
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

ALLEGIS INVESTMENT ADVISORS, LLC,
HEATH BOWEN, and PETER KLAAS,

Plaintiffs,

v.

CERTAIN UNDERWRITERS AT LLOYD'S
LONDON, subscribing to Policy No. BDL-
0000028-02,

Defendant.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Case No. 2:17-cv-01048-JNP-EJF

Judge Jill N. Parrish

On December 6, 2017, defendant Certain Underwriters at Lloyd's London filed a Revised Motion for Leave to File First Amended Counterclaim and Third-Party Complaint ("Underwriters' Revised Motion"). [Docket 25]. On April 25, 2018, Magistrate Judge Evelyn J. Furse held a hearing on the Underwriters' Revised Motion. On April 30, 2018, Underwriters filed Proposed Underwriters' First Amended Answer and Counterclaims. [Docket 44-1].

On August 14, 2018, Magistrate Judge Evelyn J. Furse issued a Report and Recommendation. [Docket 61]. Judge Furse recommended that this court deny Underwriters' Revised Motion. The Report and Recommendation advised Underwriters that a failure to object within 14 days of service of the Report and Recommendation could result in a waiver of any objections. Underwriters did not file an objection.

Underwriters' failure to object waived any argument that the Report and Recommendation was in error. *See United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996). But, the court need not apply this waiver rule as a procedural bar if "the interests of justice so dictate." *Id.* (quoting *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991)).

The court has reviewed the Report and Recommendation and its conclusion that the Underwriters' Revised Motion should be denied. The court concludes that the Report and Recommendation is not clearly erroneous and finds that the interests of justice do not warrant deviation from the waiver rule.

The court, therefore, ADOPTS IN FULL the Report and Recommendation issued by Judge Furse and DENIES Underwriters' Revised Motion for Leave to File First Amended Counterclaim and Third-Party Complaint.

DATED August 31, 2018.

BY THE COURT:



JILL N. PARRISH
United States District Judge