JUDGE

¹See D. Kan. R. 15.1.