

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Raymond P. Moore**

Civil Action No. 15-cv-00079-RM

DEVELOPERS SURETY AND INDEMNITY COMPANY,

Plaintiff,

v.

EVAN ASBY,
JACQUELINE ASBY,
ROBERT M. SEIDEL,
MELANIE F. SEIDEL, and

Defendants.

ORDER

This matter is before the Court on Plaintiff Developers Surety and Indemnity Company and Defendants Robert M. Seidel and Melanie F. Seidel's (collectively, the "Movants") Stipulated Motion for Entry Judgment by Confession (ECF No. 52), requesting this Court to enter judgment in favor of Plaintiff and against the Seidels. Upon consideration of the Motion and file, the Court finds the judgment as requested may not be feasible in light of the current record.

First, Plaintiff's Complaint (or, more appropriately, Amended Complaint, which the Court directed Plaintiff to file without redlining but which has not been filed) also seeks relief against the Asby co-defendants, jointly and severally with the Seidels. Second, the Seidels have a crossclaim for indemnity and/or contribution pending against the Asbys. Third, the Asbys have never answered or otherwise responded to any pleading, and have filed bankruptcy resulting in a

stay of this case as to them. On these facts, the judgment requested would be entered only as to the Seidels, leaving the claim and crossclaim against the Asbys pending. Such result also raises the question of the applicability of Fed. R. Civ. P. 54(b), which provides “the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay.”

In light of the foregoing, it is **ORDERED**

(1) That on or before **Friday, February 19, 2016**, the Movants shall submit a status report addressing the following:

- (i) The status of their respective claim and crossclaim against Defendants Evan and Jacqueline Asby;
- (ii) The status of the Asbys’ bankruptcy proceeding and any impact of the requested judgment as against the Asbys; and
- (iii) Whether judgment under Fed. R. Civ. P. 54(b) is requested and required, and, if so, whether the requirements are met in this case; and

(2) That a ruling on the Stipulated Motion for Entry of Judgment by Confession (ECF No. 52) is held in abeyance until further order of this Court.

DATED this 10th day of February, 2016.

BY THE COURT:



RAYMOND P. MOORE
United States District Judge