

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

FIDELITY NATIONAL PROPERTY)	
AND CASUALTY INSURANCE)	
COMPANY, <u>et al.</u>,)	
)	
Plaintiffs,)	
)	
vs.)	CIVIL ACTION NO. 12-0172-CG-N
)	
TONYA NICKERSON,)	
)	
Defendant.)	

ORDER

After due and proper consideration of all portions of this file deemed relevant to the issues raised, and a de novo determination of those portions of the recommendation to which objection is made¹, the Report and Recommendation of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B) and dated November 19, 2012, is **ADOPTED** as the opinion of this Court and it is **ORDERED** that defendant’s motion to dismiss this declaratory judgment action (doc. 25) be and is hereby **GRANTED** and that this action be and is hereby **DISMISSED without prejudice**.

DONE and ORDERED this 6th day of December, 2012.

/s/ Callie V. S. Granade

 UNITED STATES DISTRICT JUDGE

¹ Although the plaintiff’s only objection is to the recommendation to stay rather than dismiss the case, the only reason given is that “[i]t is possible that the state court could find that Fidelity was not liable to Nickerson for any of the . . .state-court claims, without reaching a determination that Fidelity owes no coverage for damages caused to Nickerson’s home.” (Doc. 34-1 at 3). Plaintiff proffers no explanation of how such a result could occur. Because one of the state court claims is a breach of contract claim for non-payment under the policy, this Court finds that, even if possible, such a result would be highly unlikely.