

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

NATIONAL TRUST INSURANCE CO., Plaintiff,)	
)	
)	
v.)	CIVIL ACTION NO. 10-00710-KD-C
)	
MAGNOLIA ENTERPRISES, INC., et al.,)	
Defendants.)	

ORDER

This matter is before the Court on the Application for Final Judgment (Doc. 76) filed by the Defendant City of Mobile pursuant to Rule 58 of the Federal Rules of Civil Procedure, requesting that the Court enter a final judgment dismissing this action with prejudice. Plaintiff National Trust Insurance Co. has timely filed an objection (Doc. 78) to said application, in which it opposes the dismissal of this case with prejudice and states that it intends to move that this case be dismissed without prejudice once the settlement of the state lawsuit underlying this declaratory judgment action is finalized.

The Court already dismissed this action **without prejudice** on September 14, 2012, subject to the right of any party to reinstate the action within sixty (60) days. (Doc. 75). Therefore, pursuant to this Order of dismissal, the Court may only enter a final judgment dismissing this action **without prejudice**. The Court can now only enter a judgment of dismissal **with prejudice** if either 1) all parties agree to the entry of such a judgment or 2) this action is first reinstated, thus voiding the previous Order dismissing this action without prejudice. Therefore, Defendant City of Mobile's Application for Final Judgment (Doc. 76) is hereby **DENIED**.

DONE and ORDERED this the 16th day of **October 2012**.

/s/ Kristi K. DuBose
KRISTI K. DuBOSE
UNITED STATES DISTRICT JUDGE