

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

UNITED FIRE & CASUALTY COMPANY

PLAINTIFF

V.

No. 4:13-cv-00123-JM

FREDIS REYES, ET AL.

DEFENDANTS

JUDGMENT

This action came for trial on April 10, 2014, before the Court and a jury, the Honorable James M. Moody Jr., United States District Judge presiding.

The issues having been duly tried, and after deliberating thereon, the jury returned a verdict making the finding of fact that Fredis Reyes was an independent contractor of Pete Brooks Carpet and not an employee. Based on this determination by the jury, the Court finds that Plaintiff is entitled to a declaratory judgment pursuant to its complaint, and the Wheeler Defendants' counterclaim for declaratory judgment is dismissed with prejudice. The Court does not need to determine the question of law regarding whether Plaintiff received notice as required by the insurance policy in light of the jury's verdict.

IT IS THEREFORE CONSIDERED, ORDERED AND ADJUDGED that Plaintiff is entitled to a declaratory judgment on its complaint (Docket #1) as follows: (1) The Commercial General Liability policy at issue provides no policy benefits for the claims against Fredis Reyes arising out of the incident that occurred on November 4, 2008 at the Audubon Pointe Apartments in Maumelle; (2) United Fire is under no obligation to provide a defense to Fredis Reyes as to any claim arising out of this incident ; and (3) United Fire is under no obligation to satisfy any judgment entered against Fredis Reyes or to indemnify Fredis Reyes for any judgment rendered against him arising out of the incident. The counterclaim for declaratory judgment filed by Judy

and Claude Wheeler (Docket #3) should be and is hereby dismissed with prejudice. The Clerk is directed to close the case.

Dated this 14th day of April, 2014.

A handwritten signature in black ink, appearing to read "J. Moody Jr.", is written above a horizontal line.

James M. Moody Jr.
United States District Judge