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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

EVANSTON INSURANCE COMPANY, Plaintiff, v. WORKLAND & WITHERSPOON, PLLC, a limited liability company; and ERIC SACHTJEN, an individual, Defendants.	NO: 2:14-CV-193-RMP ORDER DENYING EVANSTON'S MOTION TO ALTER OR AMEND THE COURT'S ORDER

BEFORE THE COURT is Evanston's Motion, pursuant to Fed. R. Civ. P. 59(e), to Alter or Amend the Court's Order Denying Plaintiff's Motion for Summary Judgment for Declaratory Judgment and Granting Defendants' Motion to Strike Statement of Facts, **ECF No. 47**. The Court has reviewed the motion, all relevant filings, and is fully informed.

Evanston moves the Court to reconsider its order striking several of its exhibits and denying its motion for summary judgment. Reconsideration pursuant

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to Rule 59(e) "is appropriate if the district court (1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law." *See Sch. Dist. No. 1J, Multnomah Cnty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). Evanston argues that the Court committed clear error in its ruling. Evanston focuses on the Court's refusal to consider Evanston's authenticated exhibits that were filed subsequent to Defendants' responsive briefs to the motion for summary judgment and the filing of Defendants' motion to strike Plaintiff's exhibits. Evanston appears to rely on Fed. R. Civ. P. 56(e) for the proposition that a court must allow a party to remedy its prior failure "to properly support an assertion of fact." However, the operative word in Fed. R. Civ. P. 56(e) is "may": "the court may" give an opportunity. In this case, the Court exercised its discretion to not allow Evanston to remedy its failure to submit proper support for its motion for summary judgment.

Evanston also challenges the Court's ruling regarding the inadmissibility of certain exhibits as hearsay. Nothing presented in Evanston's memoranda in support of their motion to alter or amend is persuasive that the Court committed any error in that ruling. Therefore, the Court concludes that it did not commit clear error, and there is no other basis on which to grant the motion. Evanston's Motion to Alter or Amend is denied.

Accordingly, **IT IS HEREBY ORDERED** that Evanston's Motion to Alter or Amend the Court's Order Denying Plaintiff's Motion for Summary Judgment for Declaratory Judgment and Granting Defendants' Motion to Strike Statement of Facts, **ECF No. 47**, is **DENIED.** The District Court Clerk is directed to enter this Order and provide copies to counsel

DATED this 26th day of June 2015.

s/ Rosanna Malouf Peterson
ROSANNA MALOUF PETERSON
Chief United States District Court Judge