

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Jackson National Life Insurance Co.,

Plaintiff,

Civ. No. 12-1406 (RHK/FLN)

ORDER

v.

Catlin Specialty Insurance Co.,

Defendant.

This is an insurance-coverage action in which Plaintiff seeks a declaratory judgment that Defendant is obligated to satisfy a judgment Plaintiff obtained in related litigation. By Order dated December 4, 2012, the Court granted in part Defendant's Motion for Continuance (Doc. No. 33) of Plaintiff's Motion for Summary Judgment as to coverage, in order to give Magistrate Judge Noel an opportunity to rule on Defendant's Motion to Compel. The undersigned noted that "[i]f the Magistrate Judge finds [Defendant's requested] discovery appropriate, Plaintiff must respond thereto before Defendant is required to address summary judgment, which 'is proper only after the non-movant has had adequate time to engage in discovery.' Stanback v. Best Diversified Prods., Inc., 180 F.3d 903, 911 (8th Cir. 1999); accord, e.g., Nolan v. Thompson, 521 F.3d 983, 986 (8th Cir. 2008); Robinson v. Terex Corp., 439 F.3d 465, 467 (8th Cir. 2006)." (Doc. No. 39 at 2.)

On December 17, 2012, the Magistrate Judge granted the Motion to Compel, determining that Defendant's discovery requests "are likely to lead to the discovery of

admissible evidence.” (Doc. No. 44 at 1.) Accordingly, for the reasons previously articulated by the Court, summary judgment would be premature at this juncture, that is, before the compelled discovery has been provided. As a result, Plaintiff’s summary-judgment Motion will be denied without prejudice to refiling at a later date, after adequate discovery has been provided regarding coverage issues.

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS ORDERED** that Plaintiff’s Motion for Summary Judgment (Doc. No. 24) is **DENIED**, without prejudice to refiling at a later date.

Dated: December 19, 2012

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge