

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THE HANOVER INSURANCE COMPANY,

Plaintiff,

V.

CRISTINA MEHLING, et al.,

Defendants.

C16-1671 TSZ

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Defendants' motion to strike, docket no. 42, the portion of plaintiff's reply, docket no. 39, indicating that plaintiff intends to seek leave to amend its complaint to assert a claim for rescission, is GRANTED. Raising such issue for the first time in a reply, which is in support of a motion for reconsideration regarding a ruling unrelated to the amendment of pleadings, is improper.

(2) Plaintiff's motion for reconsideration, docket no. 32, is DEFERRED, and RENOTED to August 11, 2017. Plaintiff has confirmed that its seeks reconsideration only of the stay imposed by the Minute Order entered May 8, 2017, docket no. 31, and that it wishes to proceed to trial on whether it owes a duty to defend defendants in the underlying state court litigation brought by the Chapter 7 Trustee for the Andrew Kim Bankruptcy Estate. Trial in this matter was originally scheduled for January 29, 2018, and plaintiff makes no assertion that trial could be conducted any earlier on the issue of its duty to defend. According to defendants, trial in the state court proceeding is set for October 2, 2017, and a motion for summary judgment has already been set for hearing on August 4, 2017. The parties are DIRECTED to file a Joint Status Report by August 11, 2017, regarding (i) whether the state court has ruled on the dispositive motion and, if not,

1 when a decision is anticipated, (ii) whether trial in the underlying case is still expected to
2 commence on October 2, 2017, and (iii) when is the earliest date on which the parties in
this matter could be prepared for trial on the duty-to-defend portion of the case.

3 (3) The Clerk is directed to send a copy of this Minute Order to all counsel of
record.

4 Dated this 27th day of June, 2017.

5
6 William M. McCool

Clerk

7 s/Karen Dews

8 Deputy Clerk