

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

AMERICAN NATIONAL PROPERTY AND)
CASUALTY COMPANY,)
)
Plaintiff/Counter-Defendant,)
)
v.)
)
CAROL ANN STUTTE, and)
LAURA JEAN STUTTE,)
)
Defendants/Counter-Plaintiffs.)

No. 3:11-CV-219
(JORDAN/SHIRLEY)

MEMORANDUM AND ORDER

This case is before the undersigned pursuant to 28 U.S.C. § 636, the Rules of this Court, and the order of the District Judge [Doc. 42] referring ANPAC’s Combined Motion and Memorandum for Stay on Discovery Relating to Extra-Contractual Claims, or in the Alternative, Motion for Protective Order [Doc. 41], to this Court for disposition. The parties presented for a hearing on the motion on July 10, 2012, with N. Mark Kinsman and Russell E. Reviere appearing on behalf of the Plaintiff/Counter-Defendant and Jonathan Grant Hardin and Scott J. Levitt representing the Defendants/Counter-Plaintiffs.

In its motion, the American National Property and Casualty Company (“ANPAC”) moves the Court to enter an order implementing a blanket stay on all discovery related to the Stuttes’ extra-contractual claims asserted in their amended counterclaim [Doc. 20], until such time as the District Court rules on ANPAC’s Motion for Partial Summary Judgment Regarding Plaintiffs’ Claims of Bad Faith and Violation of the Tennessee Consumer Protection Act [Doc.

27]. In the alternative, ANPAC requests that the Court put in place a protective order prohibiting the discovery of information not relevant to “the insurance coverage issue.” [Doc. 41 at 3]. ANPAC asserts that granting its request would save the parties from the wasting resources that would be unnecessary if the District Court grants its partial motion for summary judgment, dismissing the Stuttes’ counterclaim as it relates to the issues of bad faith and the Tennessee Consumer Protection Act.

After hearing argument from both parties at the July 10, 2012 hearing, the Court declined to grant the blanket stay of discovery requested by ANPAC. The Court determined that a number of factual issues related to the Stuttes’ extra-contractual claims exist in this case, and it became clear that several witnesses possess knowledge or other evidence related to the Stuttes’ claim that ANPAC acted in bad faith in denying them coverage under the insurance policy. For example, the Court notes that the investigator utilized by ANPAC in its investigation of the insurance claim, Gary Noland, as well as the claims adjuster assigned to the Stuttes’ claim, Stacey Jennings, each have information relevant and necessary to the Stuttes’ defense of ANPAC’s partial motion for summary judgment. Additionally, at least one purported expert, Kevin Levy, possesses information regarding the methodology he used to analyze the relevant cellular telephone records, and the Stuttes should also have the opportunity to question him in discovery in advance of trial.

Accordingly, the Court encourages the parties to meet, confer, and discuss such discovery and the relative merits of conducting only limited discovery on the issues addressed in ANPAC’s partial motion for summary judgment, or conducting full depositions of each witness rather than holding such limited depositions (so as to avoid the potential result of multiple depositions of the same witnesses).

In sum, the Court finds that ANPAC's Combined Motion and Memorandum for Stay on Discovery Relating to Extra-Contractual Claims, or in the Alternative, Motion for Protective Order [**Doc. 41**] is not well-taken, and it is **DENIED**, both as it relates to ANPAC's request for a blanket stay of discovery and for a protective order.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge