

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Action No. 08-cv-00248-REB-MEH
(Consolidated with Civil Action No. 08-cv-00359-REB-MEH)

WHITE RIVER VILLAGE, LLP and
WHITE RIVER TOWNHOMES, LLC,

Plaintiffs,

v.

FIDELITY AND DEPOSIT COMPANY OF MARYLAND,

Defendant & Third-Party Plaintiff,

v.

BELLAVISTA BUILDERS,
CRUZAN CONSTRUCTION COMPANY,
RENTERIA ROOFING,
EC CONTRACTORS, LLC,
M.M. SKYLINE CONTRACTING, INC., a/k/a Skyline Contracting, and
JONATHAN REED & ASSOCIATES, INC.,

Third-Party Defendants.

ORDER GRANTING MOTION TO RECONSIDER

Blackburn, J.

The matter is before the court is **F&D's Motion for Reconsideration / Clarification of Order [#629] Adopting Recommendation of U.S. Magistrate Judge** [#633]¹ filed March 20, 2014. The motion is unopposed and is granted.

On March 12, 2014, I entered an order [#629] adopting a recommendation of the United States Magistrate Judge assigned to this case. The recommendation addressed

¹ “[#633]” is an example of the convention I use to identify the docket number assigned to a specific paper by the court’s case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

a motion to dismiss [#461] filed by Fidelity and Deposit Company of Maryland. In that motion, Fidelity and Deposit sought dismissal of counterclaims asserted against Fidelity and Deposit by Cookey's Mechanical, Inc. After the Magistrate Judge issued his recommendation, but before I issued my order [#629], Fidelity and Deposit and Cookey's Mechanical reached a settlement. Fidelity and Deposit and Cookey's Mechanical filed a stipulated motion [#583] to dismiss with prejudice all claims between them. On December 10, 2013, I entered an order [#584] granting the stipulated motion [#583] and dismissing all claims by and between Fidelity and Deposit and Cookey's Mechanical with prejudice. Cookey's Mechanical was dropped as a named party to this case.

Obviously, I acted precipitously when I entered my March 12, 2014, order [#629] adopting the recommendation of the Magistrate Judge. As Fidelity and Deposit notes in its present motion, once the claims by and between Fidelity and Deposit and Cookey's Mechanical were dismissed with prejudice, the motion to dismiss concerning those claims and the recommendation of the Magistrate Judge became moot. In addition, the dismissal terminated the jurisdiction of this court over those claims and all issues related to those claims. Charitably, Fidelity and Mechanical notes in its present motion that "perhaps due to the inordinate amount of pleadings in this case, it appears the Court may have inadvertently and understandably overlooked that the claims between [Fidelity and Deposit and Cookey's Mechanical] had been dismissed with prejudice when the Court issued its Order [#629]." *Motion* [#633], ¶ 11.

THEREFORE, IT IS ORDERED as follows:

1. That **F&D's Motion for Reconsideration / Clarification of Order [#629]**

Adopting Recommendation of U.S. Magistrate Judge [#633] filed March 20, 2014, is

granted;

2. That the **Order Adopting Recommendation of United States Magistrate Judge** [#629] filed March 12, 2014, is vacated and withdrawn.

Dated March 12, 2015, at Denver, Colorado.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "Bob Blackburn".

Robert E. Blackburn
United States District Judge