

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 05-cv-00026-CMA-KLM

PLATT T. HUBBELL, and
KELLEY S. HUBBELL,

Third-Party Plaintiffs,

v.

CARNEY BROTHERS CONSTRUCTION, a Colorado corporation,
IAN CARNEY,
RICHARD CARNEY,
TEAMCORP, INC. d/b/a DRAFT TEK, a Colorado corporation,
T.J. CONCRETE CONSTRUCTION, INC., a Colorado corporation, and
KERRY M. KARNAN,

Third-Party Defendants.

**ORDER FOR DISMISSAL WITHOUT PREJUDICE OF CERTAIN CLAIMS AND
ENTRY OF JUDGMENT AS TO CARNEY DEFENDANTS**

THE COURT, having considered the Amended Stipulation Between Hubbell/hogan and Carney Defendants Only (Doc. # 566), the file, and being otherwise duly advised in the premises enters the following Order, hereby APPROVING AND ADOPTING the *Stipulation* as an Order of the Court, and **ORDERS** that:

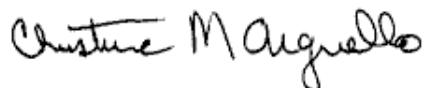
1. All of Hubbell/Hogan's claims for relief against the Carney Defendants, other than their First and Second Claims for Relief, for Negligence and Negligent Misrepresentation, are dismissed without prejudice. The First and Second Claims for Relief, for Negligence and Negligent Misrepresentation, shall be merged into the Judgment described in paragraph 2 below and thereafter shall have no separate existence or effect, i.e., they shall be deemed "dismissed with prejudice" pursuant to and after entry of the Judgment described in paragraph 2 below, which

“dismissal” shall not affect Hubbell/Hogan’s rights or abilities to execute on the Judgment.

2. Judgment shall immediately enter against the Carney Defendants *nunc pro tunc* January 11, 2010, in the amount of One Million Eight Hundred Fifty Thousand and 00/100 Dollars (\$1,850,000.00) jointly on Hubbell/Hogan’s First and Second Claims for Relief, for Negligence and Negligent Misrepresentation. The Judgment shall include, in addition to the foregoing, One Hundred Two Thousand Five Hundred and 00/100 Dollars (\$102,500.00) as taxable costs awarded to the Plaintiffs Hubbell/Hogan for a total AGGREGATE judgment of One Million Nine Hundred Fifty-Two Thousand Five Hundred and 00/100 Dollars (\$1,952,500.00).
3. Interest shall accrue on the judgment at the rate of 8% per annum, compounded annually.
4. Hubbell/Hogan may immediately execute on this judgment as the Carney Defendants have waived any right to seek a stay of such execution in the *Stipulation*.
5. Hubbell/Hogan shall be entitled to recover all their reasonable costs of collection, including their attorney’s fees, in executing and attempting to satisfy the judgment and to have such costs and fees added to the judgment.
6. All potentially applicable statutes of limitation and repose, and all other potentially applicable time deadlines regarding the commencing, filing and/or serving of suit papers asserting the claims dismissed above without prejudice, and any other claims arising out of the transactions and occurrences which gave rise to such dismissed claims, are hereby tolled as of the original date of the filing of the Complaint.

DATED: Nunc pro tunc to January 11, 2010.

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge