

THE HONORABLE JOHN C. COUGHENOUR

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PREMIER HARVEST LLC, *et al.*,

Plaintiffs,

v.

AXIS SURPLUS INSURANCE
COMPANY, *et al.*,

Defendants.

CASE NO. C17-0784-JCC

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable John C. Coughenour, United States District Judge:

This matter comes before the Court on Defendant AXIS Surplus Insurance Company’s motion to dismiss (Dkt. No. 13), Plaintiffs’ motion for leave to file supplemental information (Dkt. No. 26), the Court’s minute order (Dkt. No. 28), and Defendant’s status report filed at the request of the Court (Dkt. No. 29). For the foregoing reasons, Defendant’s motion to dismiss (Dkt. No. 13) is RENOTED to September 15, 2017. Additionally, Plaintiffs’ motion to file supplemental information (Dkt. No. 26) is GRANTED.

Defendant filed a motion to dismiss based on Plaintiffs’ failure to comply with the provisions of their insurance policy. (Dkt. No. 13 at 2.) Specifically, Defendant argued that it has not been able to conduct examinations under oath of Plaintiff Premier Harvest’s owners, Dustin

1 and Lisa Anderson. (*Id.* at 1–2.) Defendant requested the Court dismiss the case without
2 prejudice or enter a stay until the examinations under oath take place. (*Id.* at 2.)

3 Plaintiffs filed a motion for leave to file supplemental information, informing the Court
4 that—because Mr. Anderson’s health has improved—the examinations under oath are scheduled
5 to proceed at the end of August 2017. (Dkt. Nos. 26 and 27.) The Court requested Defendant
6 provide a status update, indicating whether it intends to have the Court rule on the motion to
7 dismiss. (Dkt. No. 28.)

8 Defendant filed a status report, indicating that it does not intend to withdraw its motion to
9 dismiss. (Dkt. No. 29 at 1.) Specifically, Defendant argues that “scheduling is not the policy
10 requirement. The policy requires the insured to *submit* to a requested [examination under oath].”
11 (*Id.* at 1–2.) Defendant therefore requests the Court rule on the motion as submitted and dismiss
12 the case without prejudice. (*Id.* at 2.)

13 The Court will therefore rule on Defendant’s motion to dismiss, however, not until after
14 the scheduled date of the examinations, August 29 and 30, 2017. The Clerk is DIRECTED to
15 RENOTE Defendant’s motion to dismiss (Dkt. No. 13) for September 15, 2017. After August
16 30, 2017, whether the examinations proceed as planned or not, the parties shall submit a status
17 update to the Court.

18
19 DATED this 10th day of August 2017.

20 William M. McCool
21 Clerk of Court

22 /s/Paula McNabb
23 Deputy Clerk
24
25
26