

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
MIDDLE DIVISION**

**ESSEX INSURANCE )  
COMPANY, )**

**Plaintiff, )**

**v. )**

**Case No.: 4:14-CV-2153-VEH**

**J & J MASONRY, LLC, et al., )**

**Defendants. )**


**MEMORANDUM OPINION**

This is a declaratory judgment action concerning the plaintiff’s insurance defense and coverage obligations in underlying Alabama state court litigation. The plaintiff has filed a motion to dismiss the case without prejudice pursuant to FED. R. CIV. P. 41(a)(2), as the underlying state court lawsuits have been settled. (Doc. 61). The magistrate judge to whom the case was referred for preliminary review has entered a report and recommendation pursuant to 28 U.S.C. § 636(b) that recommends that the motion to dismiss be granted. (Doc. 63). No objections to the report and recommendation have been filed, and the time prescribed for doing so has expired.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the magistrate judge’s report and recommendation, the court

is of the opinion that the magistrate judge's findings are due to be and are hereby **ADOPTED** and his recommendation is **ACCEPTED**. Accordingly, the plaintiff's motion to dismiss is due to be **GRANTED** and this action is due to be **DISMISSED WITHOUT PREJUDICE**. Further in light of the foregoing dismissal, all remaining pending motions (docs. 26, 52, 57) are due to be **TERMED** as **MOOT**.

**DONE** and **ORDERED** this 26th day of May, 2016.

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**VIRGINIA EMERSON HOPKINS**  
United States District Judge