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United States District Court
Central District of California

JAMES DICKEY, INC.,
Plaintiff,

v.

ALTERRA AMERICA INSURANCE
COMPANY, AND DOES 1–20,
INCLUSIVE,
Defendant.

Case No. 5:15-cv-0963-ODW(DTB)

**ORDER TO SHOW CAUSE RE
DISMISSAL**

Plaintiff James Dickey, Inc. (“Dickey”) brought suit against Defendant Alterra America Insurance Company (“AAIC”) for breach of contract and tortious breach of the implied covenant of good faith and fair dealing; Plaintiff also seeks declaratory relief. (First Amendment Complaint, ECF No. 29). Plaintiff’s Complaint was originally filed in the San Bernardino Superior Court on March 23, 2015. (Notice of Removal, ECF No. 1.) Defendants timely removed the action to federal court on May 15, 2015. (*Id.*)

This case relates to an insurance claim for tools stolen from Dickey’s equipment yard during a break-in. (ECF No. 32). The Court previously issued an order staying the case pending an appraisal of the stolen items. (ECF No. 35.) That

1 appraisal is now complete. (ECF No. 42.) AAIC asserts that following the
2 completion of the appraisal, it paid Dickey the full appraised value of his claim and
3 thus there is no longer any reason for this suit. (*Id.*) Accordingly, AAIC wishes to lift
4 the stay and recalendar the motion to dismiss previously pending before the Court
5 issued its order to compel appraisal. (*See* ECF No. 33.) AAIC indicates that it has not
6 heard from Plaintiff regarding its request to recalendar. (ECF No. 42.) Before
7 considering AAIC's request to recalendar, and in light of the new facts presented in
8 AAIC request, the Court first wants Plaintiff to explain why this case should not be
9 dismissed outright as the policy appears to have fully paid the relevant claim.

10 Accordingly, the Court issues an order to show cause why this action should not
11 be dismissed as moot. Plaintiff shall submit a response no later than January 3, 2017.
12 Failure to respond by that date will result in dismissal of this case without prejudice
13 without further warning from the Court. The stay shall remain in place until that time.

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15 **IT IS SO ORDERED.**

16 December 15, 2016

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20 **OTIS D. WRIGHT, II**
21 **UNITED STATES DISTRICT JUDGE**