
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

DEAN H. CHRISTENSEN,
Plaintiff,

v.

PICEANCE WELL SERVICE, INC., et al.,
Defendants.

MEMORANDUM DECISION AND
ORDER DENYING PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT

Case No. 2:15-CV-272 TS
District Judge Ted Stewart

This matter is before the Court on Plaintiff's Motion for Summary Judgment. For the reasons discussed below, the Court will deny the Motion without prejudice to allow the parties to complete fact discovery.

Plaintiff, acting pro se, filed the present lawsuit on April 17, 2015. According to the current Scheduling Order, fact discovery remains open until October 31, 2017.¹ The parties are currently engaging in fact discovery. Defendants have been attempting to depose Plaintiff, something that has been delayed several times due to Plaintiffs' concerns about his physical health. Defendants have also attempted to schedule the depositions of three persons associated with Pacific Energy & Mining Co., including one who submitted a declaration in support of Plaintiff's Motion for Summary Judgment. Depending on the information obtained in these depositions, Defendants may seek further fact discovery.

¹ Docket No. 63, at 1.

Defendants believe that these depositions will provide information and documents on key issues, and that it would therefore be improper for the Court to resolve Plaintiffs' Motion at this time.² The Court agrees.

Federal Rule of Procedure 56(d) provides,

If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may:

- (1) defer considering the motion or deny it;
- (2) allow time to obtain affidavits or declarations or to take discovery; or
- (3) issue any other appropriate order.

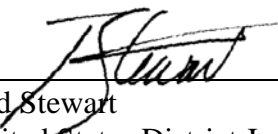
Here, Defendants have shown that they cannot yet present facts essential to justify their opposition because Plaintiff has delayed previously scheduled depositions of witnesses and because discovery has not yet closed. The amount of fact discovery still sought by Defendant is not insignificant and is likely to alter the undisputed facts and/or arguments of the parties. Therefore, the Court will deny Plaintiff's Motion without prejudice. If Plaintiff wishes to renew his arguments, he may file another motion for summary judgment at the close of fact discovery.

It is therefore

ORDERED that Plaintiff's Motion for Summary Judgment (Docket No. 65) is DENIED.

DATED this 15th day of June, 2017.

BY THE COURT:



Ted Stewart
United States District Judge

² See Docket No. 67, Ex. A.